

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

GIBSON COUNTY, INDIANA

January 1, 2016 to December 31, 2017



FILED
09/07/2018

TABLE OF CONTENTS

| <u>Description</u> | <u>Page</u> |
|---|-------------|
| Schedule of Officials | 2 |
| Transmittal Letter | 3 |
| County Treasurer: | |
| Audit Result and Comment: | |
| Treasurer's Cash Book | 6 |
| Official Response..... | 7-8 |
| Exit Conference | 9 |
| County Redevelopment Commission: | |
| Audit Result and Comment: | |
| Tax Increment Financing (TIF) Allocation Fund Uses | 12-13 |
| Official Response..... | 14-17 |
| Indiana State Board of Accounts Comment on the Official Response..... | 18 |
| Exit Conference | 19 |
| Board of County Commissioners: | |
| Audit Result and Comment: | |
| Training on Internal Control Standards | 22 |
| Official Response..... | 23 |
| Exit Conference | 24 |

SCHEDULE OF OFFICIALS

| <u>Office</u> | <u>Official</u> | <u>Term</u> |
|---|---|--|
| County Auditor | Sherri Smith | 01-01-13 to 12-31-20 |
| County Treasurer | Mary B. Key | 01-01-15 to 12-31-18 |
| Clerk of the Circuit Court | James R. Morrow | 01-01-15 to 12-31-18 |
| County Sheriff | Timothy Bottoms | 01-01-15 to 12-31-18 |
| County Recorder | Tonya Thompson | 01-01-15 to 12-31-18 |
| President of the Board of County Commissioners | Gerald Bledsoe Alan Douglas | 01-01-16 to 12-31-16 01-01-17 to 12-31-18 |
| President of the County Council | Jeremy Overton Derek McGraw Jay Riley | 01-01-16 to 12-31-16 01-01-17 to 12-31-17 01-01-18 to 12-31-18 |



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF GIBSON COUNTY, INDIANA

This report is supplemental to our audit report of Gibson County (County), for the period from January 1, 2016 to December 31, 2017. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the County. It should be read in conjunction with our Financial Statement Audit Report of the County, which provides our opinion on the County's financial statement. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Audit Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Audit Results and Comments, incorporated within this report, was not verified for accuracy.

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

August 13, 2018

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COUNTY TREASURER
GIBSON COUNTY

COUNTY TREASURER
GIBSON COUNTY
AUDIT RESULT AND COMMENT

TREASURER'S CASH BOOK

The same comment also appeared in prior Report B47368.

During the audit period, the bank accounts of the County Redevelopment Commission were not included on the Treasurer's Daily Balance of Cash and Depositories (Cash Book).

Indiana Code 36-7-14-8(b) states in part:

"The fiscal officer of the unit establishing a redevelopment commission is the treasurer of the redevelopment commission. Notwithstanding any other provision of this chapter, . . . the treasurer has charge over and is responsible for the administration, investment, and disbursement of all funds and accounts of the redevelopment commission in accordance with the requirements of state laws that apply to other funds and accounts administered by the fiscal officer. . . ."

Indiana Code 5-13-5-1(a) states:

"Every public officer who receives or distributes public funds shall:

- (1) keep a cashbook into which the public officer shall enter daily, by item, all receipts of public funds; and
- (2) balance the cashbook daily to show funds on hand at the close of each day."

Treasurer of Gibson County

Mary B. Key
101 N. Main Street
Princeton, IN 47670
812-385-2540
Fax 812-386-6520

August 15, 2018

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

OFFICIAL RESPONSE

The Auditor's office did not have this information on their books for the years 2016 and 2017 therefore we could not have it on the Treasurer's side.

*The statement below is an excerpt from my 2015 response letter:
"Redevelopment Commission: This matter is much more complicated because of the "bond indenture" included within the bond documentation. With the help of Umbaugh, IceMiller and Lori Rogers at the SBOA, we have a plan to get the accounts in our records by the end of the year. Because of the indenture, the county does not and cannot pay the invoices associated with the Redevelopment Commission's projects and other expenses. As soon as the Auditor's office has the accounts, amounts and information included within their books, we will be able to pull said information from them and include on the cash book. We are working with the banks to have full access to the account information and to receive monthly statements."*

We have been working on this issue for the past several years and understand this is county money however, when we make the disbursement by check at settlement it is out of the ledger and

therefore no longer on the right side of the cash book. The request to include these funds as county controlled bank accounts is false reporting since we do not have any control, writing checks, making deposits, etc. concerning these accounts. With the moneys in these accounts on our books, we would be stating that we have approximately \$13.7 million that has been distributed at settlement therefor we do not have in our possession. The internal controls of this money is bound by the bank as trustee of the bonds and the Redevelopment Commission as governing body.

Because of the bond by which these monies are bound, we do not write any checks or have the funds within an account to which we have access. We also feel that placing the funds which have been disbursed at settlement back into the cash book could be considered fraudulent reporting of funds that we do not have. The request to include these funds as county controlled bank accounts is false reporting since we do not have any control, writing checks, making deposits, etc. concerning these accounts.

It is our understanding that we are the only county that has been cited and instructed to include money that has already be disbursed, on our cashbook. Therefore, we have not been able to collaborate with other colleagues or vendors, whom we are working with, that can provide instruction or assistance with the matter. We understand that it is county money, but just like school funds, city, etc. that we disburse at settlement time and then are controlled and disbursed by the separate entities.

Sincerely,



Mary B. Key
Gibson County Treasurer

COUNTY TREASURER
GIBSON COUNTY
EXIT CONFERENCE

The contents of this report were discussed on August 13, 2018, with Mary B. Key, County Treasurer; Sandra K. Greubel, Second Deputy County Treasurer; Sherri Smith, County Auditor; Alan Douglas, President of the Board of County Commissioners; William McConnell, County Council member; Dan L. Beard, County Council member; and James G. McDonald III, County Attorney.

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COUNTY REDEVELOPMENT COMMISSION
GIBSON COUNTY

COUNTY REDEVELOPMENT COMMISSION
GIBSON COUNTY
AUDIT RESULT AND COMMENT

TAX INCREMENT FINANCING (TIF) ALLOCATION FUND USES

A similar comment also appeared in prior Report B47368, entitled *TAX INCREMENT FINANCING (TIF) ALLOCATION FUND USES*.

The County Redevelopment Commission had authorized expenditures for the following projects during the audit period. None of the projects listed below were located within the allocation area, nor was documentation provided for audit that showed a determination was made by the County Redevelopment Commission that the projects would serve the allocation area.

- In 2015, the County Redevelopment Commission allocated \$998,814 of TIF revenue for County emergency vehicles and equipment. During the audit period, \$581,304 was expended for emergency vehicles, freightliner, portable radios for various departments, and a dispatching system.
- An additional \$1,000,000 a year was allocated during the audit period for multiple projects with the Gibson County Horticultural and Agricultural Society, Inc. During the audit period, \$2,366,893 was expended for a new Gibson County Convention/Events Center and other improvements to the fairgrounds.
- Allocated an amount not to exceed \$100,000 a year to Ivy Tech Community College of Indiana. During 2016 and 2017, \$99,522 and \$98,939, respectively, was expended for welding lab equipment.
- Allocated \$2,600,000 for I-69 Interchanges Sanitary Sewer Projects. During the audit period, \$1,413,832 was spent on engineering services for survey, design, and right-of-way for the projects.

COUNTY REDEVELOPMENT COMMISSION
GIBSON COUNTY
AUDIT RESULT AND COMMENT
(Continued)

- In November 2015, \$100,000 was allocated to the Town of Fort Branch for the local match on a Storm Water Grant and \$67,000 for wastewater repairs. During the audit period, \$100,000 was paid to the Town of Fort Branch for the local match of the grant.

The power of a redevelopment commission to expend redevelopment funds, such as TIF funds, is limited to the express statutory powers as set forth in Indiana Code 36-7-14, *Redevelopment Commission of the Town of Munster, Indiana, v. Indiana State Board of Accounts and Paul D. Joyce, State Examiner of State Board of Accounts*, 28 N.E.3d 272 (Ind. App., 2015). Redevelopment does not include the purchase of equipment, except when furnishing the redevelopment office, Indiana Code 36-7-14-12.2(a)(19). The use of TIF funds is specifically limited to those uses set forth in Indiana Code 36-7-14-39(b)(3). The purchase of equipment is not a permitted use under Indiana Code 36-7-14-39(b)(3). Indiana Code 36-9-27-39(b)(3)(J) allows the redevelopment commission to pay expenses incurred for local public improvements that are in the allocation area or serving the allocation area.

Indiana Code 36-7-14-39(b)(3) states in part:

"Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following: . . .

- (J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter. . . ."

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 Counties of Indiana, Chapter 1)

**CORRECTIVE ACTION PLAN: GIBSON COUNTY REDEVELOPMENT COMMISSION;
GIBSON COUNTY RESPONSE TO AUDIT RESULT AND COMMENT AND
CORRECTIVE ACTION PLAN**

REPORT PERIOD: 1-1-16 TO 12-13-17

TITLE OF FINDING: Corrective Action Plan for Gibson County; Tax Increment Financing ("TIF") Allocation Fund Uses

CONTACT PERSON: James McDonald

CONTACT PERSON INFORMATION:

McDonald Law Office Staff
120 S. Main Street
Princeton, IN 47670
Telephone (812) 385-4816
Facsimile (812) 386-6076

ISSUE/ REQUIREMENTS THAT SBOA CLAIMS WERE NOT FOLLOWED:

The State Board of Accounts noted that the Gibson County Redevelopment Commission authorized expenditures for certain projects.

"None of the projects were located within the allocation area nor was documentation provided for examination that shows a determination was made that the projects will serve the allocation area"

Attached please find previously submitted documentation demonstrating that the Gibson County Redevelopment Commission made the determination that the projects will serve or benefit the allocation area:

- 2015 expenditures for emergency vehicles and equipment, Freightliner, portable radios and dispatch system.
- Expenditures for the Gibson County Horticulture and Agricultural Society, Inc., Gibson County Convention/Events Center and other improvements to the Fairground.
- Allocation of funds to Ivy Tech Community College, including welding lab equipment.
- Allocation of funds for I-69 Interchanges Sanitary Sewer Projects, including engineering services.

- Allocation of funds to Town of Fort Branch for storm water and wastewater projects.

VIEW OF RESPONSIBLE OFFICIAL:

Based upon the above described documentation, it is the position of Gibson County that the Gibson County Redevelopment Commission did make the determination that the projects would serve or benefit the allocation area. We request that this comment be withdrawn.

The State Board of Accounts stated that "Redevelopment does not include the purchase of equipment except when furnishing the redevelopment office. IC 36-7-14-12.2(a)(19)." (emphasis added). There is no such limitation in IC 36-7-14-12.2(a)(19), and the comment has been cited out of context.

IC 36-7-14-12.2 is a list of the powers that the Gibson County Redevelopment Commission may exercise; it does not limit the exercise of powers by the Gibson County Redevelopment Commission.

Sec. 12.2. (a) The redevelopment commission may do the following: ...

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit. ...

(19) Equip the offices of the department of redevelopment with the necessary furniture, furnishings, equipment, records, and supplies.

Contrary to the assertion made by the State Board of Accounts, the very first power listed in IC 36-7-14-12.2(a) clearly authorizes the Gibson County Redevelopment Commission to purchase personal property, i.e., equipment needed for the redevelopment [and economic development] of areas that are located within the corporate boundaries of Gibson County; it does not limit the purchase of personal property to equipping the offices of the department of redevelopment.

As further support for its position that the Gibson County Redevelopment Commission may not purchase equipment with allocated tax proceeds ("TIF"), the State Board of Accounts asserted that the purchase of equipment is not a permitted use under IC 36-7-14-39(b)(3), citing IC 36-7-14-39(b)(3)(J):

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

IC 36-7-14-25.1 is the provision that authorizes a redevelopment commission to issue bonds, payable from any source,

[I]n addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area... the redevelopment commission

may ... issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including: (1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped; (2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds... .

IC 36-7-14-25.1(a). The State Board of Accounts has "cherry picked" statutory language to support its conclusion, when in fact, statutory construction requires a reading of the entire chapter. IC 36-7-14, read as a whole, clearly authorizes the Gibson County Redevelopment Commission to make the expenditures it has undertaken, if it has made the determination that such expenditures will promote the purposes of redevelopment and economic development in Gibson County.

Based upon advice of counsel, it is the position of Gibson County that the State Board of Accounts' interpretation of the statute is incorrect. We request that this comment be withdrawn.

Conclusion

For the reasons discussed above, the Gibson County Redevelopment Commission and Gibson County request that the Audit Result and Comment be withdrawn. We do not believe a corrective action plan is required; however, in the spirit of cooperation, please see the below.

ROOT CAUSE OF THE ISSUE: Perceived insufficient information and lack of information.

DESCRIPTION OF CORRECTIVE ACTION:

1. The Redevelopment Commission will, at its regular meeting in October, adopt a separate resolution containing clear determinations and findings that each of the expenditures, projects and purposes identified in the Audit Report are either: (i) located in serve the allocation area, in accordance with IC 36-7-14-39(b)(3)(J); or (ii) directly serve or benefit the economic development area or the County in accordance with IC 36-7-25-3. Each resolution will also ratify and confirm the Redevelopment Commission's previous actions with respect to the identified expenditures, projects and purposes. Each resolution will be accompanied by factual documentation supporting the findings and determinations will be attached to and incorporated by reference.

2. Following the adoption of the resolutions as described in paragraph 1 above, the Redevelopment Commission shall submit the resolutions, together with the accompanying factual documentation, the minutes of the meeting at which the resolutions were adopted and any other information the Redevelopment Commission or its counsel determine appropriated, to the County's Board of Commissioners.

3. Upon receiving the resolutions and other materials from the Redevelopment Commission, the Board of Commissioners shall conduct a public meeting at which it will consider each of the resolutions and will adopt separate resolutions ratifying and confirming the resolutions submitted by the Redevelopment Commission.

4. Following the action of the Board of Commissioners adopting resolutions approving the resolutions and actions taken by the Redevelopment Commission, counsel for the Redevelopment Commission and the County will submit certified copies of all the resolutions and accompanying documentation and meeting minutes to the State Board of Accounts to demonstrate implementation of the Corrective Action Plan.

5. The president of the Redevelopment Commission and counsel for the Redevelopment Commission will be responsible for implementing, or causing the implementation of the Corrective Action Plan.

IMPLEMENTATION TIMELINE: The Redevelopment Commission and the Board of Commissioners anticipate taking action at their respective October meetings. Documentation demonstrating implementation of the Corrective Action Plan will be submitted to the State Board of Accounts prior to December 31, 2018.

Future Actions

The Redevelopment Commission, in consultation with its counsel and its financial advisor, with respect to each future project, purpose or program that involve the expenditure of tax increment revenues ("TIF"), will adopt a resolution with respect to each future expenditure that the project, purpose or program either: (i) located in serve the allocation area, in accordance with IC 36-7-14-39(b)(3)(J); or (ii) directly serve or benefit the economic development area or the County in accordance with IC 36-7-25-3. Each resolution will be accompanied by factual documentation supporting the findings and determinations will be attached to and incorporated by reference. The president of the Redevelopment Commission, and counsel for the Redevelopment Commission will review drafts of the minutes of meetings at which such resolutions are adopted to confirm support for the findings and determinations made by the Redevelopment Commission with respect to the resolution.

SUMMARY OF HOW CORRECTIONS WILL PREVENT FUTURE OCCURRENCE OF THE ISSUE: For all future projects, programs or purposes requiring expenditures of TIF, documentation will more clearly illustrate how projects comply with statutory requirements, as described above. The inclusion of more documentation should eliminate any future occurrences.

INDIANA STATE BOARD OF ACCOUNTS COMMENT ON THE OFFICIAL RESPONSE

To provide clarity and perspective, we are commenting on the Official Response to our Audit Result and Comment (ARC) titled "Tax Increment Financing (TIF) Allocation Fund Uses." An official response to this ARC was submitted by James McDonald, Counsel to the Gibson County Redevelopment Commission on behalf of Charles P. Young, President of the Redevelopment Commission.

The legislature provided for the purchase of equipment in only one statute in the redevelopment law, IC 36-7-14. This single reference to equipment is in IC 36-7-14-12.2(a), to allow for the purchase of equipment in order to equip the offices of the department of redevelopment:

"(a) The redevelopment commission may do the following . . .

- (19) Equip the offices of the department of redevelopment with the necessary furniture, furnishings, equipment, records, and supplies."

The best evidence of legislative intent is the language of the statute itself, *Redevelopment Commission of the Town of Munster, Indiana v. Indiana State Board of Accounts and Paul D. Joyce, State Examiner of State Board of Accounts*, 28 N.E. 3d 272 (Ind. App., 2015) *transfer denied*, 34 N.E. 3d 251 (Ind. 2015). Notably absent from IC 36-7-14 is any other authorization or any reference by the legislature to the purchase of equipment with redevelopment funds. The statutory language is clear and unambiguous on its face, and the statute should be given its apparent and obvious meaning. A review of IC 36-7-14 fails to disclose any provision that expressly or impliedly permits the purchase of emergency vehicles, a Freightliner truck, portable radios, a dispatching system, and welding lab equipment. Nor does the purchase of this equipment meet the requirement in IC 36-7-14-12.2(a)(1) of being "needed for the redevelopment of areas needing redevelopment."

The *Munster* case states – that redevelopment funds can be spent only under the express statutory powers and with the legislatively-defined parameters of IC 36-7-14. TIF funds have the additional restrictions of IC 36-7-14-39. IC 36-7-14 provides authority for the redevelopment commission to make expenditures from redevelopment commission funds; however, TIF revenues are only one source of redevelopment commission funds and IC 36-7-14-39 prescribes the specific uses of TIF revenues. Within that statute, it states that TIF revenues must be spent on the TIF allocation area. IC 36-7-14-39(b) (3) and IC 36-7-14-25.1(a) allow TIF funds to pay expenses only for local public improvements that have been identified in the redevelopment resolution and associated plan documents.

During an audit, we would expect to see a detailed and comprehensive written plan for the allocation project area. There should be benchmarks within the plan that would allow progress of the plan to be measured and to determine when the completion of the plan is accomplished. The property to be affected by the establishment of the allocation project area must be identified by listing the names of the owners of the various parcels, IC 36-7-14-15(b)(2). Maps and plats must be prepared showing the boundaries of the area in which the property will be affected by the establishment of a redevelopment project area, IC 36-7-14-15(b)(1). The plan may be modified over time, and any modifications should have sufficient detail to identify the additional parcels affected to measure performance and provide estimated increased costs. The items identified in our comment were not included in the plan. When the plan for the area needing redevelopment (project area) is so broad that it could apply to any geographic area in the county, there is no way to determine that a public project directly serves the project area or furthers the plan for that project area. Any public projects included in the plan should be located in the allocation area or directly serve the allocation area.

COUNTY REDEVELOPMENT COMMISSION
GIBSON COUNTY
EXIT CONFERENCE

The contents of this report were discussed on August 13, 2018, with Phil Young, President of the County Redevelopment Commission; Sherri Smith, County Auditor; Alan Douglas, President of the Board of County Commissioners; William McConnell, County Council member; Dan L. Beard, County Council member; and James G. McDonald III, County Attorney.

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BOARD OF COUNTY COMMISSIONERS
GIBSON COUNTY

BOARD OF COUNTY COMMISSIONERS
GIBSON COUNTY
AUDIT RESULT AND COMMENT

TRAINING ON INTERNAL CONTROL STANDARDS

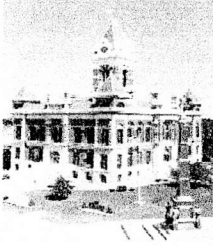
The County passed ordinance 2016-05, which stated in part: ". . . 7. The Auditor shall certify that all personnel and Department heads have received training concerning Uniform Internal Control Standards for Indiana Political Subdivisions as required by Indiana Code 5-11-1-17 (g) (2). . . ."

The County failed to ensure that all personnel and department heads received the required training.

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

". . . the legislative body of a political subdivision shall ensure that: . . .

- (2) personnel receive training concerning the internal control standards and procedures adopted by the political subdivision."



Alan Douglas
President

Gerald Bledsoe
Vice-President

Stephen E. Bottoms
Commissioner

GIBSON COUNTY COMMISSIONERS

Gibson County Annex North
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Phone: 812-385-8260
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August 23, 2018

ldavid@sboa.in.gov

Official Response

State Board of Accounts

302 W Washington Street

Room E 418

Indianapolis, IN 46204-2765

Unit Examined: Gibson County
Period Examined: 01/01/16 to 12/31/17
Office: Board of County Commissioners
Contact: Alan Douglas (812) 385-8260

Response:

Gibson County Commissioners shall have caused and executed Contracts with their legal representative and have taken action to enter into Contract for 2017 and 2018 and thereafter.

Gibson County Commissioners shall follow up to ensure all personnel and department heads receive training on Uniform Internal Control Standards.

Very truly yours,

ALAN DOUGLAS, PRESIDENT
GIBSON COUNTY COMMISSIONER

AD/mw

BOARD OF COUNTY COMMISSIONERS
GIBSON COUNTY
EXIT CONFERENCE

The contents of this report were discussed on August 13, 2018, with Sherri Smith, County Auditor; Alan Douglas, President of the Board of County Commissioners; William McConnell, County Council member; Dan L. Beard, County Council member; and James G. McDonald III, County Attorney.