

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

SPECIAL INVESTIGATION REPORT
OF

INDIANAPOLIS LOCAL PUBLIC
IMPROVEMENT BOND BANK
MARION COUNTY, INDIANA

January 1, 2008 to June 30, 2017



FILED

10/11/2018

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Transmittal Letter	2
Results and Comments:	
Background.....	3
Investigation by Law Enforcement.....	3
Overpayment of Benefit Leave	4-5
Health Insurance.....	5-7
Bonus and Incentive Payments	7-8
Overreporting of Wages	8-9
Internal Controls	10
Special Investigation Costs	10
Bond Coverage.....	10
Exit Conference.....	11
Summary of Charges	12
Affidavit.....	13



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT
BOND BANK, MARION COUNTY, INDIANA

This is a special investigation report for the Indianapolis Local Public Improvement Bond Bank (Bond Bank), for the period of January 1, 2008 to June 30, 2017, and is in addition to any other report for the Bond Bank as required under Indiana Code 5-1.4-3-5. All reports pertaining to the Bond Bank may be found at www.in.gov/sboa/.

We performed procedures to determine compliance with applicable Indiana laws and were limited to records associated with payroll and health benefits. The 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 Results and Comments, incorporated within this report, was not verified for accuracy.

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

September 4, 2018

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS

BACKGROUND

Bond Bank officials became aware that there were improper benefit leave payments and unauthorized uses of the Bond Bank's health insurance by Jacqueline Fitzgerald (Fitzgerald), former Director of Administration, and Monica Durrett (Durrett), former Executive Assistant.

The Indiana State Board of Accounts was notified by officials of the Bond Bank in accordance with Indiana Code 5-11-1-27. The Indiana State Board of Accounts examined the payroll and insurance records of the Bond Bank for the period of January 1, 2008 to June 30, 2017.

Indiana Code 5-1.4-3-5(a) states in part: "The bank shall have an audit of its books and accounts made at least once each year by either the state board of accounts or by an auditor or auditing firm to be appointed by the board upon review of the firm's proposal by the state board of accounts. . . ."

Indiana Code 5-11-1-9.5(b) states:

"The state examiner may not undertake an examination of a public office, officer, or institution based on the allegation of an individual, organization, or institution that a violation of the law has occurred unless:

- (1) the individual or representative of the organization or institution makes the allegation in the form of a sworn statement that the individual or representative believes the allegation to be true; or
- (2) the state examiner has probable cause to believe that a violation of the law has occurred."

Indiana Code 5-11-5-1(d) states:

"If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that the following conditions are satisfied, the examiner shall report the determination to the state examiner:

- (1) A substantial amount of public funds has been misappropriated or diverted.
- (2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of the public funds was committed by the officer or an employee of the office."

The following describes the malfeasance and misfeasance that resulted in the misappropriation or diversion of public funds.

INVESTIGATION BY LAW ENFORCEMENT

An investigation of the misappropriation of funds has also been conducted by the Marion County Sheriff's Department, Grand Jury Division. Criminal charges have been filed in Marion County Superior Court, Criminal Division 5, under Case Numbers 49G05-1807-F5-023517 (Fitzgerald) and 49G05-1807-F6-023522 (Durrett). Fitzgerald was charged with six counts of theft and two counts of insurance fraud. Durrett was charged with five counts of theft and one count of insurance fraud.

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS
(Continued)

OVERPAYMENT OF BENEFIT LEAVE

The Bond Bank has a policy to allow employees, once each calendar year, to receive payment in exchange for accrued benefit leave time. Fitzgerald and Durrett received payments for benefit leave in excess of the amounts to which they were entitled. As a result, Fitzgerald and Durrett accumulated significant negative benefit leave balances.

The schedules below show the overpayment of benefit leave to Fitzgerald and Durrett and the additional employer taxes paid by the Bond Bank.

		Overpayment of Benefit Leave				
	Years	End of Year Benefit Leave Balance In Hours	Excess Benefit Leave Hours Paid Per Year	Benefit Leave Overpayment	Additional Employer Taxes	Total Overpayment
Jacqueline Fitzgerald	2008	(72.25)	(72.25)	\$ 1,615.40	\$ 123.58	\$ 1,738.98
	2009	(314.25)	(242.00)	5,580.79	426.93	6,007.72
	2010	(568.60)	(254.35)	5,752.26	440.05	6,192.31
	2011	(1,384.60)	(816.00)	20,019.69	1,531.48	21,551.17
	2012	(2,576.10)	(1,191.50)	30,016.72	2,296.28	32,313.00
	2013	(3,920.10)	(1,344.00)	33,858.98	2,590.21	36,449.19
	2014	(6,378.60)	(2,458.50)	63,173.85	4,832.80	68,006.65
	2015	(9,731.10)	(3,352.50)	88,299.57	6,754.92	95,054.49
	2016	(13,538.10)	(3,807.00)	100,270.93	7,670.73	107,941.66
	2017	(14,983.60)	(1,445.50)	39,975.96	3,058.16	43,034.12
	Totals			<u>\$ 388,564.15</u>	<u>\$ 29,725.14</u>	<u>\$ 418,289.29</u>

		Overpayment of Benefit Leave				
	Years	End of Year Benefit Leave Balance In Hours	Excess Benefit Leave Hours Paid Per Year	Benefit Leave Overpayment	Additional Employer Taxes	Total Overpayment
Monica Durrett	2008	44.00	44.00	\$ (851.84)	\$ -	\$ (851.84)
	2009	(149.25)	(193.25)	3,934.20	300.97	4,235.17
	2010	(283.25)	(134.00)	2,727.79	208.68	2,936.47
	2011	(358.75)	(75.50)	1,611.93	123.31	1,735.24
	2012	(390.75)	(32.00)	684.02	52.33	736.35
	2013	(517.75)	(127.00)	3,052.61	233.52	3,286.13
	2014	(678.75)	(161.00)	3,870.02	296.06	4,166.08
	2015	(751.75)	(73.00)	1,798.60	137.59	1,936.19
	2016	(746.75)	5.00	(123.33)	-	(123.33)
	2017	(807.75)	(61.00)	1,578.23	120.73	1,698.96
	Totals			<u>\$ 18,282.23</u>	<u>\$ 1,473.19</u>	<u>\$ 19,755.42</u>

The Bond Bank employed an outside company to process payroll. The normal procedure was for Fitzgerald to email the representative from the outside company with salary information, time off taken, and various insurance changes for the pay period. Also communicated were the benefit leave payments requested. The outside company would then provide various reports documenting the amounts for each pay period.

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS
(Continued)

The outside company also tracked the benefit leave balances for each employee; however, the reports provided did not account for all benefit leave taken. As a result, Fitzgerald was to track the benefit leave balances and provide this information to others within the Bond Bank. The benefit leave reported by Fitzgerald was not accurate and did not reflect the actual benefit leave balances. It was also noted that emails from Fitzgerald to the outside company contained instructions for the outside company to zero out any negative benefit leave balances on their records. By doing this, the overpayment of benefit leave was allowed to occur and not be identified by other Bond Bank personnel.

Due to the overpayment of benefit leave, the Bond Bank paid additional employer taxes related to Social Security and Medicare.

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (IC 5-11-5-1(a))

Indiana Code 35-43-4-2(a) states in part:

"A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class A misdemeanor. However, the offense is:

(1) a Level 6 felony if:

(A) the value of the property is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000); . . .

(2) a Level 5 felony if:

(A) the value of the property is at least fifty thousand dollars (\$50,000); . . ."

We requested that Fitzgerald reimburse the Bond Bank for the overpayment of benefit leave and the additional employer taxes in the amount of \$418,289.29. (See Summary of Charges, page 12)

We requested that Durrett reimburse the Bond Bank for the overpayment of benefit leave and the additional employer taxes in the amount of \$19,755.42. (See Summary of Charges, page 12)

HEALTH INSURANCE

Fitzgerald and Durrett received improper health insurance benefits by including unauthorized individuals as insured parties on their health insurance policies. The addition of these unauthorized individuals resulted in the Bond Bank incurring additional insurance costs, due to cost differences for the employer and employee.

The schedules below show the additional insurance costs incurred by the Bond Bank.

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS
(Continued)

Years	Health Insurance	
	Jacqueline Fitzgerald	
2008	\$	7,506.00
2009		4,991.11
2010		-
2011		649.62
2012		4,525.27
2013		4,690.52
2014		4,718.45
2015		5,002.93
2016		4,836.92
2017		3,048.54
Total	\$	<u>39,969.36</u>

Years	Health Insurance	
	Monica Durrett	
2008	\$	(0.11)
2009		-
2010		-
2011		-
2012		-
2013		254.54
2014		625.67
2015		4.87
2016		-
2017		-
Total	\$	<u>884.97</u>

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (IC 5-11-5-1(a))

Indiana Code 35-43-5-4.5(a) states in part:

"A person who, knowingly and with intent to defraud: . . .

(2) presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, an oral, a written, or an electronic statement that the person knows to contain materially false information as part of, in support of, or concerning a fact that is material to: . . .

(B) a claim for payment or benefit under an insurance policy; . . .

or conceals any information concerning a subject set forth in [clause (B)]; . . .

commits insurance fraud . . . a Level 6 Felony."

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS
(Continued)

Indiana Code 35-43-4-2(a) states in part:

"A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class A misdemeanor. However, the offense is:

(1) a Level 6 felony if:

(A) the value of the property is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000); . . .

(2) a Level 5 felony if:

(A) the value of the property is at least fifty thousand dollars (\$50,000); . . ."

We requested that Fitzgerald reimburse the Bond Bank for the excess health insurance premiums in the amount of \$39,969.36. (See Summary of Charges, page 12)

We requested that Durrett reimburse the Bond Bank for the excess health insurance premiums in the amount of \$884.97. (See Summary of Charges, page 12)

BONUS AND INCENTIVE PAYMENTS

As described in the comment entitled "Overpayment of Benefit Leave," Fitzgerald would communicate with the outside payroll company the amounts to be paid each pay period. This also included various payments noted as bonus or incentive. Fitzgerald and Durrett received bonus and incentive payments, which were not approved.

Due to the unauthorized bonus and incentive payments, the Bond Bank paid additional employer taxes related to Social Security and Medicare.

The schedules below show the bonus and incentive payments received by Fitzgerald and Durrett that were not approved and the additional employer taxes paid by the Bond Bank as a result of these payments.

		Overpayment of Bonus and Incentive Pay			
		Bonus	Incentive	Additional	Total
Years	Years	Overpayment	Overpayment	Employer Taxes	Overpayment
Jacqueline Fitzgerald	2009	\$ 2,000.00	\$ -	\$ 153.00	\$ 2,153.00
	2010	2,000.00	-	153.00	2,153.00
	2011	1,000.00	3,000.00	306.00	4,306.00
	2013	2,500.00	-	191.25	2,691.25
	2014	-	3,000.00	229.50	3,229.50
	2015	-	4,000.00	306.00	4,306.00
	Totals	\$ 7,500.00	\$ 10,000.00	\$ 1,338.75	\$ 18,838.75

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS
(Continued)

		Overpayment of Bonus and Incentive Pay			
Years	Bonus Overpayment	Incentive Overpayment	Additional Employer Taxes	Total Overpayment	
Monica Durrett	2010	\$ 2,000.00	\$ -	\$ 153.00	\$ 2,153.00
	2011	2,000.00	-	-	2,000.00
	Totals	\$ 4,000.00	\$ -	\$ 153.00	\$ 4,153.00

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (IC 5-11-5-1(a))

Indiana Code 35-43-4-2(a) states in part:

"A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class A misdemeanor. However, the offense is:

(1) a Level 6 felony if:

(A) the value of the property is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000); . . .

(2) a Level 5 felony if:

(A) the value of the property is at least fifty thousand dollars (\$50,000); . . ."

We requested that Fitzgerald reimburse the Bond Bank for the unapproved bonus and incentive payments received, including additional employer taxes, in the amount of \$18,838.75. (See Summary of Charges, page 12)

We requested that Durrett reimburse the Bond Bank for the unapproved bonus and incentive payments received, including additional employer taxes, in the amount of \$4,153.00. (See Summary of Charges, page 12)

OVERREPORTING OF WAGES

As a result of the conditions described in the comments entitled "Overpayment of Benefit Leave" and "Bonus and Incentive Payments," the amount of covered wages was overreported to the Indiana Public Retirement System for Fitzgerald and Durrett. The Bond Bank contributed specifically to the Public Employees' Retirement Fund (PERF) plan. Since the wages were overreported, the Bond Bank was required to pay additional contribution amounts to PERF.

The schedules below show the overreported wages and the additional PERF contributions paid by the Bond Bank.

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS
(Continued)

		<u>Overpayment of Employer Contribution</u>		
<u>Years</u>	<u>Overreported Wages</u>	<u>Contribution Rate</u>	<u>Additional Employer Contribution</u>	
Jacqueline Fitzgerald	2008	\$ 2,801.64	8.0%	\$ 224.13
	2009	13,796.85	8.0%	1,103.75
	2010	12,230.13	8.0%	978.41
	2011	18,895.17	8.0%	1,511.61
	2012	8,529.79	8.0%	682.38
	2013	3,098.37	9.5%	294.35
	2014	2,260.25	11.0%	248.63
	2015	621.30	12.5%	77.66
	2016	4,872.92	14.0%	682.21
	2017	<u>2,655.40</u>	14.2%	<u>377.07</u>
Totals		<u>\$ 69,761.82</u>		<u>\$ 6,180.20</u>

		<u>Overpayment of Employer Contribution</u>		
<u>Years</u>	<u>Overreported Wages</u>	<u>Contribution Rate</u>	<u>Additional Employer Contribution</u>	
Monica Durrett	2008	\$ (2,110.44)	8.0%	\$ (168.84)
	2009	5,536.19	8.0%	442.90
	2010	7,853.61	8.0%	628.29
	2011	7,828.69	8.0%	626.30
	2012	2,963.50	8.0%	237.08
	2013	4,198.65	9.5%	398.87
	2014	0.20	11.0%	0.02
	2015	461.08	12.5%	57.64
	2016	1,848.00	14.0%	258.72
	2017	<u>2,276.56</u>	14.2%	<u>323.27</u>
Totals		<u>\$ 30,856.04</u>		<u>\$ 2,804.24</u>

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (IC 5-11-5-1(a))

We requested that Fitzgerald reimburse the Bond Bank for the overreporting of wages, resulting in additional PERF contributions in the amount of \$6,180.20. (See Summary of Charges, page 12)

We requested that Durrett reimburse the Bond Bank for the overreporting of wages, resulting in additional PERF contributions in the amount of \$2,804.24. (See Summary of Charges, page 12)

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
RESULTS AND COMMENTS
(Continued)

INTERNAL CONTROLS

Internal control weaknesses existed that contributed to Fitzgerald and Durrett's ability to obtain improper benefit leave payments and health insurance benefits. There was only one employee handling payroll and benefits. The employee was responsible for communicating with the third-party payroll service company, tracking benefit leave time, reporting time, and maintaining payroll and benefit records. There was not adequate review of the communication with the payroll service company or adequate review of the supporting documentation underlying payrolls and benefit leave requests. The employee personnel files maintained were not complete and did not provide all supporting documentation for health insurance benefits selected by Fitzgerald and Durrett.

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties

There is an expectation of segregation of duties. [emphasis added] If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional investigation costs in the special investigation of benefit leave payments and health insurance of the Bond Bank.

Fitzgerald and Durrett, jointly and severally, were requested to reimburse the State of Indiana \$27,704.50 for special investigation costs. (See Summary of Charges, page 12)

BOND COVERAGE

The following is information regarding official bonds obtained by the Bond Bank:

<u>Period</u>	<u>Amount</u>
05-05-09 to cancellation	\$ 8,500

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
EXIT CONFERENCE

The contents of this report were discussed on September 20, 2018, with Sarah Riordan, Executive Director; Brad Busse, Controller; Laurie Canatsey, Chief Budget Officer; Bryan Moll, Board member; and Dr. Terri Jett, Board member.

INDIANAPOLIS LOCAL PUBLIC IMPROVEMENT BOND BANK
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Jacqueline Fitzgerald, former Director of Administration:			
Overpayment of Benefit Leave, pages 4 and 5	\$ 418,289.29	\$ -	\$ 418,289.29
Health Insurance, pages 5 through 7	39,969.36	-	39,969.36
Bonus and Incentive Payments, pages 7 and 8	18,838.75	-	18,838.75
Overreporting of Wages, pages 8 and 9	<u>6,180.20</u>	<u>-</u>	<u>6,180.20</u>
Subtotals - Jacqueline Fitzgerald	<u>483,277.60</u>	<u>-</u>	<u>483,277.60</u>
Monica Durrett, former Executive Assistant:			
Overpayment of Benefit Leave, pages 4 and 5	19,755.42	-	19,755.42
Health Insurance, pages 5 through 7	884.97	-	884.97
Bonus and Incentive Payments, pages 7 and 8	4,153.00	-	4,153.00
Overreporting of Wages, pages 8 and 9	<u>2,804.24</u>	<u>-</u>	<u>2,804.24</u>
Subtotals - Monica Durrett	<u>27,597.63</u>	<u>-</u>	<u>27,597.63</u>
Jacqueline Fitzgerald, former Director of Administration, and Monica Durrett, former Executive Assistant, jointly and severally:			
Special Investigation Costs, page 10	<u>27,704.50</u>	<u>-</u>	<u>27,704.50</u>
Totals	<u>\$ 538,579.73</u>	<u>\$ -</u>	<u>\$ 538,579.73</u>

This report was forwarded to the Office of the Indiana Attorney General; Marion County Sheriff, Grand Jury Division; and the local prosecuting attorney.

AFFIDAVIT

STATE OF INDIANA)
)
MARION COUNTY)

We, David Bixler and Samuel Wilson, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the Indianapolis Local Public Improvement Bond Bank, Marion County, Indiana, for the period from January 1, 2008 to June 30, 2017, is true and correct to the best of our knowledge and belief.

David Bixler

Samuel Wilson

Field Examiners

Subscribed and sworn to before me this 5 day of Oct, 2018

Juanita M. Hendrickson

Notary Public

My Commission Expires: _____

County of Residence: _____

