

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF MARION

GRANT COUNTY, INDIANA

January 1, 2016 to December 31, 2016



**FILED**  
12/06/2018



## TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Schedule of Officials .....	2
Transmittal Letter .....	3
City Controller:	
Audit Results and Comments:	
Overdrawn Cash Balances .....	6
Annual Financial Report - Supplemental Schedules .....	6
Appropriations .....	6-7
Loan from Utilities in Anticipation of Taxes to be Collected.....	7
Temporary Transfer of Funds Not Returned.....	8
Compensation Discrepancies with Police and Fire Administration.....	8-9
Official Response.....	10
Exit Conference .....	11
Common Council:	
Audit Results and Comments:	
Appropriations .....	14
Loan from Utilities in Anticipation of Taxes to be Collected.....	14-15
Temporary Transfer of Funds Not Returned.....	15
Compensation Discrepancies with Police and Fire Administration.....	15-16
Exit Conference .....	17

SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
City Controller	Julie L. Flores	01-01-16 to 12-31-18
Mayor	Jess Alumbaugh	01-01-16 to 12-31-19
City Clerk	Kathleen Kiley	01-01-16 to 12-31-19
President of the Board of Public Works and Safety	Bryan K. Harris Joselyn M. Whitticker (interim) Alex D. Huskey Adam Binkerd (Vacant) Cindy Cunningham Linda S. Wilk	01-01-16 to 01-24-16 01-25-16 to 04-17-16 04-18-16 to 12-31-16 01-01-17 to 06-19-17 06-20-17 to 07-02-17 07-03-17 to 12-31-17 01-01-18 to 12-31-18
President of the Common Council	James Brunner Brad Luzzader	01-01-16 to 12-31-17 01-01-18 to 12-31-18
Utilities Director	John C. Binkerd	01-01-16 to 12-31-18



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS  
302 WEST WASHINGTON STREET  
ROOM E418  
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Telephone: (317) 232-2513  
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TO: THE OFFICIALS OF THE CITY OF MARION, GRANT COUNTY, INDIANA

This report is supplemental to our audit report of the City of Marion (City), for the period from January 1, 2016 to December 31, 2016. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the City. It should be read in conjunction with our Financial Statement and Federal Single Audit Report of the City, which provides our opinions on the City's financial statement and federal program compliance. This report may be found at [www.in.gov/sboa/](http://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

November 8, 2018

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CITY CONTROLLER  
CITY OF MARION

CITY CONTROLLER  
CITY OF MARION  
AUDIT RESULTS AND COMMENTS

**OVERDRAWN CASH BALANCES**

The same comment also appeared in the prior eight reports, entitled *OVERDRAWN CASH BALANCES*.

The financial statement presented for audit included the following funds with overdrawn cash balances at December 31, 2016.

Fund	Amount Overdrawn
1937 Fire Pension	\$ 81,604
Reduce Drunk Driving	5,087
Insurance Reserve	2,981,701
PR - Direct Deposit	1,215

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 unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

**ANNUAL FINANCIAL REPORT - SUPPLEMENTAL SCHEDULES**

A similar comment appeared in prior Reports B40564, B42678, B43989, B45693, and B48607, entitled *SCHEDULE OF LEASES AND DEBT* and *ANNUAL FINANCIAL REPORT - SUPPLEMENTAL SCHEDULES*.

The Schedule of Leases and Debt, included in the Annual Financial Report for 2016, was inaccurate and required adjustments. Adjustments were proposed, accepted by the City, and made to the Schedule of Leases and Debt.

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under [IC 5-14-3.8-7](#)."

**APPROPRIATIONS**

A similar comment also appeared in prior Reports B45693 and B48607, entitled *APPROPRIATIONS*.

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

CITY CONTROLLER  
CITY OF MARION  
AUDIT RESULTS AND COMMENTS  
(Continued)

Fund	Year	Excess Amount Expended
Park Non Reverting	2016	\$ 504,563
Local Law Continuing Ed	2016	5,370
CCI	2016	541
City Bond and Interest	2016	7,213
1937 Fire Pension	2016	30,426
Park Bond	2016	1,007

Indiana Code 36-4-8-2 states in part:

". . . Unless a statute provides otherwise, the fiscal officer may draw a warrant against a fund of the city only if:

- (1) an appropriation has been made for that purpose and the appropriation is not exhausted; . . ."

***LOAN FROM UTILITIES IN ANTICIPATION OF TAXES TO BE COLLECTED***

The same comment also appeared in prior Reports B42678, B43989, B45693, and B48607.

A loan of \$1,000,000 was made on September 11, 2012, from Marion Municipal Utilities to the City in anticipation of taxes to be levied and collected. The loan was made to allow the City to meet its cash flow obligations. The loan was not repaid on or before 30 days after the last day for the payment of the anticipated taxes, which were received December 6, 2012. The loan remains outstanding as of November 8, 2018.

Indiana Code 8-1.5-3-12 states in part:

"(a) A municipality may, by ordinance of its legislative body, borrow money from a utility owned by the municipality for any of the following purposes:

- (1) Current purposes in anticipation of taxes levied and to be collected during the current or following year . . .
- (d) A loan under this section:
  - (1) must be evidenced by an obligation of the municipality;
  - (2) must be signed by the executive;
  - (3) is due:
    - (A) on or before thirty (30) days after the last day for the payment of anticipated taxes, in the case of a loan made under subsection (a)(1); . . .
  - (4) may bear interest at any rate as determined by the board, payable at maturity."

CITY CONTROLLER  
CITY OF MARION  
AUDIT RESULTS AND COMMENTS  
(Continued)

**TEMPORARY TRANSFER OF FUNDS NOT RETURNED**

The same comment also appeared in prior Reports B43989, B45693, and B48607.

A \$700,000 temporary transfer was made from Marion Municipal Utilities to the General fund on April 4, 2013. The transfer was made to allow the City to meet its cash flow obligations. Resolution No. 10-2013, adopted by the Common Council on April 2, 2013, authorized the transfer per Indiana Code 36-1-8-4. The amount was not returned to Marion Municipal Utilities by the approved date of June 30, 2013, and has not been returned as of November 8, 2018.

Indiana Code 36-1-8-4(a) states in part:

". . . (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. . . ."

**COMPENSATION DISCREPANCIES WITH POLICE AND FIRE ADMINISTRATION**

Discrepancies existed among various agreements, the City of Marion Employee Policy and Procedure Manual (Manual), and an Executive Order regarding compensation due to police and fire administrative personnel. Compensation was not being calculated consistently within these various guidelines. We identified Chiefs, Deputy Chiefs, and probationary employees who were receiving compensation even though these positions were specifically excluded from the applicable agreements.

The agreement between the City and the Fraternal Order of Police, Martin Boots Lodge No. 79 (FOP) dated October 29, 2013 (Police Agreement) defines a "Police Officer" as ". . . any sworn police officer of the City of Marion, except: the Chief and Deputy Chiefs not to exceed three (3) and any probationary officers." Various sections of the Police Agreement provide police officers with additional compensation including holiday pay; longevity pay; uniform allowance; payback of unused sick time; payback of unused vacation time; and specialty pay. The Police Chief, Deputy Police Chiefs, and probationary officers received various additional compensation, as noted in the schedule below, although these positions were specifically excluded by the Police Agreement and not otherwise provided to City employees.

The agreement between the City and the Marion Professional Firefighters, Local 676 (Fire Agreement) states in Section 3.3 "The following positions shall be specifically excluded from the bargaining unit: Fire Chief, Chief Deputy, Deputy Chief, Any Firefighter without Marion Fire Department Mandatory Training." Various sections of the Fire Agreement provide firefighters with additional compensation including holiday pay; longevity pay; uniform allowance; payback of unused sick time; payback of unused vacation time; specialty pay; and flex pay. The Fire Chief and Deputy Chief received various additional compensation, as noted in the schedule below, although these positions were specifically excluded by the Fire Agreement and not otherwise provided to City employees.

The City of Marion Employee Policy and Procedure Manual (Manual), effective October 1, 2015, does not provide nonunion City employees with any additional compensation for holiday pay; longevity pay; uniform allowance; payback of unused sick time; payback of unused vacation time; specialty pay; and flex pay. In the Manual, Section III Policy Manual Administration section G states in part: ". . . Any bargaining units' contract and/or SOPs will supersede this manual in situations where the manual is written with stricter requirements."

CITY CONTROLLER  
CITY OF MARION  
AUDIT RESULTS AND COMMENTS  
(Continued)

Salary ordinances in effect for 2016 for police officers and firefighters, including the Chiefs and Deputies, established rates of pay for positions, but did not authorize additional compensation, including holiday pay; longevity pay; uniform allowance; payback of unused sick time; payback of unused vacation time; specialty pay and flex pay.

The Mayor issued Executive Order No. 1-2018, dated January 23, 2018, which amended the Manual section related to holidays, vacations, and leaves by adding the following provision:

"G. All Administrative Personnel of the Marion Fire Department and the Marion Police Department, as defined above, are hereby granted the same benefits as bargaining unit members of the Marion Fire and Police Departments including holiday pay, clothing allowances, longevity pay, sick pay, vacation sell-back policy, vacation and personal time, sick leave, life insurance benefits and pension and contributions."

However, Section III of the Manual states under Policy Manual Administration "Any change to this policy manual will be effective only if set forth in writing, by ordinance, and approved by the Mayor." An ordinance enabling this change was not presented for audit.

Compensation amounts for holiday pay, longevity, leave payback, specialty team, and flex pay were paid to Chiefs, Deputy Chiefs, and Probationary Officers as follows

<u>Department</u>	<u>Position</u>	<u>Holiday</u>	<u>Longevity</u>	<u>Sick Payback</u>	<u>Vacation Payback</u>	<u>Specialty Team</u>	<u>Flex Pay</u>	<u>Totals</u>
Police	Chief	\$ 1,895	\$ 900	\$ 1,751	\$ 2,107	\$ -	\$ -	\$ 6,653
	Deputy Chiefs	3,790	900	3,383	5,522	-	-	13,595
	Probationary Officers	1,464	-	-	-	-	-	1,464
Fire	Chief	1,438	900	-	-	3,650	250	6,238
	Deputy Chief	<u>1,288</u>	<u>1,100</u>	-	-	<u>3,500</u>	<u>250</u>	<u>6,138</u>
	Totals	<u>\$ 9,875</u>	<u>\$ 3,800</u>	<u>\$ 5,134</u>	<u>\$ 7,629</u>	<u>\$ 7,150</u>	<u>\$ 500</u>	<u>\$ 34,088</u>

Each unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)



## **CITY of MARION**

**OFFICIAL RESPONSE  
CITY OF MARION  
November 16, 2018**

### **OVERDRAWN CASH**

Fire Pension Fund: City submits paperwork to State indicating the amount needed to pay pensioners. The City never receives the amount needed from the State based on a calculation they use that takes into consideration the age of the group and the likelihood there will be death(s) among the group during the year.

Reduce Drunk Driving Fund: Reimbursable grant fund. In most cases, the reimbursement has been requested but not received by the end of the year.

Insurance Fund: This fund has been overdrawn since 2008. For 2019, the City has increased the amount budgeted for each employee eligible to be on the plan in hopes this will assist in getting the Fund back to positive cash balance.

### **APPROPRIATIONS**

Park Non-Reverting and Local CEF have never been appropriated in the past. However, the City will begin appropriating going forward (2020). Fire Pension Fund, as stated previously, never receives the appropriate cash to cover appropriation. On the remaining Funds noted in audit comments, every effort is made at the end of the year to ensure no appropriation is overdrawn. It is not the intention of this office to have this occur.

### **LOAN FROM UTILITIES**

### **TEMPORARY TRANSFER OF FUNDS NOT RETURNED**

Administration has been in discussion with Marion Utilities about possible solutions to both of these issues. The lack of cash flow has been a stumbling block in the ability to get Marion Municipal Utilities paid back.

Respectfully submitted,

CITY CONTROLLER  
CITY OF MARION  
EXIT CONFERENCE

The contents of this report were discussed on November 8, 2018, with Jess Alumbaugh, Mayor; Julie L. Flores, City Controller; Michael D. Flynn, Chief of Staff; Linda S. Wilk, President of the Board of Public Works and Safety; and Cindy Cunningham, Board of Public Works and Safety member.

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COMMON COUNCIL  
CITY OF MARION

COMMON COUNCIL  
CITY OF MARION  
AUDIT RESULTS AND COMMENTS

**APPROPRIATIONS**

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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."

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COMMON COUNCIL  
CITY OF MARION  
AUDIT RESULTS AND COMMENTS  
(Continued)

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COMMON COUNCIL  
CITY OF MARION  
EXIT CONFERENCE

The contents of this report were discussed on November 8, 2018, with Deborah Cain, Common Council member, and David K. Homer, Common Council member.