

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF PORTAGE

PORTER COUNTY, INDIANA

January 1, 2017 to December 31, 2018



FILED
11/15/2019

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Schedule of Officials	2
Transmittal Letter	3
Clerk-Treasurer:	
Audit Results and Comments:	
Internal Controls - Financial Transactions and Reporting.....	6-8
Overdrawn Cash Balances	8-9
Temporary Transfer of Funds	9-10
Certification on Internal Control Standards	10
Local Road and Bridge Matching Grant - Incorrect Fund Posting	10-11
Annual Financial Report (AFR)	11
Timely Recording	12
Condition of Records - Utility Disbursements	12-14
Utility Permanent Transfers and Debt Payments.....	14-15
Utility Capital Assets	15
Exit Conference	16
Common Council:	
Audit Results and Comments:	
Training on Internal Control Standards	18
Overdrawn Cash Balances	18-19
Exit Conference	20
Redevelopment Commission:	
Audit Results and Comments:	
Redevelopment Commission General Fund.....	22-23
City Paving Project.....	23-25
Exit Conference	26
Board of Public Works and Safety:	
Audit Result and Comment:	
Public Works - Paving Project.....	28-31
Exit Conference	32

SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Christopher D. Stidham	01-01-17 to 12-31-19
Mayor	James Snyder Sue Lynch (interim) John Cannon	01-01-17 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19
President of the Board of Public Works and Safety	James Snyder Sue Lynch (interim) John Cannon	01-01-17 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19
President Pro Tempore of the Common Council	Mark Oprisko Sue Lynch	01-01-17 to 12-31-18 01-01-19 to 12-31-19
Secretary/Treasurer of the Water Reclamation Utility	Sherryl Smolar	01-01-17 to 02-23-17
President of the Utility Service Board	James Snyder Mark Oprisko Scott Williams	01-01-17 to 03-07-17 03-08-17 to 12-31-17 01-01-18 to 12-31-18
Chairman of the Sanitary Board	James Snyder Sue Lynch John Cannon	01-01-19 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19
Chairman of the Storm Water Board	James Snyder Sue Lynch John Cannon	01-01-19 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19
President of the Redevelopment Commission	James Snyder Sue Lynch John Cannon	01-01-17 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF PORTAGE, PORTER COUNTY, INDIANA

This report is supplemental to our audit report of the City of Portage (City), for the period from January 1, 2017 to December 31, 2018. 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 Audit Report of the City, which provides our opinion on the City'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

October 24, 2019

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CLERK-TREASURER
CITY OF PORTAGE

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS

INTERNAL CONTROLS - FINANCIAL TRANSACTIONS AND REPORTING

A similar comment also appeared in prior Report B50037, entitled *FINDING 2016-002 - FINANCIAL TRANSACTIONS AND REPORTING*

Condition and Context

There were several deficiencies in the internal control system of the City related to financial transactions and reporting.

The City had not separated incompatible activities related to all areas of the financial statement, including: cash and investments, receipts, disbursements, and financial reporting. A separation of duties for each of these areas had not been designed or implemented to prevent, or detect and correct, errors.

Cash

The reconciliation of the bank and ledger activity was prepared by one individual without an oversight or review process to ensure that all City bank accounts were included in the reconciliation.

The City bank reconciliements presented for audit had the following deficiencies:

1. The reconciliations of the City bank accounts contained a number of errors and did not agree to the record balances, resulting in cash longs and cash shorts. The cash longs and shorts ranged from cash long of \$132,717 at December 31, 2017, to cash short of \$835,479 at December 31, 2018. The financial statement was not adjusted due to these variances.
2. The outstanding check list provided for audit contained checks that were not outstanding. Additionally, the total outstanding checks on the list were less than the amounts reported on the bank reconciliations as of December 31, 2017 and 2018, by \$204,446 and \$195,629, respectively.
3. Adjustments noted in the reconciliations were not documented and could not be verified.
4. Bank interest for December 2017 totaling \$2,151 from various City bank accounts was not recorded in the City's ledgers in either 2017 or 2018 and was not reflected in the City's reconciliations.
5. Compliance with completing timely, monthly reconciliations could not be determined because the bank reconciliations did not contain documentation as to when the reconciliations were performed.
6. Reconciliations for a Utility trust account were only performed for the January 2018 statement. No reconciliations were performed for the remaining 11 months of the year. The lack of reconciliation of the Utility account resulted in the understatement of receipts totaling \$281,558 for 2018, in both the Utility's ledgers and in the City's financial statement.

Receipts

Daily utility payments were collected and a batch report of those collections was prepared. There was no documentation that utility collections and deposits were verified to the batch reports prior to posting the collections to the ledgers.

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

Disbursements - Payroll

1. New employee information was entered into the payroll system by the Payroll Clerk. A review or verification of the accuracy of the information was not performed.
2. The final payroll report was not reviewed to ensure accuracy.
3. Payroll was performed by an outside vendor. Reconciliation of the payroll reports and the information entered into the financial accounting system was not performed.

Financial Reporting

The financial information was prepared and electronically submitted through the Indiana Gateway for Government Units financial reporting system, which was the source of the financial statement, without an oversight or review process to prevent, or detect and correct, errors. The City did not have procedures in place to ensure that the financial information recorded and reported was accurate and complete.

A Water Reclamation Utility and two storm water funds with receipts, disbursements, and ending cash and investment balances of \$3,406,954, \$2,375,477, and \$1,031,477, respectively, were not reported for 2018.

Adjustments were proposed, approved by the City, and made to the financial statement.

Criteria

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. 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. . . .

The Green Book identifies a list of control activity categories that are meant only to illustrate the range and variety of control activities; the list is by no means all inclusive, but is reproduced here for reference purposes: . . .

- Accurate and timely recording of transactions. . . ."

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

The record balance at the end of every month shall be reconciled with the bank balance. (IC 5-13-6-1) Thus, any errors may be discovered and adjusted monthly. This procedure will localize any errors within the month and will prevent the necessity of a long and tedious search to trace errors covering transactions over a long period of time and will serve to expedite audits by the State Board of Accounts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 2)

All documents and entries to records must be made in a timely manner to ensure that accurate financial information is available to allow the unit to make informed management decisions and to help ensure compliance with Indiana Code 5-15-1-1. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

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](#)."

OVERDRAWN CASH BALANCES

A similar comment appeared in prior Report B50037, entitled *OVERDRAWN CASH BALANCES*.

Condition and Context

The financial statement presented for audit included funds with overdrawn cash balances at December 31, 2018. The City funds with overdrawn cash balances at December 31, 2018, are listed below:

Fund	12-31-18 Amount Overdrawn
Park NR Operating	\$ 807
Payroll Withholding Police/Fire PERF	4,030
Payroll Withholding Flex Plan	9,248
Payroll Withholding Life Ins	8,160
Payroll Withholding Def Comp Valic	21,771
Payroll Withholding Def Comp Nationwide	808
Payroll Withholding Local 150 Admin	65,018
Payroll UNUM	5,704
Payroll Withholding Support-IN	245

The following funds presented in the financial statement received temporary loans from other funds at year end. Without the temporary loans, these funds would have had the following overdrawn cash balances:

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

Fund	Amount Funds would have been Overdrawn as of	
	12-31-17	12-31-18
General Fund	\$ 818,129	\$ 868,154
MVH-Street Fund	97,103	170,072
Park & Recreation Fund	-	39,462
Cum Liab/Physical Dam Res	-	9,689
Debt Service Fund	-	102,721
Municipal Wheel Tax fund	-	266,797

Criteria

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)

TEMPORARY TRANSFER OF FUNDS

A similar comment appeared in prior Reports B50037 and B49453, entitled *TEMPORARY TRANSFER OF FUNDS*.

Condition and Context

In December of each year, the Clerk-Treasurer made temporary transfers of funds, totaling \$947,103 and \$1,910,000, which were outstanding as of December 31, 2017 and 2018, respectively.

For 2017, a temporary transfer of \$97,103 to the MVH-Street Fund was not approved by the Common Council. An \$850,000 temporary transfer to the General Fund was not approved by the Common Council; however, an emergency extension resolution of the transfer was approved by the Common Council in 2018.

Ordinances or resolutions were not adopted by the fiscal body until the following year for six temporary transfers made in December 2018 to authorize and extend the temporary transfers.

All of the temporary transfers were made to eliminate overdrawn cash balances in the funds that received the temporary transfers.

Criteria

Indiana Code 36-1-8-4 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 flow purposes from another fund of the political subdivision if all these conditions are met:

- (1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.
- (2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

- (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."

CERTIFICATION ON INTERNAL CONTROL STANDARDS

Condition and Context

The Clerk-Treasurer incorrectly certified on the Annual Financial Report on March 14, 2018, and March 29, 2019, that the City had provided employees with internal control training; however, the City did not provide training to personnel over the internal control standards.

Criteria

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](#)."

LOCAL ROAD AND BRIDGE MATCHING GRANT - INCORRECT FUND POSTING

Condition and Context

The City received a \$573,279 grant for the Local Road and Bridge Matching (Community Crossing) Grant through the Indiana Department of Transportation and receipted it into the Municipal Surtax fund. A separate state grant fund entitled Local Road and Bridge Matching Grant fund should have been created so that the grant and any matching requirements can be properly accounted for.

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

Criteria

The grant itself should be treated as any other grant by setting up a separate state grant fund entitled Local Road and Bridge Matching Grant Fund. Any matches to the grant should be transferred to this fund. (Cities and Towns Bulletin and Uniform Compliance Guidelines, June 2016 - Part One)

ANNUAL FINANCIAL REPORT (AFR)

A similar comment appeared in prior Reports B50037 and B49453, entitled *ANNUAL FINANCIAL REPORT (AFR)*.

Condition and Context

Late Submission

The City's 2017 and 2018 Annual Financial Reports (AFR) were not filed electronically until March 14, 2018, and March 29, 2019, respectively. This resulted in the AFRs being submitted 13 and 28 days past the due date.

Schedule of Leases and Debt - Bonds

The Schedule of Leases and Debt did not include \$52,985,000 of ending bond principal balances that should have been included and \$18,380,000 of ending bond principal balances that should have been excluded. Additionally, the Schedule of Leases and Debt did not include \$5,427,605 of principal and interest due within one year for the City that should have been included and \$2,499,198 that should have been excluded. A revised Schedule of Leases and Debt was presented to the Clerk-Treasurer and was approved during the audit. The revised Schedule of Leases and Debt is presented in the Financial Statement Audit Report.

Schedule of Leases and Debt - Capital Leases

The capital lease information in the Schedule of Leases and Debt was incomplete. A capital lease with annual lease payments of \$545,000 was not reported in the capital lease section. Annual lease payments were underreported by \$278,613 for two leases because the annual lease payments reported were only \$1. A revised Schedule of Leases and Debt was presented to the Clerk-Treasurer and was approved during the audit. The revised Schedule of Leases and Debt is presented in the Financial Statement Audit Report.

Criteria

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](#)."

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

TIMELY RECORDING

Condition and Context

Receipts for the Auditor of State distributions were written 8 to 34 days after they were received for 50 of the 205 receipts tested. If the employee responsible for receipting the distributions was absent from work, the distributions were not receipted until the employee returned.

Criteria

All financial transactions pertaining to the unit must be recorded in the records of the unit at the time of the transaction. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

CONDITION OF RECORDS - UTILITY DISBURSEMENTS

Condition and Context

The Common Council adopted Ordinance 17-3 in February 2017, which appointed the City's Clerk-Treasurer as the Treasurer of the Utility Service Board (USB). The USB had a separate Secretary-Treasurer as its fiscal officer previously.

The City and the Utility both used the same financial software, but maintained separate ledger systems. The Clerk-Treasurer's staff began processing the accounts payable vouchers and generating checks for Utility disbursements in 2018, which were written on the Utility bank accounts. Since the Clerk-Treasurer's staff did not have access to the Utility's ledger system, the Clerk-Treasurer's staff recorded the Utility disbursements in three clearing funds in the City's ledgers. These three funds were not created by ordinance or approved by the Common Council.

Utility receipts were not recorded in the City's records. This resulted in the three Utility clearing funds in the City's ledgers to report negative cash fund balances as of December 31, 2018.

Utility disbursements paid by Electronic Funds Transfer (EFT) or automatic debit to the Utility bank account were not recorded in the City's records. This resulted in the disbursements in the City's ledgers for the Utility to be less than the amounts recorded in the Utility ledgers, as the City's ledgers only contained disbursements made by checks processed by the City.

The Utility's ledgers recorded all receipts in detail. The Utility ledgers did not record any detail for the amounts paid by the checks generated from the Clerk-Treasurer's staff. Instead, a transfer was recorded in the Utility ledgers from the Utility's revenue fund, and bank account, for the amount needed to cover the checks written out of the other Utility funds and bank accounts. The only detail reported in the Utility's disbursement ledgers was for any EFT disbursement generated by the Utility financial staff, automatic bank withdrawal, or bank charges. The lack of detail in the Utility ledgers resulted in the disbursements reported by the City for the Utility in the AFR, which were based upon the amounts in the Utility's ledgers, to be misclassified by major disbursement category.

The Utility disbursements recorded in the City's ledgers were not reconciled to the disbursements recorded in the Utility's ledgers, which would have identified variances between the two sets of records. The City's ledgers for the Utility disbursements were not reported on the financial statement since they would materially misconstrue the financial activity of the City.

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

Criteria

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance must agree. If the reconciled bank balance is less than the subsidiary or control ledgers, the amount needed to balance may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

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](#)."

Indiana Code 36-1-3-6 states in part:

"(a) if there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.

(b) If there is no constitutional or statutory provision requiring a specific manner exercising a power, a unit wanting to exercise the power must either:

- (1) adopt an ordinance prescribing a specific manner for exercising the power; or
- (2) comply with a statutory provision permitting a specific manner for exercising the power. . . .

(c) An ordinance under subsection (b)(1) must be adopted as follows:

- (1) In a municipality, by the legislative body of the municipality. . . ."

We feel the powers granted by various statutes authorize the Common Council of a city or the Town Council of a town to create, by ordinance, as many funds as they feel necessary to operate their particular city or town.

The enabling ordinance should provide various types of information.

- (1) The ordinance should clearly indicate the type or types of revenue that is to go into the new fund.
- (2) The ordinance should list the purpose or purposes for which expenditures can be made from the new fund.
- (3) The ordinance should establish the life of the new fund and indicate if the fund balance is nonreverting at year end or perpetual until terminated either by the terms of the current ordinance or if another subsequent ordinance must be enacted.
- (4) The ordinance should provide guidance as to disposition of the fund balance on termination of the fund.

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

- (5) The ordinance should include any other terms or conditions the city or town attorney deems necessary.

(Cities and Towns Bulletin and Uniform Compliance Guidelines, September 2010)

UTILITY PERMANENT TRANSFERS AND DEBT PAYMENTS

A similar comment also appeared in the two prior Reports B49453 and B50037, entitled *UTILITY PERMANENT TRANSFER APPROVAL*.

Condition and Context

The Utility made permanent transfers from one fund to another through normal course of operations; however, the following deficiencies in the permanent transfers account payable vouchers had occurred:

1. An accounts payable voucher was created for each permanent transfer; however, proper supporting documentation was not attached.
2. The accounts payable vouchers were not certified by the fiscal officer.
3. The permanent transfers between funds were not included in the list of accounts payable vouchers approved by the USB. Utility permanent transfers totaled \$9,283,451 and \$16,260,767 for 2017 and 2018, respectively.

The Utility's debt payments were made based upon debt schedules and invoices from financial institutions. The following deficiencies in the debt payments account payable vouchers had occurred:

1. The accounts payable vouchers were not certified by the fiscal officer.
2. An accounts payable voucher was created for each debt payment; however, these debt payments were not included in the list of accounts payable vouchers approved by the USB.

Criteria

Indiana Code 5-11-10-1.6(c) states in part:

"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. . . ."

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for examination to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

UTILITY CAPITAL ASSETS

The same comment also appeared in prior Reports B49453 and B50037, entitled *UTILITY CAPITAL ASSETS*.

Condition and Context

The Wastewater Utility did not report any capital assets in the Schedule of Capital Assets. A capital assets listing was not maintained; however, the Wastewater Utility does have capital assets, such as infrastructure sewer lines and a wastewater treatment plant. The Wastewater Utility historically reported over \$59,000,000 in capital assets.

The Storm Water Utility did not report any capital assets in the Schedule of Capital Assets. A capital assets listing was not maintained; however, the Storm Water Utility has capital assets, such as infrastructure storm water lines.

Criteria

Every unit must have a capital assets policy that details the threshold at which an item is considered a capital asset. Every unit must have a complete detail listing of all capital assets owned which reflects their acquisition value. Capital Asset Ledger (Form 369) has been prescribed for this purpose. A complete physical inventory must be taken at least every two years, unless more stringent requirements exist, to verify account balances carried in the accounting records. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

CLERK-TREASURER
CITY OF PORTAGE
EXIT CONFERENCE

The contents of this report were discussed on October 24, 2019, with Christopher D. Stidham, Clerk-Treasurer; John Cannon, Mayor; Sue Lynch, President Pro Tempore of the Common Council; Bill Fekete, Common Council member; Scott Williams, Common Council member; and Colin Highlands, Redevelopment Administrator.

COMMON COUNCIL
CITY OF PORTAGE

COMMON COUNCIL
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS

TRAINING ON INTERNAL CONTROL STANDARDS

A similar comment appeared in prior Report B50037, entitled *TRAINING ON INTERNAL CONTROLS STANDARDS*.

Condition and Context

The City did not provide documentation that it had provided training to personnel over the adopted internal control standards.

Criteria

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

"After June 30, 2016, 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."

OVERDRAWN CASH BALANCES

A similar comment appeared in prior Report B50037, entitled *OVERDRAWN CASH BALANCES*.

Condition and Context

The financial statement presented for audit included funds with overdrawn cash balances at December 31, 2018. The City funds with overdrawn cash balances at December 31, 2018 are listed below:

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

Fund	12-31-18 Amount Overdrawn
Park NR Operating	\$ 807
Payroll Withholding Police/Fire PERF	4,030
Payroll Withholding Flex Plan	9,248
Payroll Withholding Life Ins	8,160
Payroll Withholding Def Comp Valic	21,771
Payroll Withholding Def Comp Nationwide	808
Payroll Withholding Local 150 Admin	65,018
Payroll UNUM	5,704
Payroll Withholding Support-IN	245

The following funds presented in the financial statement received temporary loans from other funds at year end. Without the temporary loans, these funds would have had the following overdrawn cash balances:

Fund	Amount Funds would have been Overdrawn as of	
	12-31-17	12-31-18
General Fund	\$ 818,129	\$ 868,154
MVH-Street Fund	97,103	170,072
Park & Recreation Fund	-	39,462
Cum Liab/Physical Dam Res	-	9,689
Debt Service Fund	-	102,721
Municipal Wheel Tax fund	-	266,797

Criteria

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)

COMMON COUNCIL
CITY OF PORTAGE
EXIT CONFERENCE

The contents of this report were discussed on October 24, 2019, with Christopher D. Stidham, Clerk-Treasurer; John Cannon, Mayor; Sue Lynch, President Pro Tempore of the Common Council; Bill Fekete, Common Council member; Scott Williams, Common Council member; and Colin Highlands, Redevelopment Administrator.

REDEVELOPMENT COMMISSION
CITY OF PORTAGE

REDEVELOPMENT COMMISSION
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS

REDEVELOPMENT COMMISSION GENERAL FUND

A similar comment also appeared in prior Reports B44823, B49453, and B50037, entitled *REDEVELOPMENT COMMISSION GENERAL FUND*.

Condition and Context

Background Information

The establishment of a Redevelopment District General fund is authorized by Indiana Code 36-7-14-28(c). An ordinance describing the sources and uses of the Redev: General fund (Redevelopment District General fund) was not presented for audit. The Redevelopment District General fund revenue sources were tax abatement fees, sale of property proceeds, rental income, and interest earned.

A Redevelopment Commission has the duties set forth in Indiana Code 36-7-14-11, which provides for the investigation, selection, acquisition development, and disposal of property in "areas needing redevelopment." The powers granted to a Redevelopment Commission in Indiana Code 36-7-14-12.2 allow the commission to develop property in the areas needing redevelopment and to carry out other activities "for redevelopment purposes." "Redevelopment" includes activities contained in Indiana Code 36-7-1-18.

City Operating Costs Paid Through Redevelopment District General Fund

Certain disbursements from the Redevelopment District General fund were determined to be operating costs of the City, which were not in compliance with the duties and powers of the Redevelopment Commission as stated in Indiana Code 36-7-14-11 and Indiana Code 36-7-14-12.2.

1. In 2017 and 2018, the City disbursed \$258,537 and \$221,608, respectively, from the Redevelopment District General fund for computer services for all the City's departments. Redevelopment Commission funds may be spent to procure computer and phone messaging equipment and services when such equipment and services are used in the offices of the department of redevelopment pursuant to Indiana Code 36-7-14-12.2(a)(19). However, the statute does not provide for the payment of City operating costs by the Redevelopment Commission.
2. In 2017 and 2018, the City disbursed \$42,820 and \$37,820, respectively, from the Redevelopment District General fund for miscellaneous marketing purchases. A Redevelopment Commission does not have the specific authority to procure miscellaneous marketing purchases under Indiana Code 36-7-14-12.2. Marketing purchases are not listed as a redevelopment activity under Indiana Code 36-7-1-18.

Criteria

The general operating costs of the City, such as computer and phone messaging equipment and services, should be paid from the City's General Fund as set forth in the Accounting and Uniform Compliance Guidelines for Cities and Towns, Chapter 4 - Funds:

REDEVELOPMENT COMMISSION
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

"GAAFR defines the General Fund as the fund used to account for all financial resources except those required to be accounted for in another fund. The General Fund is the general operating fund of the municipality. Tax revenues and other receipts that are not allocated by law or contractual agreement to another fund are accounted for in this fund. The general operating expenditures of the municipality are paid from the General Fund.

To summarize, the General Fund shall be used for current general operations of the city or town."

CITY PAVING PROJECT

Condition and Context

The Board of Public Works and Safety awarded a \$1,146,559 public works paving contract on February 27, 2018, to the lowest responsive bidder. Upon review of contract documents and payment activity, the following had occurred:

At the December 6, 2018 Redevelopment Commission (RDC) meeting, the former Mayor requested, and the RDC approved, paying outstanding paving invoices not to exceed \$1,000,000, with the understanding that the City would repay the RDC for these disbursements. On December 11, 2018, the paving contractor's request #7 for \$942,244 for work performed for the City was paid from the Redev: Allocat Area fund. As of September 10, 2019, the City had not repaid the Redevelopment Commission for this payment as indicated in the minutes. The City was not in compliance in regards to the procedures for temporary transfers for cash flow needs.

The 2018 and 2019 paving contract payments totaling \$1,555,820 were made from the Redev: Allocat Area fund. However, the claims for payment did not detail how the amounts paid from the Redev: Allocat Area fund were determined and allowable. Therefore, compliance with the authorized restricted uses could not be verified.

Criteria

Indiana Code 36-1-8-4 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 flow purposes from another fund of the political subdivision if all these conditions are met:

- (1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.
- (2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.
- (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. . . .

REDEVELOPMENT COMMISSION
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

(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."

Sources and uses of funds must be limited to those authorized by the enabling law, ordinance/resolution, or grant agreement. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

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:

- (A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.
- (B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.
- (D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.
- (E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.
- (G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

REDEVELOPMENT COMMISSION
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS
(Continued)

- (H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under [IC 36-1-10](#).
- (I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in [IC 6-1.1-1-20](#)) that contains all or part of the allocation area: . . .
- (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.
- (K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:
 - (i) in the allocation area; and
 - (ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance. . . .
- (L) Pay the costs of carrying out an eligible efficiency project (as defined in [IC 36-9-41-1.5](#)) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following: . . .
- (M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

The allocation fund may not be used for operating expenses of the commission."

The uses of TIF funds are restricted to those set forth in the Indiana Code. The power of a redevelopment commission to expend such funds is limited to the express statutory powers as set forth in Indiana Code 36-7-14. The use of TIF funds for ongoing maintenance of redeveloped property is not an expressly or impliedly permitted use, except as provided in Indiana Code 36-7-1-18(7) for repairing and maintaining buildings acquired before redevelopment is complete. (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) trans. denied, 34 N.E.3d 251)

REDEVELOPMENT COMMISSION
CITY OF PORTAGE
EXIT CONFERENCE

The contents of this report were discussed on October 24, 2019, with Christopher D. Stidham, Clerk-Treasurer; John Cannon, Mayor; Sue Lynch, President Pro Tempore of the Common Council; Greg Lach, Redevelopment Commission member; Bill Fekete, Common Council member; Scott Williams, Common Council member; and Colin Highlands, Redevelopment Administrator.

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE
AUDIT RESULT AND COMMENT

PUBLIC WORKS - PAVING PROJECT

Condition and Context

The Board of Public Works and Safety awarded a \$1,146,559 public works paving contract on February 27, 2018, to the lowest responsive bidder. Upon review of contract documents and payment activity, the following had occurred:

1. Throughout the course of the project, nine change orders were approved during 2018 and 2019. The amount of the approved change orders totaled \$2,176,179, which was 190 percent of the original contract. Seven of the nine change orders indicated various additions to the contract, such as using different materials to get a better end product, added work to original contract, or a change in the plan to resurface rather than patch repair. These seven change orders total \$2,137,756. Indiana Code 36-1-12-18 limits the total of all change orders issued that increase the scope of the project not to exceed twenty percent (20%) of the amount of the original contract.
2. The Revised Notice to Proceed issued to the Contractor was dated April 25, 2018. The proposal for change order 2 submitted by the Contractor was dated April 20, 2018, which was prior to the notice to proceed. This change order, based upon the City's request, added \$427,958 to the project, or 37 percent of the original contract. Indiana Code 36-1-12-18 limits that change orders may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency.
3. At the December 6, 2018 Redevelopment Commission (RDC) meeting, the former Mayor requested, and the RDC approved, paying outstanding paving invoices not to exceed \$1,000,000, with the understanding that the City would repay the RDC for these disbursements. On December 11, 2018, the paving contractor's request #7 for \$942,244 for work performed for the City was paid from the Redev: Allocat Area fund. As of September 10, 2019, the City had not repaid the Redevelopment Commission for this payment as indicated in the minutes. The City was not in compliance in regards to the procedures for temporary transfers for cash flow needs.
4. The 2018 and 2019 contract payments totaling \$3,322,738 were made from the Municipal Wheel Tax, Redev: Allocat Area, and the Storm Water Board Operating funds for \$1,435,933, \$1,555,820, and \$330,985, respectively. Payment for paving is an appropriate use of the Municipal Wheel Tax fund. However, the claims for payment did not detail how the amounts paid from the Redev: Allocat Area and the Storm Water Board Operating funds were determined and allowable. Therefore, compliance with the restricted uses authorized in Indiana Code 36-7-14-39(b)(3) and 8-1.5-5 for the Redev: Allocat Area and the Storm Water Board Operating funds, respectively, could not be verified.
5. The City received a \$573,279 grant for the Local Road and Bridge Matching (Community Crossing) Grant through the Indiana Department of Transportation (INDOT) and receipted it into the Municipal Surtax fund. However, the 2018 paving contract invoices were paid from either the Municipal Wheel Tax or Redev: Allocat Area funds. A separate grant fund to properly track the state grant was not established as required.

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE
AUDIT RESULT AND COMMENT
(Continued)

6. On December 11, 2018, the former Mayor sent a letter to INDOT, which served as notification that the Community Crossing Matching Grant Project, which was the 2018 paving project, had been completed. Payment of request 8 was made to the paving contractor on the same date, which was the release of retainage for the project; therefore, the contract was paid in full. However, the contract for the project continued to be used by the City in 2019, resulting in additional change orders and payments totaling \$421,300, which occurred after December 11, 2018 through September 5, 2019.

Criteria

Indiana Code 36-1-12-18 states:

"(a) If, in the course of the construction, reconstruction, or repair of a public work project, it becomes necessary to change or alter the original specifications, a change order may be issued to add, delete, or change an item or items in the original contract. The change order becomes an addendum to the contract and must be approved and signed by the board and the contractor.

(b) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(c) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(d) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(e) All change orders must be directly related to the original public work project.

(f) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract."

Indiana Code 36-1-8-4 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 flow purposes from another fund of the political subdivision if all these conditions are met:

- (1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.
- (2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.
- (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. . . .

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE
AUDIT RESULT AND COMMENT
(Continued)

(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."

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

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- (A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.
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- (C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.
- (D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.
- (E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.
- (G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE
AUDIT RESULT AND COMMENT
(Continued)

- (H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under [IC 36-1-10](#).
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- (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.
- (K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:
 - (i) in the allocation area; and
 - (ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance. . . .
- (L) Pay the costs of carrying out an eligible efficiency project (as defined in [IC 36-9-41-1.5](#)) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following: . . .
- (M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

The allocation fund may not be used for operating expenses of the commission."

The uses of TIF funds are restricted to those set forth in the Indiana Code. The power of a redevelopment commission to expend such funds is limited to the express statutory powers as set forth in Indiana Code 36-7-14. The use of TIF funds for ongoing maintenance of redeveloped property is not an expressly or impliedly permitted use, except as provided in Indiana Code 36-7-1-18(7) for repairing and maintaining buildings acquired before redevelopment is complete. (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) trans. denied, 34 N.E.3d 251)

The grant itself should be treated as any other grant by setting up a separate state grant fund entitled Local Road and Bridge Matching Grant Fund. Any matches to the grant should be transferred to this fund. (Cities and Towns Bulletin and Uniform Compliance Guidelines, June 2016 - Part One)

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE
EXIT CONFERENCE

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