

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

SPECIAL INVESTIGATION REPORT

OF

AUDITOR

BOONE COUNTY, INDIANA

January 1, 2018 to December 31, 2019



FILED
09/16/2020

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF BOONE COUNTY, INDIANA

This is a special investigation report for Boone County (County), for the period January 1, 2018 to December 31, 2019, and is in addition to any other report for the County as required under Indiana Code 5-11-1. All reports pertaining to the County may be found at www.in.gov/sboa/.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with compensation paid to the former Auditor and vendor payments made to the former Auditor and Deputy Auditor. 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

July 8, 2020

AUDITOR
BOONE COUNTY

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RESULTS AND COMMENTS

BACKGROUND

The County Council is given statutory authority to set salaries for all the employees, both elected and appointed. On January 9, 2018, the County Council passed the Salary Ordinance for the year 2018. On December 11, 2018, the County Council passed the Salary Ordinance for the year 2019. A consulting firm doing work with the County informed County officials of potential inaccurate payroll being paid to Heather Myers (Myers), former Auditor.

The Indiana State Board of Accounts was notified by the County officials in accordance with Indiana Code 5-11-1-27. The Indiana State Board of Accounts examined the records and reviewed payroll for the investigation period. The following describes noncompliance with statutes or the *Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana*.

COMPENSATION OVERPAID

The Salary Ordinance passed by the County Council for 2018 set the Auditor's salary at \$59,184.83. A review of the October 10, 2017 County Council meeting revealed that the County Council had discussions of paying the Auditor an additional \$5,500 for acting as the Trustee for the outstanding bond issues of the County. The County Council voted and passed the additional \$5,500 to be paid, but it was not subsequently included as part of the Salary Ordinance that was passed on January 9, 2018. In 2018, the Salary Ordinance was amended by the County Council as it pertained to the Auditor's salary. \$6,000 was added to the Salary Ordinance on April 10, 2018, as Trustee Fees. The Salary Ordinance passed by the County Council for 2019 set the Auditor's salary at \$60,960.37. Additionally, the Ordinance listed Trustee Fees of \$6,000. Below is a schedule comparing the amounts approved with the compensation paid by year:

2018		2019	
Approved in Ordinance	<u>\$ 59,184.83</u>	Approved in Ordinance	<u>\$ 60,960.37</u>
Passed as Trustee Fees by Council but Not in Ordinance	<u>5,500.00</u>	Approved Trustee Fees by Council	<u>6,000.00</u>
Total	<u>64,684.83</u>	Total	<u>66,960.37</u>
Paid for the Year	<u>66,684.83</u>	Paid for the Year	<u>68,560.37</u>
Overpaid for Year	<u><u>\$ 2,000.00</u></u>	Overpaid for Year	<u><u>\$ 1,600.00</u></u>

Indiana Code 36-2-5-3(a) states:

"The county fiscal body shall fix the compensation of officers, deputies, and other employees whose compensation is payable from the county general fund, county highway fund, county health fund, county park and recreation fund, aviation fund, or any other fund from which the county auditor issues warrants for compensation. This includes the power to:

- (1) fix the number of officers, deputies, and other employees;
- (2) describe and classify positions and services;

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(Continued)

- (3) adopt schedules of compensation; and
- (4) hire or contract with persons to assist in the development of schedules of compensation."

Indiana Code 36-2-5-13(c) states in part:

"Except as provided in subsection (d), the compensation of an elected county officer may not be changed in the year for which it is fixed. The compensation of other county officers, deputies, and employees or the number of each may be changed at any time on:

- (1) the application of the county fiscal body or the affected officer, department, commission, or agency; and
- (2) a majority vote of the county fiscal body."

Funds misappropriated, diverted, or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any official or employee may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

On December 30, 2019, Myers repaid \$1,600 to the County. On March 4, 2020, Myers repaid \$1,500 to the County.

We requested Myers reimburse the County \$500 for overpayment of compensation. (See Summary of Charges, page 11)

On July 20, 2020, Myers repaid \$500 to the County.

COMPENSATION PAID WITH VENDOR CLAIMS NOT INCLUDED IN SALARY ORDINANCE

The I-65 West/East Redev Fund had a balance remaining of \$603.78. Claims were prepared on December 20, 2018, for \$301.89 each, to be paid to Myers and Katie Westerfeld (Westerfeld), Deputy Auditor, with the claims indicating that the payments were for Bond Administration Fees. On December 28, 2018, vendor checks were issued to Myers and Westerfeld for \$301.89 each.

Indiana Code 36-2-5-3(a) states:

"The county fiscal body shall fix the compensation of officers, deputies, and other employees whose compensation is payable from the county general fund, county highway fund, county health fund, county park and recreation fund, aviation fund, or any other fund from which the county auditor issues warrants for compensation. This includes the power to:

- (1) fix the number of officers, deputies, and other employees;
- (2) describe and classify positions and services;
- (3) adopt schedules of compensation; and
- (4) hire or contract with persons to assist in the development of schedules of compensation."

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(Continued)

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- (1) the application of the county fiscal body or the affected officer, department, commission, or agency; and
- (2) a majority vote of the county fiscal body."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any official or employee may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

We requested Myers reimburse the County \$301.89 for compensation she was paid by vendor claim in excess of the amount set forth in the Salary Ordinance. (See Summary of Charges, page 11)

On July 20, 2020, Myers repaid \$301.89 to the County.

We requested Myers and Westerfeld, jointly and severally, reimburse the County \$301.89 for compensation paid to Westerfeld by vendor claim in excess of the amount set forth in the Salary Ordinance. (See Summary of Charges, page 11)

On July 21, 2020, Westerfeld repaid \$301.89 to the County.

OFFICIAL BOND COVERAGE

The County obtained Public Officials' Bonds for Myers, as follows:

<u>Period</u>	<u>Amount</u>
12-31-17 to 12-31-18	\$ 30,000
12-31-18 to 12-31-19	30,000

INTERNAL CONTROL DEFICIENCIES

We noted deficiencies in the internal control system concerning the handling of payroll and compensation paid. These deficiencies include, but are not limited to, the inadequate oversight of the Salary Ordinance to ensure that all compensation to be paid is included in the Ordinance and the inadequate oversight of the claims process to ensure that compensation is not being paid through the claims process. There was no documentation to indicate that the Salary Ordinance was reviewed for completeness as well as adherence to statute.

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(Continued)

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. . . ."

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EXIT CONFERENCE

The contents of this report were discussed on July 14, 2020, with Heather Myers, former Auditor. Her response may be found on pages 9-10.

The contents of this report were discussed on July 20, 2020, with Debbie Crum, Auditor; Katie Westerfeld, Deputy Auditor; Jennifer Hostetter, County Council member; Jeff Wolfe, County Commissioner; Tom Santelli, County Commissioner; Mike Nielson, Sheriff; and Bob Clutter, County Attorney.

OFFICIAL RESPONSE

Date: July 17, 2020

Indiana State Board of Accounts
302 West Washington St., Room E418
Indianapolis, IN 46204-2765

Re: 2018 Trustee Fee overpayment

2018 Salary Overpayment response: In 2017 as a new Auditor during a Budget meeting Trustee Fee payments were presented to the Council for approval from Steve Jacob the Council President and County Attorney, Bob Clutter. The information provided was regarding the County wanting to pay the Auditor these fees so we could save the County money on having to pay an outside bank more money for these fees. This was presented to the Council and payroll clerk as services provided by the Auditor to be paid not as a salary so that if another Auditor in the future wasn't prepared to take on this role as Trustee the county would have to pay those fees to a Bank to be the Trustee. For example if the current Auditors salary was \$50,000.00 + agreed to be the Trustee for the County Bonds by \$6,000.00 increasing the Salary Ordinance to \$56,000.00, when a new Auditor is elected and chooses not to be the Trustee of these Bonds, the county would have to pay the salary of \$56,000.00 and pay an outside Bank to be the Trustee for these Bonds at \$6,000.00, this was their thought process. This discussion continued and noted that it would be paid from the Council's budget from Other Charges & Services line, same as we pay Bank of New York as Trustee for some of the Bonds the County currently has. The County asked me if I would assume the responsibility of managing any new Bonds the County would establish. The amount that the County Council discussed on how to set the pay scale for each Bond was very confusing and was based on the number of current Bonds the Auditor was not Trustee, the number of Bonds the Auditor was the Trustee of and the fee for any new Bonds the county established to pay the Auditor. There was discussion that the Trustee Fees would be paid from the Councils budget line but that it would need to be ran through the payroll and this was then discussed further as we have other employees and elected officials that had been paid in the same manner so they county was going to mimic this payment as others have been paid in the past. The County was honestly trying to save money and that was their focus, the county was basing this on the amount of work the Auditor has to do and that we paid others in the same way. This was the reason there was so much confusion, misinformation, misunderstanding, miscommunication on how many Bonds we have, who is the Trustee and moving forward that the Auditor would be paid for new Bonds. During 2018 a new Bond had been established (E911 Bond) therefore

the payroll clerk verified that the budget was approved to pay the Auditor, the fees paid were approved by the commissioners. Then December of 2019 we had a new payroll clerk who did her very best to refer back to 2018 and pay out from the approved budget line set up for Trustee Fees and again also adding the (E911 Bond), however due to funds left over in 2019 she overpaid the total Bond Trustee Fees allowed and this raised questions. Since these fees were paid through payroll they were direct deposited into my account and after that had happened the Commissioners denied the payment and questioned the error. I contacted the State Board of Accounts and our accounting firm in order to understand the questions being raised. It was at that time that I was alerted that the Salary Ordinance was not increased to the amount of the Bonds that I had been paid and I paid back that plus the overpayment. Since that time I was made aware that it is all considered Salary/Compensation and that I needed to pay back any Trustee Fees that went over the Salary Ordinance from each year 2018 and 2019, which I have done in full. Again, I was not aware that this was Salary I went on the information provided and what the County presented.

Re: I65 Redevelopment Fund Trustee payment

I65 Redevelopment Fund Trustee payment response: The I65 Redevelopment Fund needed to be closed and zeroed out by year end. Katie Westerfeld and I contacted the County Attorney, Bob Clutter as we always do when these types of questions arise. We contacted the Attorney and he told us he would call the accounting firm we use to discuss this Fund that needed to be closed out. We waited some time and then we were told by the Attorney that his discussion allowed for myself and Katie to be paid out this amount for the work we had done on the I65 Redevelopment Fund. This was again a part of the misunderstanding as we were told about Trustee Fees not being a part of our Salary. The Auditor's office and each person that works day to day is very careful and cautious about allowable payments and take each one into consideration and thoughtful process and this claim payment was discussed by half of the Auditor's staff and no one had any idea that this was not allowed or considered salary otherwise they would have not processed this payment.

Heather R. Myers
Former County Auditor

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SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Heather Myers, former Auditor:			
Compensation Overpaid, pages 4 and 5	\$ 3,600.00	\$ 3,600.00	\$ -
Compensation Paid with Vendor Claims Not Included in Salary Ordinance, pages 5 and 6	<u>301.89</u>	<u>301.89</u>	<u>-</u>
Totals	<u>3,901.89</u>	<u>3,901.89</u>	<u>-</u>
Heather Myers, former Auditor, and Katie Westerfeld, Deputy Auditor, jointly and severally:			
Compensation Paid with Vendor Claims Not Included in Salary Ordinance, pages 5 and 6	<u>301.89</u>	<u>301.89</u>	<u>-</u>
Totals	<u>\$ 4,203.78</u>	<u>\$ 4,203.78</u>	<u>\$ -</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.