

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

SPECIAL COMPLIANCE REPORT

OF

TOWN OF SEELYVILLE

VIGO COUNTY, INDIANA

January 1, 2018 to June 30, 2020



FILED
01/29/2021

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF SEELYVILLE, VIGO COUNTY, INDIANA

This is a special compliance report for the Town of Seelyville (Town), for the period January 1, 2018 to June 30, 2020, and is in addition to any other report for the Town as required under Indiana Code 5-11-1. All reports pertaining to the Town 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 bank reconciliations, ordinances, and resolutions. 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

December 2, 2020

TOWN OF SEELYVILLE
RESULTS AND COMMENTS

CONFLICT OF INTEREST

The Town Council passed Resolution 2019-01-08 approving the purchase of a property by the Water Utility. The property was purchased from a business owned by a Town employee and her husband. Per review of Town Council minutes, a conflict of interest disclosure was not accepted by the Town Council and a disclosure was not filed with the Vigo County Clerk's office or with the Indiana State Board of Accounts through the Indiana Gateway for Government Units financial reporting system. It is our position that the Town employee should have filed a conflict of interest disclosure in accordance with Indiana Code 35-44.1-1-4.

Indiana Code 35-44.1-1-4 states in part:

". . . (b) A public servant who knowingly or intentionally:

- (1) has a pecuniary interest in; or
- (2) derives a profit from;

a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Level 6 felony.

(c) It is not an offense under this section if any of the following apply:

- (1) The public servant or the public servant's dependent receives compensation through salary or an employment contract for:
 - (A) services provided as a public servant; or
 - (B) expenses incurred by the public servant as provided by law.
- (2) The public servant's interest in the contract or purchase and all other contracts and purchases made by the governmental entity during the twelve (12) months before the date of the contract or purchase was two hundred fifty dollars (\$250) or less.
- (3) The contract or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government.
- (4) The public servant:
 - (A) acts in only an advisory capacity for a state supported college or university; and
 - (B) does not have authority to act on behalf of the college or university in a matter involving a contract or purchase.
- (5) A public servant under the jurisdiction of the state ethics commission (as provided in [IC 4-2-6-2.5](#)) obtains from the state ethics commission, following full and truthful disclosure, written approval that the public servant will not or does not have a conflict of interest in connection with the contract or purchase under [IC 4-2-6](#) and this section. The approval required under this subdivision must be:
 - (A) granted to the public servant before action is taken in connection with the contract or purchase by the governmental entity served; or

TOWN OF SEELYVILLE
RESULTS AND COMMENTS
(Continued)

(B) sought by the public servant as soon as possible after the contract is executed or the purchase is made and the public servant becomes aware of the facts that give rise to a question of conflict of interest.

(6) A public servant makes a disclosure that meets the requirements of subsection (d) or (e) and is:

(A) not a member or on the staff of the governing body empowered to contract or purchase on behalf of the governmental entity, and functions and performs duties for the governmental entity unrelated to the contract or purchase;

(B) appointed by an elected public servant;

(C) employed by the governing body of a school corporation and the contract or purchase involves the employment of a dependent or the payment of fees to a dependent;

(D) elected; or

(E) a member of, or a person appointed by, the board of trustees of a state supported college or university.

(7) The public servant is a member of the governing board of, or is a physician employed or contracted by, a hospital organized or operated under [IC 16-22-1](#) through [IC 16-22-5](#) or [IC 16-23-1](#).

(d) A disclosure must:

(1) be in writing;

(2) describe the contract or purchase to be made by the governmental entity;

(3) describe the pecuniary interest that the public servant has in the contract or purchase;

(4) be affirmed under penalty of perjury;

(5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity before final action on the contract or purchase;

(6) be filed within fifteen (15) days after final action on the contract or purchase with:

(A) the state board of accounts; and

(B) if the governmental entity is a governmental entity other than the state or a state supported college or university, the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase; and

(7) contain, if the public servant is appointed, the written approval of the elected public servant (if any) or the board of trustees of a state supported college or university (if any) that appointed the public servant. . . ."

TOWN OF SEELYVILLE
RESULTS AND COMMENTS
(Continued)

FUNDS SOURCES AND USES - MVH

In 2018, 2019, and 2020, the salary for the Town Marshal was paid out of the Motor Vehicle Highway (MVH) Fund. Effective July 1, 2017, towns may not use MVH Funds for law enforcement purposes.

Indiana Code 8-14-1-5(a) states:

"Subject to subsection (c), all funds allocated to cities and towns from the motor vehicle highway account shall be used by the cities and towns for the construction, reconstruction, preservation, repair, maintenance, oiling, sprinkling, snow removal, weed and tree cutting and cleaning of their highways as herein defined, and including also any curbs, and the city's or town's share of the cost of the separation of the grades of crossing of public highways and railroads, the purchase or lease of highway construction, preservation, and maintenance equipment, the purchase, erection, operation and maintenance of traffic signs and signals, and safety zones and devices, and the painting of surfaces in highways for purposes of safety and traffic regulation. All of such funds shall be budgeted as provided by law."

FUNDS SOURCES AND USES - WATER UTILITY

The Town Council approved Resolution No. 11-13-2018 approving the Town Office Manager to receive an additional \$800 per pay period for additional work performed for preparing the budget, preparing documents for audit, and for extra work due to the Town Manager vacancy. The extra work is considered a Town expense; however, the extra pay is paid from Water Utility funds.

Expenses paid from utility funds should be directly related to the operation of the municipally owned utility. Expenditures for city and town operating costs should not be paid from utility funds. Furthermore, utility funds should not be used to pay for personal expenses. The cost of shared employees and equipment between a city and town and its utilities or between utilities should be prorated in a rational manner. (Cities and Towns Bulletin and Uniform Compliance Guidelines, June 2016 - Part 1)

UNAUTHORIZED PENSION PLAN

Per the Salary Ordinance, the Town will make a quarterly contribution to a retirement plan for each full-time employee who has completed at least one year of service. Without statutory authority, a Town cannot establish a local pension plan.

A city or town has no authority to establish a local pension plan by ordinance, resolution, or contract after January 1, 1995, without statutory authority. PERF, deferred compensation plans, police and fire pension plans, and utility employee pension plans are all authorized by statute. (Cities and Towns Bulletin and Uniform Compliance Guidelines, September 2015)

BANK RECONCILEMENTS

Bank reconciliations were being performed; however, not all bank accounts were included in the system of accounting, creating a difference between the total funds balance and total bank balance.

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."

TOWN OF SEELYVILLE
RESULTS AND COMMENTS
(Continued)

INTERNAL CONTROLS

We noted the following deficiencies in the internal control system over Town activities:

- There was a lack of internal controls over the property purchased by the Water Utility that resulted in the failure for an employee to file a conflict of interest disclosure.
- There was a lack of internal controls over salaries to ensure that salaries were paid from the correct funds in accordance with Indiana Code and Uniform Compliance Guidelines Manuals.
- There was a lack of internal controls over the Town's pension plan to ensure it was authorized by statute.
- There was a lack of internal controls over bank reconciliements to ensure all bank accounts were reconciled monthly.

Failure to establish, maintain, and monitor a proper internal control system allowed the items above to go undetected.

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. These 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. . . ."

TOWN OF SEELYVILLE
EXIT CONFERENCE

The contents of this report were discussed on December 2, 2020, with Wayne Langman, Clerk- Treasurer, and John Hendrix, President of the Town Council.

Indiana State Board of Accounts Examiners.

Indianapolis, IN.

Wayne A. Langman

Seelyville Town

Clerk Treasurer

To Whom It May Concern,

7 December 2020

First please accept our thanks for the help you have given us with our problems. We were relieved to see that they could be resolved as simply as you have suggested.

As to the **Fund Sources and Uses – MVH** problem. We had become aware of this issue shortly after we took office. Transferring the funding at that time was impossible as there were no funds allocated, or available in the budget to accommodate these new expenses in the Town General Fund.

Our budget for FY 2021 does move the funding to the General Fund.

As to the **Fund Sources and Uses – Water** problem. We were suspicious of this when we took office but it had again been put in place and budgeted by the prior administration and could not easily be transferred with the 2020 budget we inherited. We re-evaluated the situation and ended the additional payments as soon as possible.

As to the **Unauthorized Pension Plan**. The Town of Seelyville has two pension plans for its employees. It was our understanding that this plan, referred to as a ROTH IRA was paid by employee contributions and was therefore legal under the law. We will conduct a review of each retirement plan available to our employees and will make any appropriate changes as soon as possible.

As to the **Bank Reconcilements** problems which helped spark our request for a review, we have already started a review of all accounts and are taking the necessary steps to bring our system and accountability into compliance. For this assistance alone we owe your office a sincere thank you. We plan to come into compliance within the first few weeks of the new year.

As to the **Internal Controls** issues that connect all the above issues, we have only ourselves to blame. The issue of an Internal Control Training and Certification Program had been discussed several times but had been pushed to a back burner by what seemed to be more pressing issues.

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Our plan is to start with training this winter and for the Town Council and administrative personnel to be up to speed by the end of the first quarter of FY 2021.

Again, we thank you for your assistance and guidance with these issues.

Wayne Langman
Clerk Treasurer
Town of Seelyville

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