

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, 2019 to December 31, 2019



FILED

12/15/2021

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Schedule of Officials	2
Transmittal Letter	3
Clerk-Treasurer:	
Audit Results and Comments:	
Financial Transactions and Reporting	6-8
Overdrawn Cash Balances	8-9
Temporary Transfer of Funds	9-10
Outstanding Loan to Redevelopment Commission Fund	11-12
Annual Financial Report (AFR)	12
Motor Vehicle Highway (MVH) Restricted Fund	12-13
Timely Recording - Disbursements	13
Compensation and Benefits	13-14
Group Health Insurance Premiums	14
Internal Revenue Service - Penalties	15
Monthly and Annual Uploads	16
Condition of Records - Utility Disbursements	16-18
Utility Permanent Transfers	18-19
Utility Capital Assets	20
Exit Conference	21
Common Council:	
Audit Results and Comments:	
Overdrawn Cash Balances	24
Outstanding Loan to Redevelopment Commission Fund	25-26
Motor Vehicle Highway (MVH) Restricted Fund	26
Training on Internal Control Standards	26-27
Exit Conference	28
Board of Public Works and Safety:	
Audit Result and Comment:	
Public Works Projects	30-31
Exit Conference	32

SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Christopher D. Stidham Nina Rivas	01-01-19 to 12-31-19 01-01-20 to 12-31-21
Mayor	James Snyder Sue Lynch (interim) John Cannon Sue Lynch	01-01-19 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19 01-01-20 to 12-31-21
President of the Board of Public Works and Safety	James Snyder Sue Lynch (interim) John Cannon Sue Lynch	01-01-19 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19 01-01-20 to 12-31-21
President Pro Tempore of the Common Council	Sue Lynch Scott Williams Collin Czilli	01-01-19 to 12-31-19 01-01-20 to 12-31-20 01-01-21 to 12-31-21
Chair of the Sanitary Board	James Snyder Sue Lynch John Cannon Sue Lynch	01-01-19 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19 01-01-20 to 12-31-21
Chair of the Storm Water Board	James Snyder Sue Lynch John Cannon Sue Lynch	01-01-19 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19 01-01-20 to 12-31-21
President of the Redevelopment Commission	James Snyder Sue Lynch John Cannon Sue Lynch	01-01-19 to 02-14-19 02-15-19 to 03-02-19 03-03-19 to 12-31-19 01-01-20 to 12-31-21



STATE OF INDIANA
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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, 2019 to December 31, 2019. 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 opinions 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

November 30, 2021

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CLERK-TREASURER
CITY OF PORTAGE

CLERK-TREASURER
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS

FINANCIAL TRANSACTIONS AND REPORTING

A similar comment also appeared in prior Report B50037, entitled *FINDING 2016-002 - FINANCIAL TRANSACTIONS AND REPORTING*; and Report B53741, entitled *INTERNAL CONTROLS - 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 segregation of duties for each of these areas had not been designed or implemented to prevent, or detect and correct, errors.

Cash and Investments (Bank Reconciliations)

Both the City and Utility reconcilements of the bank and ledger activity were each prepared by one individual without an oversight or review process to ensure that all bank accounts were included in the reconcilements.

Accurate or complete reconciliations for 2019 were not prepared. The current Clerk-Treasurer engaged a consultant in 2020 to perform reconciliations for two of the City's primary bank accounts for 2019. The bank reconcilements presented for audit, including the consultant prepared reconciliations, had the following deficiencies:

1. The reconciliations of the City bank accounts contained a number of unidentified variances and did not agree to the record balances, resulting in a cash short of \$97,181 at December 31, 2019. The financial statement was not adjusted due to these variances.
2. Reconciling items noted in the City's reconciliations totaling \$97,183 were not documented and could not be verified.
3. The City's ledger balances compared to the City's trust statements had variances ranging from a cash short of \$52,166 for one trust account to a cash long of \$50,338 in another trust account at December 31, 2019.
4. Reconcilements were not provided for the Utility State Revolving Fund (SRF) trust accounts. The lack of reconciliation of the Utility SRF trust accounts to the ledgers resulted in the following errors:
 - The financial statement's beginning and ending cash and investments balances were overstated by \$55,816 and \$396,123, respectively. The receipts and disbursements were understated by \$103,198, and \$443,505, respectively.

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

5. Compliance with completing monthly reconciliations timely could not be determined because the bank reconciliations did not contain documentation as to when the reconciliations were performed.

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

Utility Receipts

One individual recorded the Utility collections in the Utility's financial accounting system. An oversight or review process was not in place to ensure the accuracy, completeness, and classification of the receipts after posting to the Utility's financial accounting system.

Utility Disbursements

Utility disbursements made via electronic funds transfer (EFT) for debt agreements, transfers between funds, and City reimbursements were prepared by one individual without an oversight or review process to ensure that disbursements were proper and accurate.

Payroll Disbursements

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 design or implement procedures to ensure that the financial information recorded and reported was accurate and complete.

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. . . ."

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 audited entity 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

The same comment also appeared in prior Reports B50037 and B53741.

Condition and Context

The financial statement presented included funds with overdrawn cash balances at December 31, 2019. The City funds with overdrawn cash balances at December 31, 2019, are listed below:

Fund	Amount Overdrawn
Payroll Withholding Police/Fire PERF	\$ 5,009
Payroll Withholding Flex Plan	13,336
Payroll Withholding Life Ins	12,672
Payroll Withholding Def Comp Nationwide	808
Payroll Withholding Local 150 Admin	111,390
Payroll Unum	4,087
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 12-31-19
General Fund	\$ 2,635,349
MVH-Street Fund	141,924
Park NR Operating	50,585
Emp Med Ben Plan	86,404
Economic Dev Income Tax	499,999
Municipal Wheel Tax	328,574

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

The same comment also appeared in the prior Reports B49453, B50037, and B53741.

Condition and Context

Throughout 2019, the Clerk-Treasurer made temporary transfers of funds, totaling \$9,150,570, of which \$3,792,180 remained outstanding as of December 31, 2019.

All the temporary transfers were made to eliminate overdrawn cash balances in the funds that received the temporary transfers. The following deficiencies were noted:

1. Of the amount outstanding at year end, \$3,292,180 was recorded in December 2019, but not approved, or an emergency was not declared to extend repayment to the next year until January 2020 when the Common Council adopted Resolution 20-01.
2. Ordinances or resolutions were not adopted by the fiscal body until after the temporary transfers were already posted to the City's financial software, which ranged from a few days to three months later.
3. On January 31, 2019, the Cum. Capital Improvement (CCI) fund temporarily transferred \$500,000 to the Economic Dev Income Tax (EDIT) fund; however, the City did not repay the \$500,000 back to the CCI fund.

On December 30, 2019, the EDIT fund disbursed \$500,000, which was receipted back to the EDIT fund on December 31, 2019. Therefore, the temporary transfer on January 31, 2019, from the CCI to the EDIT fund remained outstanding at year end.

4. Temporary transfers of \$200,000 to the Cable TV Franchise Fund (CTV) from the EDIT fund and \$333,390 to the Municipal Wheel Tax fund from the CTV fund were not approved by the Common Council.

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

5. The City made temporary transfers totaling \$509,573 from the 2008 TIF Bond fund and \$50,000 from the 2013 TIF Bond fund. These funds consisted of bond proceeds, which are restricted by the resolutions authorizing the debt issuance.

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. . . .

(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)

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

OUTSTANDING LOAN TO REDEVELOPMENT COMMISSION FUND

A similar comment also appeared in prior Report B53741, entitled *CITY PAVING PROJECT*.

Condition and Context

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 No. 7 for \$942,244 for work performed for the City was paid from the Redev: Allocat Area fund.

As of November 16, 2021, the City had not repaid the Redevelopment Commission for this payment as indicated in the 2018 minutes. The City was not in compliance in regards to the procedures for temporary transfers for cash flow needs.

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. . . .

(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."

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

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)

ANNUAL FINANCIAL REPORT (AFR)

The same comment also appeared in prior Reports B49453, B50037, and B53741.

Condition and Context

The City's Annual Financial Report for 2019 was not filed electronically until July 6, 2020, which was 128 days past the due date.

Criteria

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

"The state examiner shall require from every audited entity 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](#)."

MOTOR VEHICLE HIGHWAY (MVH) RESTRICTED FUND

Condition and Context

The City did not establish or report the MVH Restricted sub-fund or allocate 50 percent of the distributions from the State MVH account to MVH Restricted during the audit period as required.

Based upon the statutory requirements, the City should have recorded \$792,559 of MVH distributions into a MVH Restricted fund for 2019. Therefore, we could not determine if the City complied with the required uses of MVH funds.

Criteria

The purpose of this Directive is to authorize and require . . . cities . . . that receive distributions from the State Motor Vehicle Highway Account to **create a new sub-fund within the MVH Fund** to properly manage and account for the usage restrictions that were included in House Enrolled Act 1002-2017 and House Enrolled Act 1290-2018. . . .

On the chart of accounts, the MVH Fund and MVH Restricted sub-fund shall be shown as follows:

...

Cities and Towns

Fund 201	MVH
Fund 203	MVH Restricted

Together, MVH and MVH Restricted shall constitute the total MVH Fund. MVH and MVH Restricted will be shown separately on the Annual Financial Report and Annual Operational Report.

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

Starting on January 1, 2019, the political subdivision must post at the time of receipt of the distribution from the State Motor Vehicle Highway Account fifty percent (50%) of the distribution to MVH Restricted. (State Examiner Directive 2018-2)

Indiana Code 8-14-1-5(c) states: "For funds distributed to a city or town from the motor vehicle highway account, the city or town shall use at least fifty percent (50%) of the money for the construction, reconstruction, and preservation of the city's or town's highways."

TIMELY RECORDING - DISBURSEMENTS

Condition and Context

In 2018, the City received \$1,400,000 in debt proceeds to purchase equipment. A separate fund was created to account for the proceeds, which was not approved by the Common Council. In 2019, the City disbursed \$1,015,699 from the proceeds, which were not posted to the ledger until 2020. The posting of the disbursements ranged from 416 to 687 days after the time of the transaction. This resulted in a \$1,015,699 understatement of disbursements recorded in the financial accounting system for the 2018 Equipment Lease fund. The financial statement was not adjusted for this error.

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)

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 IC 5-15-1-1. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

COMPENSATION AND BENEFITS

A similar comment appeared in a Management Letter addressed to the Mayor, Common Council, and Clerk-Treasurer for the audit period ending December 31, 2018.

Condition and Context

The City and Utility salary ordinances did not contain the employee's position and rate of pay for three employees tested.

Time records for the police and fire departments were not always approved by the department head as required. Without the certification by the department head, verification of hours worked before the employees were paid did not occur.

Criteria

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution, or salary schedule adopted by the governing body unless otherwise authorized by law. Compensation must be paid in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

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

This form (Payroll Schedule and Voucher General Form No. 99) should be used for all payrolls.

Each claim should be certified to by the department head and the Clerk-Treasurer in the appropriate sections provided thereon. The Clerk-Treasurer may elect to certify on the Accounts Payable Voucher Register, General Form No. 364, in lieu of certifying each Payroll Schedule and Voucher.

Payroll claims should be numbered along with other claims.

Approval signatures by a majority of the board is required in the appropriate section unless the Accounts Payable Voucher Register, General Form No. 364, is signed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 6)

GROUP HEALTH INSURANCE PREMIUMS

Condition and Context

The City entered into various bargaining agreements with several employee groups. As part of the bargaining agreements, the City agreed to provide health insurance through the union that represented the bargaining groups. The bargaining agreements state that "the Employer shall pay one hundred percent (100%) of the cost of the insurance for both single and family coverage." The City also extended the same health coverage to employees not covered by collective bargaining agreements. As a result, the City paid 100 percent of its employees' group health insurance premiums, which is not in compliance with Indiana Code 5-10-8.

Criteria

Indiana Code 5-10-8-2.6(c) states:

"A public employer may pay a part of the cost of group insurance, but shall pay a part of the cost of group life insurance for local employees. A public employer may pay, as supplemental wages, an amount equal to the deductible portion of group health insurance as long as payment of the supplemental wages will not result in the payment of the total cost of the insurance by the public employer."

Indiana Code 5-10-8-2.2(e) states:

"A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance."

Attorney General Official Opinion 2002-5 states in part:

". . . It is our opinion that public employers may not pay the full amount of group health insurance premiums for their employees. Indiana Code 5-10-8-2.6(c) clearly states that employers may pay 'a part' of the cost of group insurance and this language has been interpreted by past Attorneys General to exclude the possibility of allowing employers to pay the full amount. Because it is not permissible to bargain for a term that is contrary to statute or public policy, the existence of a collective bargaining agreement allowing full payment by employers would not alter this conclusion. See *Ahuja v. Lynco Ltd. Medical Research*, 675 N.E.2d 704 (Ind. Ct. App. 1997); *Gary Teachers Union, Local No. 4 v. School City of Gary*, 165 Ind. App. 314, 332 N.E.2d 256 (1975)."

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

INTERNAL REVENUE SERVICE - PENALTIES

Condition and Context

In March 2020, the Internal Revenue Service (IRS) sent the City a final notice of intent to levy, totaling \$190,691, for the failure to timely file the Employer-Provided Health Insurance Offer and Coverage, Form 1095-C, from the 2016 taxing period. The City was informed that if the penalty was not paid, the City's bank accounts would be seized to pay the penalty.

The Common Council and the Board of Public Works and Safety met on March 9 and March 10, 2020, respectively, to approve funding for and payment of the penalty. On March 16, 2020, the City paid the \$190,691 penalty and interest owed.

In addition, the current Clerk-Treasurer was notified that the Form 1095-C for taxing periods 2017 and 2018 were also not filed. Thus, the current Clerk-Treasurer filed the delinquent Form 1095-C returns for the 2016, 2017, and 2018 taxing periods by March 28, 2020.

The following summarizes the status of the 2016, 2017, and 2018 taxing periods late filings:

1. For the 2016 taxing period, the City appealed the penalty with the IRS and was able to receive a refund in May 2021 for the penalty and interest amount paid.
2. For the 2017 taxing period, since the IRS received the Form 1095-C in March 2020, the IRS considered the matter resolved as of October 12, 2020.
3. For the 2018 taxing period, the City received an IRS notice for failure to timely file the 2018 Form 1095-C on September 28, 2020. The IRS proposed a penalty of \$63,180 for the late filing. On February 15, 2021, the IRS notified the City that it was applying a 2020 tax overpayment of \$24,667 to the penalty owed for the 2018 late filing. With interest charged, the amount still owed to the IRS for the 2018 late filing was \$38,505 as of February 15, 2021.

The City is in negotiations with the IRS regarding the 2018 late filing penalty.

Criteria

Units are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, court decisions and filing requirements concerning reports and other procedural matters of federal and state agencies. Units must file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the unit. Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the unit. Any penalties, interest, or other charges paid by the unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

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

MONTHLY AND ANNUAL UPLOADS

Condition and Context

The files and governmental unit information that are required to be uploaded monthly include the bank reconciliements, approved board minutes and the funds ledger, summarizing total receipts, disbursements, and balances by fund.

Annual upload requirements include the year-end bank statement, year-end outstanding check list, year-end investments, detail of receipt activity, detail of disbursement activity, current year salary ordinance, and an annual vendor history report.

The City did not comply with the directive and failed to upload any of the monthly or annual files on the Indiana Gateway for Government Units (Gateway) financial reporting system for 2019.

Criteria

Units are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, court decisions and filing requirements concerning reports and other procedural matters of federal and state agencies. Units must file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

Beginning with July 2018 files, which will be due September 15, 2018, all cities, towns, townships, libraries, and special districts will use the Upload App to upload files containing financial and governmental unit information on Gateway to allow the State Board of Accounts (SBOA) to conduct audit planning and audit processes prior to on-site work at a unit. (State Examiner Directive 2018-1)

CONDITION OF RECORDS - UTILITY DISBURSEMENTS

The same comment also appeared in the prior Report B53741.

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. In 2019, four additional clearing funds were created. None of these seven funds were created by ordinance or approved by the Common Council.

Utility receipts were not recorded in the City's records. This resulted in the seven Utility clearing funds in the City's ledgers to report negative cash fund balances as of December 31, 2019.

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

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 Annual Financial Report, 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.

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 audited entity 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) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power; . . .

(3) 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. . . ."

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

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.
- (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

A similar comment also appeared in prior Reports B49453 and B50037, entitled *UTILITY PERMANENT TRANSFER APPROVAL*; and B53741, entitled *UTILITY PERMANENT TRANSFERS AND DEBT PAYMENTS*.

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. The Utility did not retain detailed supporting documentation to identify which transactions supported the total dollar amount of the transfers.
2. The accounts payable vouchers were not certified by the fiscal officer.

Additionally, the permanent transfers from the Revenue II Fund to the Cash Operating Fund were made on an as needed basis whenever the Utility disbursed from the Cash Operating Fund.

However, Common Council Ordinance No. 17-21 required monthly transfers from the Revenue II Fund to provide funding for the Cash Operating Fund so that it would have a sufficient cash balance to cover two months of expenditures.

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

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. . . ."

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)

Common Council Ordinance No. 17-21, Section 10 states:

"Operation and Maintenance Fund. There shall be transferred from the Revenue Fund and credited to the Operation and Maintenance Fund (the 'Operation and Maintenance Fund'), which fund is hereby continued, on or before the last day of each calendar month a sufficient amount of revenues of the System so that the balance in the Operations and Maintenance Fund shall be sufficient to pay the expenses of the operation, repair and maintenance of the System for the then next succeeding two (2) calendar months. The monies credited to the Operations and Maintenance Fund shall be used for the payment of reasonable and proper operation, repair and maintenance expenses of the System on a day to day basis, but none of the monies in such fund shall be used for depreciation, replacements and improvements. Any monies in the Operation and Maintenance Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sinking Fund if necessary to prevent a default in the payment of the principal of or interest on the Bonds and any Prior Bonds."

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)

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

UTILITY CAPITAL ASSETS

The same comment also appeared in prior Reports B49453, B50037, and B53741.

Condition and Context

The City's Annual Financial Report only reported \$81,635 in the Schedule of Capital Assets for the Wastewater Utility (Utility). A complete detailed capital assets listing was not provided for audit. The listing provided did not include items such as the Utility's infrastructure sewer lines and a wastewater treatment plant. The Utility historically reported over \$59,000,000 in capital assets.

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 November 30, 2021, with Nina Rivas, Clerk-Treasurer; Sue Lynch, Mayor; Collin Czilli, President Pro Tempore of the Common Council and Redevelopment Commission member; Gina Giese-Hurst, Common Council member; Brian Gulley, Common Council member; and Deb Podgorski, Common Council member.

The contents of this report were sent on November 30, 2021, to Christopher D. Stidham, former Clerk-Treasurer.

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COMMON COUNCIL
CITY OF PORTAGE

COMMON COUNCIL
CITY OF PORTAGE
AUDIT RESULTS AND COMMENTS

OVERDRAWN CASH BALANCES

The same comment also appeared in prior Reports B50037 and B53741.

Condition and Context

The financial statement presented included funds with overdrawn cash balances at December 31, 2019. The City funds with overdrawn cash balances at December 31, 2019, are listed below:

Fund	Amount Overdrawn
Payroll Withholding Police/Fire PERF	\$ 5,009
Payroll Withholding Flex Plan	13,336
Payroll Withholding Life Ins	12,672
Payroll Withholding Def Comp Nationwide	808
Payroll Withholding Local 150 Admin	111,390
Payroll Unum	4,087
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 12-31-19
General Fund	\$ 2,635,349
MVH-Street Fund	141,924
Park NR Operating	50,585
Emp Med Ben Plan	86,404
Economic Dev Income Tax	499,999
Municipal Wheel Tax	328,574

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
AUDIT RESULTS AND COMMENTS
(Continued)

OUTSTANDING LOAN TO REDEVELOPMENT COMMISSION FUND

A similar comment also appeared in prior Report B53741, entitled *CITY PAVING PROJECT*.

Condition and Context

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 No. 7 for \$942,244 for work performed for the City was paid from the Redev: Allocat Area fund.

As of November 16, 2021, the City had not repaid the Redevelopment Commission for this payment as indicated in the 2018 minutes. The City was not in compliance in regards to the procedures for temporary transfers for cash flow needs.

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. . . .

(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."

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

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)

MOTOR VEHICLE HIGHWAY (MVH) RESTRICTED FUND

Condition and Context

The City did not establish or report the MVH Restricted sub-fund or allocate 50 percent of the distributions from the State MVH account to MVH Restricted during the audit period as required.

Based upon the statutory requirements, the City should have recorded \$792,559 of MVH distributions into a MVH Restricted fund for 2019. Therefore, we could not determine if the City complied with the required uses of MVH funds.

Criteria

The purpose of this Directive is to authorize and require . . . cities . . . that receive distributions from the State Motor Vehicle Highway Account to **create a new sub-fund within the MVH Fund** to properly manage and account for the usage restrictions that were included in House Enrolled Act 1002-2017 and House Enrolled Act 1290-2018. . . .

On the chart of accounts, the MVH Fund and MVH Restricted sub-fund shall be shown as follows:

. . .

Cities and Towns

Fund 201	MVH
Fund 203	MVH Restricted

Together, MVH and MVH Restricted shall constitute the total MVH Fund. MVH and MVH Restricted will be shown separately on the Annual Financial Report and Annual Operational Report.

Starting on January 1, 2019, the political subdivision must post at the time of receipt of the distribution from the State Motor Vehicle Highway Account fifty percent (50%) of the distribution to MVH Restricted. (State Examiner Directive 2018-2)

Indiana Code 8-14-1-5(c) states: "For funds distributed to a city or town from the motor vehicle highway account, the city or town shall use at least fifty percent (50%) of the money for the construction, reconstruction, and preservation of the city's or town's highways."

TRAINING ON INTERNAL CONTROL STANDARDS

The same comment also appeared in prior Reports B50037 and B53741.

Condition and Context

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

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

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."

COMMON COUNCIL
CITY OF PORTAGE
EXIT CONFERENCE

The contents of this report were discussed on November 30, 2021, with Nina Rivas, Clerk-Treasurer; Sue Lynch, Mayor; Collin Czilli, President Pro Tempore of the Common Council and Redevelopment Commission member; Gina Giese-Hurst, Common Council member; Brian Gulley, Common Council member; and Deb Podgorski, Common Council member.

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE

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

PUBLIC WORKS PROJECTS

A similar comment also appeared in the prior Report B53741, entitled *PUBLIC WORKS - PAVING PROJECT*.

Condition and Context

The Board of Public Works and Safety (Board) awarded multiple contracts in 2019. Upon review of contract documents and payment activity, the following had occurred:

1. 2019 Sidewalk Project - A \$15,616 change order was proposed by the contractor on August 7, 2019. It was not submitted to the Common Council for approval. Instead, the proposal was signed as approved by the Mayor on August 8, 2019. The change order was later approved retroactively on October 13, 2020, five months after the vendor had been paid.

The contractor invoiced the City on August 15, 2019, for \$15,616, which was the completion of the project. The City did not pay the contractor until April 29, 2020.

2. 2019 Willowcreek Road Paving Project - 2019 and 2020 contract payments totaling \$2,329,279 for the project were made from various funds. The claims for payment made from the 2008 TIF Bond fund and the Storm Water Project Fund for \$120,124 and \$33,300, respectively, did not detail how the amounts were determined and allowable. Therefore, compliance with the authorized restricted uses could not be verified.

Criteria

Indiana Code 36-1-12-18(a) states:

"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."

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

Indiana Code 5-17-5-1 states in part:

"(a) Except as provided in section 2 of this chapter, every state agency and political subdivision shall pay a late payment penalty at a rate of one percent (1%) per month on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel whenever the state agency or political subdivision fails to make timely payment.

(b) Except as provided in subsection (c), for the purposes of this section, payment is timely if:

(1) a check or warrant is mailed or delivered on the date specified for the amount specified in the applicable contract documents, or, if no date is specified, within thirty-five (35) days of:

(A) receipt of goods and services; or

(B) receipt of a properly completed claim. . . ."

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)

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF PORTAGE
EXIT CONFERENCE

The contents of this report were discussed on November 30, 2021, with Nina Rivas, Clerk-Treasurer; Sue Lynch, Mayor; Collin Czilli, President Pro Tempore of the Common Council and Redevelopment Commission member; Gina Giese-Hurst, Common Council member; Brian Gulley, Common Council member; and Deb Podgorski, Common Council member.