

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF WESTFIELD

HAMILTON COUNTY, INDIANA

January 1, 2020 to December 31, 2020



FILED

03/10/2022

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Cindy Gossard	01-01-20 to 12-31-21
Mayor	J. Andrew Cook	01-01-20 to 12-31-21
President of the Board of Public Works	J. Andrew Cook	01-01-20 to 12-31-21
President of the Common Council	Joe Edwards Mike Johns	01-01-20 to 12-31-20 01-01-21 to 12-31-21



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF THE CITY OF WESTFIELD, HAMILTON COUNTY, INDIANA

This report is supplemental to our audit report of the City of Westfield (City), for the period from January 1, 2020 to December 31, 2020. 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

January 19, 2022

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CLERK-TREASURER
CITY OF WESTFIELD

CLERK-TREASURER
CITY OF WESTFIELD
AUDIT RESULTS AND COMMENTS

ACCOUNTING OF THE IFA ADMINISTERED CRF MONEY

Condition and Context

The City did not properly account for the Coronavirus Relief Fund (CRF) grant money in accordance with the options outlined in State Examiner Directive 2020-3 (Directive).

The City did not follow one of the three defined frameworks as outlined in the Directive for their non-payroll related expenditures. The reimbursement from the Indiana Finance Authority (IFA) for non-payroll expenditures, totaling \$22,391, was receipted directly into the various funds from which the original expenditures were made instead of the IFA Covid Grant fund (Fund 150) (CARES fund). By not receipting the money into the CARES fund and processing reversing entries, the activity was not reflected in the correct funds and appropriations were not re-established in the originating fund. Furthermore, the activity was not accurately reported in the Schedule of Expenditures of Federal Awards.

The noncompliance described above was isolated to non-payroll expenses, as the payroll reimbursements were accounted for as outlined in the Directive.

Criteria

Reimbursed Costs Other than Public Health and Safety Payroll Costs

Transactions for other permitted costs reimbursed by IFA must be accounted for through one of the following prescribed frameworks.

Framework One. Reimbursements received from IFA shall be receipted into the separate CARES grant fund. Reimbursed disbursements originally incurred in another fund will be moved to the separate CARES grant fund through a reversing entry. This action will reinstate the fund cash balance and re-appropriate the fund in a similar manner to IC 6-1.1-18-9(1) for those disbursements. This reversal must be done in the same budget year that the original transaction was posted.

Once the disbursement is reversed within the original fund, it must be posted as a disbursement in the separate CARES grant fund. Documentation must be maintained so the audit trail can be followed. The accounting system must tie the original claim for the disbursement to the separate CARES grant fund by specific reference or notation in a comment section. . . .

Framework Two. If IFA has provided reimbursement based on unpaid invoices or purchase orders, then reimbursements received from IFA shall be receipted into the separate CARES grant fund. The expenditures to vendors will be made through the CARES grant fund and these expenditures must match the application made to IFA. If the actual invoice or invoices relating to a purchase order is less than the purchase order, then the difference in the money expended to the vendor and the amount received for the purchase order from IFA must be returned to IFA. The items on the invoice must match the items on the purchase order. All documentation must be maintained. . . .

Framework Three. If you have created a negative balance in your CARES fund based on expenditures made in anticipation of receipt of reimbursement for allowable expenditures where invoices have already been submitted to IFA then leave as is and receipt reimbursement when received, bringing the balance in the separate CARES grant fund to zero. Going forward, expend any anticipated allowable expenditures from a fund with an appropriation and follow framework one. If a negative balance in the CARES grant fund is not fully reimbursed, then the unreimbursed amount will require a reverse entry and posting of the expenditure to the general or other appropriate fund within an appropriated line item. (State Examiner Directive 2020-3)

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

MOTOR VEHICLE HIGHWAY RESTRICTED FUNDS

Repeat Comment

A similar comment also appeared in prior Report B56089, entitled *MOTOR VEHICLE HIGHWAY RESTRICTED FUNDS*.

Condition and Context

Motor Vehicle Highway (MVH) and MVH Restricted funds are maintained in the same fund, MVH (201), on the City's financial records. The City does have the restricted receipts and expenditures in separate subaccounts within the MVH (201) fund; however, the subaccounts do not maintain a separate balance for the restricted funds on the City's ledger, and MVH Restricted receipts, disbursements and balances were not reported separately on the Annual Financial Report.

Criteria

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
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. . . . (State Examiner Directive 2018-2)

CONTRACT - DOWNTOWN WESTFIELD NEIGHBORHOOD ASSOCIATION

Repeat Comment

A similar comment also appeared in prior Reports B55979 and B56089, entitled *SUPPORTING DOCUMENTATION*.

Condition and Context

Three quarterly payments of \$7,500 were made to the Downtown Westfield Neighborhood Association (DWNA) during 2020. The amount paid in 2020 was not documented in the contract. The original contract between the City and the DWNA had an initial term from September 2010 through December 2011. No formal written extension of the contract was ever made, and the contract continues on a month-to-month basis. The contract does not specify a dollar amount for the quarterly payments beyond the initial term, stating only "compensation for additional services will be subject to mutual agreement between the City and the DWNA." Therefore, the amounts paid were not support by the contract or any other type of written agreement or amendment.

Criteria

Payments made or received for contractual services must be supported by a written contract. Each unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

CLERK-TREASURER
CITY OF WESTFIELD
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)

LEAVE TIME ERROR AND VACATION CARRYOVER POLICY

Condition and Context

On April 3, 2020, an employee stated in an email that she was on vacation, but when she turned in her approved timecard, that particular day was marked as regular time worked. The Clerk-Treasurer's office did not question the employee further and the employee's vacation leave balance was not charged. The City's Vacation Carryover Policy states that, "An employee may carry over five days [40 hours] of earned and unused vacation at the end of each calendar year but the accumulation from year to year may not exceed 5 days. Any other remaining earned and unused vacation days at the end of a calendar year will be lost and not paid out. . . ." There is no mention in the Personnel Policy that a supervisor can override this policy, but at the end of 2020, this employee's supervisor authorized the carryover to 2021 of all 48 hours of the employee's remaining vacation balance, and the Clerk-Treasurer's office made that carryover. This employee left employment in 2021 and was paid for her vacation leave balance at her then current rate of \$40 per hour. This employee was overpaid \$320 for the vacation time that should not have been included in her leave balance.

In addition, several other employees were allowed to carryover vacation leave balances exceeding the 5 days allowed by the City's policy. For example, one employee's supervisor authorized the carryover from 2020 to 2021 of 903 hours of the employee's remaining vacation balance and the Clerk-Treasurer's office made that carryover.

Officials and employees are required to comply with the City's adopted policies unless otherwise authorized by the appropriate governing body.

Criteria

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

Units have a responsibility to collect amounts owed to the unit pursuant to procedures authorized by law. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)



CLERK TREASURER'S OFFICE
Cindy J. Gossard / Clerk Treasurer

130 Penn Street / Westfield, Indiana 46074
OFFICE 317.804.3020 / FAX 317.804-3024
westfield.in.gov

November 29, 2021

Clerk Treasurer
City of Westfield
2020 Audit Results and Comments

OFFICIAL AUDIT RESPONSE

Motor Vehicle Restricted Fund

Motor Vehicle Highway 201114 were maintained in the same fund number 201. However, the City did have the Restricted Funds in a subaccount.

We were unaware of the subaccount was not sufficient in the keeping of the totals separate for the two MVH accounts.

Corrective Action Plan

I have again provided the Director of Public Works with Indiana Code with how to correct this issue on his end. The Clerks office has created a totally separate fund for the Restricted Funds (200)

Cindy Gossard

Signature

Clerk Treasurer

Title

Nov 29, 2021

Date



CLERK TREASURER'S OFFICE

Cindy J. Gossard / Clerk Treasurer

130 Penn Street / Westfield, Indiana 46074
OFFICE 317.804.3020 / FAX 317.804-3024
westfield.in.gov

November 29, 2021

**Clerk Treasurer
City of Westfield
2020 Audit Results and Comments**

OFFICIAL AUDIT RESPONSE

Down Town Westfield Neighborhood Association

There were payments made in 2020 to DWNA in 2020 in the amount of \$7,500. The amount to be paid was not specified in the contract with the City.

Corrective Action Plan

I have again have asked Administration to amend or negotiate a new contract between with the DWNA and the City.

Cindy Gossard

Signature
Clerk Treasurer

Title
Nov 29, 2021

Date

CLERK-TREASURER
CITY OF WESTFIELD
EXIT CONFERENCE

The contents of this report were discussed on November 17, 2021, with Cindy Gossard, Clerk-Treasurer; J. Andrew Cook, Mayor; Mike Johns, President of Common Council; Jacob A. Gilbert, Common Council member; Scott Frei, Common Council member; Cindy Spoljaric, Common Council member; and Jeremy Lollar, Public Works Director.

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COMMON COUNCIL
CITY OF WESTFIELD

COMMON COUNCIL
CITY OF WESTFIELD
AUDIT RESULT AND COMMENT

LEAVE TIME ERROR AND VACATION CARRYOVER POLICY

Condition and Context

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State Board of Accounts
302 West Washington Street
Room E418
Indianapolis, Indiana 46204-2765

City of Westfield

Mayor
Andy Cook

City Council
Joe Edwards
Scott Frei
Jake Gilbert
Mike Johns
Troy Patton
Cindy Spoljaric
Scott Willis

Clerk Treasurer
Cindy J. Gossard

Common Council response to City of Westfield's audit of 1-1-2020 to 12-31-2020 result and comment

To whom it may concern,

This relates to the comment concerning "Leave Time Error and Vacation Carry Over Policy." The City of Westfield's policy and procedures manual has routinely been adopted from time to time by an Ordinance of the Council. On December 13, 2021, Ordinance 21-61 was introduced which Ordinance contained the Policies and Procedures Manual for reconsideration. That manual was to be redlined and returned for additional consideration and even adoption consideration on December 27th. However, the Policies and Procedures Manual was not placed back on the agenda on December 27th nor thereafter. Pursuant to Indiana Code 5-10-8-1 the Council by Ordinance is the only entity that may grant vacation leave, sick leave, paid holidays and other similar benefits. The Council has not amended the prior vacation carry over policy which provides and in pertinent part "an employee may carry over five days (40 hours) of earned and unused vacation at the end of each calendar year but the accumulation from year to year may not exceed 5 days." Any supervisor who approved carry over to 2021 of balances an excess of 40 hours granted such approval without authority pursuant to the City's policy. The clerk treasurer's records should be corrected to show the proper balances pursuant to policy.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael R. Johns".

Michael R. Johns - President
Westfield City Council

Clerk Treasurer's Office

(317) 804-3020 office
(317) 804-3024 fax

130 Penn Street
Westfield, IN 46074

westfield.in.gov

COMMON COUNCIL
CITY OF WESTFIELD
EXIT CONFERENCE

The contents of this report were discussed on November 17, 2021, with Cindy Gossard, Clerk-Treasurer; J. Andrew Cook, Mayor; Mike Johns, President of Common Council; Jacob A. Gilbert, Common Council member; Scott Frei, Common Council member; Cindy Spoljaric, Common Council member; and Jeremy Lollar, Public Works Director.

REDEVELOPMENT COMMISSION
CITY OF WESTFIELD

REDEVELOPMENT COMMISSION
CITY OF WESTFIELD
AUDIT RESULT AND COMMENT

CONTRACTS AND LEASES

Repeat Comment

A similar comment also appeared in prior Reports B55979 and B56089, entitled *CONTRACTS AND LEASES*.

Condition and Context

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.

Revenue from the operation of Grand Park was receipted into the City’s Sports Campus Operating Fund (Fund 640) and accounted for on the financial records of the City of Westfield by the Clerk-Treasurer. Expenses of Grand Park were paid from Fund 640, including payments on contracts for the operation of Grand Park. The expenses from Fund 640 were approved by the Common Council as the governing body for the fund.

An ordinance establishing the Sports Campus Operating Fund was not presented for audit. No information was presented for audit to document that Fund 640 was a fund established pursuant to Indiana Code 36-7-14.

Invoices for the operation of Grand Park for three out of three contracts reviewed during the audit period were paid from Fund 640. These contracts were signed by the Director of Grand Park for the Westfield Redevelopment Commission. No information was presented for audit to indicate approval of these contracts by the Common Council on behalf of the City, and no information was presented for audit to show that the contracts were signed by the Mayor or the Mayor’s designee on behalf of the City. Payments on these three operating contracts from Fund 640 were approved by the Common Council as the governing body for that fund.

Criteria

Indiana Code 36-4-6-18 states: “The legislative body may pass ordinances, orders, resolutions, and motions for the government of the city, the control of the city’s property and finances, and the appropriation of money.”

Indiana Code 36-4-5-3 states in part: “The executive shall: . . . (9) sign all bonds, deeds, and contracts of the city and all licenses issued by the city . . .”

Manuel Herceg
317.713.9421
mherceg@taftlaw.com

January 31, 2022

VIA E-MAIL

Pamela Williams, CPA
Indiana State Board of Accounts

Re: *City of Westfield State Board of Accounts Audit Year Ending December 31, 2020 – Audit Response*

Dear Ms. Williams:

This letter is intended to serve as the City of Westfield’s response to the SBOA’s Revised Audit Result and Comment related to the Redevelopment Commission (RDC). We ask that this response be posted with the SBOA’s findings.

First, Westfield takes issue with the characterization of this Comment as a “similar comment” to the one that appeared in prior Reports B55979 and B56089. While the prior comments were related to contracts, they were unrelated to the analysis here—in fact, they were the opposite, in that those comments required the RDC to approve *more* contracts, rather than fewer.

Second, with respect to the City’s Sports Campus Operating Fund (Fund 640), we agree that this fund was improperly established. The process for creating a fund should occur at the administrative level with proper approvals, and not independently by the Clerk-Treasurer without input from or oversight from the RDC. As the fiscal officer of the RDC, the Clerk-Treasurer should be well-aware of that. The Clerk-Treasurer improperly established (or recycled, as it were) Fund 640 as a city fund and in contravention of the law. It should not be a City fund—and was created improperly as such, without any documentation of approval by the City. The RDC plans to address

the situation—again, a situation created by the Clerk-Treasurer—by taking appropriate action to direct the Clerk to establish an RDC capital fund.

Specifically, the RDC should have a “redevelopment district capital fund,” where non-TIF revenues should go; “allocation funds,” where TIF revenues go; and “bond funds” where funds go after bonds are sold. Ind. Code § 36-7-14-26. Furthermore, Indiana Code section 36-7-14-29 makes it clear that the RDC’s funds are all non-reverting. The Clerk-Treasurer should have been on top of all of these requirements and far more hands on with the management of the RDC accounts than she has been—and this, too, will be addressed by the RDC.

Ultimately, Westfield takes issue with the SBOA’s reliance on a fund that was improperly created and has no basis in the law. It simply cannot be the case that an improperly-created fund can somehow control and impact proper, statutorily-mandated RDC actions downstream.

Third, to the extent that the Comment still suggests that the Council has to approve RDC contracts, this suggestion has no basis in law. Westfield’s letter in response to the original Audit Result and Comment is attached hereto as **Exhibit A**. That letter explains that it is the Mayor or his delegate who has the sole power to sign city contracts—and the Mayor has delegated that power to the RDC. Ind. Code § 36-4-5-3(9); *Speckman v. Indianapolis*, 540 N.E.2d 1189, 1191 (Ind. 1989) (“The applicable statutes certainly do not preclude the mayor from delegating his duty to sign contracts, and it is impractical to require the mayor to sign every single written agreement to which the City is a party.”); *Dedelow v. Pucalik*, 801 N.W.2d 178, 186–88 (Ind. Ct. App. 2003) (Hammond Council had no authority “to either approve or disapprove” of RDC’s subletting of real estate owned by RDA “or to control the funds it would receive from the lease” and RDC would not even require Mayor’s approval before entering into an agreement to sell an option to lease property owned by RDA because the city did not own the property; the RDA did). The letter also explains that to the extent that there is an ordinance purporting to remove the Mayor’s statutory power to sign and approve contracts, that ordinance is plainly invalid.

Now, in addition to the legal problems highlighted in Westfield’s first letter, there is the additional legal wrinkle of the SBOA’s reliance on an improperly-created fund in reaching its ill-considered conclusion.

January 31, 2022

Page 3

Fourth, the Revised Audit Result and Comment fails to provide any firm and complete guidance regarding the contract approval process. As such, contracts will continue to be approved by the RDC in the normal manner as permitted by law.

Fifth, to the extent the Revised Audit Result and Comment continues to stray into legal analysis and conclusions, the SBOA has again exceeded its authority.

In sum, there is still no legal basis supporting the SBOA's conclusion that the RDC does not have authority to approve Grand Park operations contracts—even less so now that the SBOA appears to be relying on a fund that was improperly created and has no basis in statute or other law. For all these reasons, we respectfully—but strenuously—disagree with this legal conclusion reached by the SBOA.

Sincerely,



Manuel Herceg

cc: Joseph Plankis, RDC President (via email)
Mayor Andy Cook (via email)
Todd Burtron (via email)
Blake Burgan (via email)

The Official Response included additional information that is not a part of our Report but will be made available upon request to the Indiana State Board of Accounts

REDEVELOPMENT COMMISSION
CITY OF WESTFIELD
EXIT CONFERENCE

The comment was discussed on January 19, 2022, with Joe Plankis, President of the Redevelopment Commission; Linda Nass, Redevelopment Commission member; J. Andrew Cook, Mayor; Manny Herceg, Attorney; and Cameron Starnes, Attorney.