

WEST VIRGINIA LEGISLATURE

Joint Committee on Government and Finance

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MEMORANDUM

Date: July 11, 2002

From: Mike House, Supervisor

To: Theford Shanklin, Director

Subject: FOLLOW-UP REVIEW OF THE WEST VIRGINIA STATE AUDITOR'S OFFICE POST AUDIT FOR THE PERIOD JULY 1, 1998 - JUNE 30, 2000

In accordance with your instructions, we conducted a follow-up review to examine the implementation of recommendations contained in the post audit report of the State Auditor's Office for the period July 1, 1998 - June 30, 2000. In conducting this follow-up, we met with Auditor Gainer and with the following employees of the State Auditor's Office: Mr. Mack Parsons, Senior Deputy State Auditor; Mr. Charles Purdue, Controller; Ms. Lisa Thornburg, Deputy State Auditor Chief Inspector Division and Mr Russell Rollyson, Managing Director County Collections. We discussed and reviewed procedural changes made and actions taken to implement our recommendations. Our review shows controls have been put in place and the majority of the recommendations made in our report have been implemented as of July 9, 2002. In the two instances the State Auditor's Office has not complied with our recommendations, proposed changes to the West Virginia Code are being prepared by the Auditor's staff for consideration during the next regularly scheduled session of the Legislature.

FINDING #1 - INCONSISTENT AND INACCURATE APPORTIONMENT OF PUBLIC SERVICE CORPORATION TAXES

The Auditor's Office did not have documented procedures for distributing public service corporation taxes to the various counties and municipalities. As a result, we found the agency implemented four different methods for distributing electric company assessments although the companies' had similar operating characteristics. These dissimilar methods produced inconsistently distributed assessments. In addition, we noted a company's 2000 fiscal year "railroad carline" assessments were inaccurately distributed to seven West Virginia counties.

One county was overpaid by \$2,997.38 and the other six counties were underpaid by \$118,369.94.

We recommended:

The Auditor's Office should comply with Chapter 11, Article 6, Section 13, as amended, and Chapter 5A, Article 8, Section 9 of the West Virginia Code.

Auditor's Office Action:

Procedures for distributing public service corporation taxes have been written by the Public Utility Division and the programmers of the new Oracle program. The State Auditor's Office continues to work with the State Tax Department to ensure public service corporation reports are complete and accurate. In addition, the "railroad carline" track miles calculation was corrected at the time of the post audit report. According to agency personnel, the implementation of the new Oracle program has eliminated the problems which resulted in this finding.

Post Audit Division Comments:

The State Auditor's Office appears to be in compliance with our recommendations.

FINDING #2 - FEES CHARGED WITHOUT STATUTORY AUTHORITY

Our audit revealed the Auditor's Office collected revenues totaling \$149,761.39 that were not specifically authorized by the West Virginia Code. These fees and commissions were collected by the Land Division for services performed by a contract employee who was appointed as a "Special Deputy". According to statute, the Special Deputy should have assumed the deputy land commissioner's rights and was entitled to the total amount collected.

We Recommended:

The Auditor's Office should comply with Chapter 11A, Article 3, Sections 42, 34, 59, 64, and 66 of the West Virginia Code, as amended. In addition, we recommend all deputy land commissioners be compensated in accordance with Article 3, Chapter 11A of the West Virginia Code.

Auditor's Office Action:

The West Virginia Code was amended in the 2002 legislative session relating to deputy land commissioner fees and commissions previously collected by the State Auditor Office without statutory authority. The Code changes authorized continuation of current practices.

Post Audit Division Comments:

Based on the aforementioned legislative changes in the West Virginia Code, the State Auditor's Office is in compliance with our recommendation.

FINDING #3 - PROCEDURES FOR DISCOUNTS AND INTEREST PENALTIES

Our audit revealed the Auditor's Office granted improper early payment discounts totaling \$70,676.52 for partial tax payments made by two companies. In addition, the agency failed to collect \$70,204.08 in late payment interest. According to State law, public service corporations are only entitled to the 2 ½ % early payment discount if the taxes owed are paid on or before the due date. Otherwise, interest is to be charged at a rate of 9 % until the taxes are paid.

We Recommended:

The Auditor's Office should comply with Chapter 11, Article 6, Section 18 of the West Virginia Code, as amended.

Auditor's Office Action:

According to Auditor's Office personnel, the Oracle program introduced in FY 2000 allows the agency to track and enforce collection of late payment interest thus, eliminating the problems which resulted in this finding.

Post Audit Division Comments:

Based on the actions taken, the State Auditor's Office is complying with our recommendation.

FINDING #4 - CHIEF INSPECTOR DIVISION FEES

The Chief Inspector Division's operating costs are funded by fees charged for providing financial and compliance audits and services to local governments. We noted \$34,921.00 in services invoiced before June 30, 2000 by the Division remained uncollected as of May 31, 2001.

We Recommended:

The State Auditor's Chief Inspector Division should comply with Chapter 6, Article 9, Section 8 of the West Virginia Code, as amended.

Auditor's Office Action:

The State Auditor's Chief Inspector Division has written billing/collection procedures to document everything relating to a particular audit from engagement to billing to receipt to deposit. In addition, the agency plans to propose legislation for consideration at the next regular session of the Legislature, which would allow the State Auditor's Office to waive or reduce audit fees in the case of fiscal or physical emergencies where the enforcement of the collection of the fees would jeopardize the financial position of the entity to continue to provide essential services to its citizens.

Post Audit Division Comments:

Although the State Auditor's Office has not yet complied with our recommendation, the agency will propose legislation that will bring it into compliance with our recommendation. Until the law is changed the Auditor's Office should make every effort to comply with existing law.

FINDING #5 - DISTRIBUTION IN EXCESS OF COLLECTION

We found the Auditor's Office made an excess public service tax distribution during the 2000 fiscal year. According to circuit court rulings, two cellular phone companies overpaid their public utility taxes. Credits were applied against the cellular phone companies' assessments and should have reduced the total amount available for distribution. However, the agency did not reduce the distribution by the amount of the credits and overpaid the various counties and municipalities by \$16,793.25. The agency made another excess distribution totaling \$13,209.42 during the 2001 fiscal year.

We recommended:

The Auditor's Office should comply with Chapter 11, Article 6, Section 18 of the West Virginia Code, as amended.

Auditor's Office Action:

The State Auditor's Office adjusted payments to the counties and municipalities that received excess distributions. According to agency personnel, the implementation of the new Oracle program has eliminated the problems which resulted in this finding.

Post Audit Division Comments:

Based on the actions taken, the State Auditor's Office is complying with our recommendation.

FINDING #6 - PUBLIC SERVICE CORPORATION ASSESSMENTS

We found the Auditor's Office incorrectly billed four public service corporations a total of \$29,922.40. Two companies were under assessed by a total of \$29,772.49 and two companies were overcharged a total of \$149.91 because of database entry errors, inaccurate tax bills, and inconsistent assessments from one year to the next.

We Recommended:

The Auditor's Office should comply with Chapter 11, Article 6, Section 13 of the West Virginia Code, as amended.

Auditor's Office Action:

According to agency personnel, the implementation of the new Oracle program has eliminated the problems which resulted in this finding.

Post Audit Division Comments:

Based on the actions taken, the State Auditor's Office is complying with our recommendation.

FINDING #7 - EQUIPMENT INVENTORY

We found equipment inventory records were not updated when items were moved from Agency division to another. Also, were unable to determine if 79 equipment items were properly retired to the Department of Administration's Surplus Property Unit because there was no evidence the Unit had ever received the items.

We Recommended:

The Auditor's Office should comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, Sections 4.2 and 4.3.1 of the State of West Virginia Purchasing Division Inventory Management and Surplus Property Disposition Policies and Guidelines.

Auditor's Office Action:

The Auditor's Office updated its inventory control procedures to address weaknesses noted in our finding. Specifically, procedures were revamped to include procedural guidance for inventory receipt, physical inventories, inventory auditing, quality control associated with the taking of periodic inventories and inventory retirement and surplus property.

Post Audit Division Comments:

Implementation of the new procedures complies with our recommendation.

FINDING #8 - ASSESSMENT AND ALLOCATION OF PUBLIC SERVICE CORPORATION TAXES

Our audit revealed the Auditor's Office did not distribute \$122,208,000.00 in 1999 public service corporation taxes to the various counties and municipalities based on actual receipts or maintain

records in a form that would demonstrate the individual public service company's remittances were properly distributed. We also noticed Norfolk & Western Railway Company's 2000 and 1999 fiscal year assessment distributions totaling \$8,941,758.51 and 1999 fiscal year "railroad-carline" assessment distributions totaling \$1,818,829.54 were not based on the proper records.

We Recommended:

The Auditor's Office comply with Chapter 11, Article 6, Section 18, as amended, and Chapter, 5A, Article 8, Section 9 of the West Virginia Code.

Auditor's Office Action:

According to agency personnel, the implementation of the new Oracle program has eliminated the problems which resulted in this finding. In addition, the Auditor's Office continues to work with the State Tax Department to ensure public service corporation reports are complete and accurate.

Post Audit Division Comments:

Based on the actions taken, the State Auditor's Office is complying with our recommendation.

FINDING #9 - UNSUBSTANTIATED FEE ADJUSTMENTS AND MISSING DOCUMENTATION

During our examination of cash receipts, we documented differences totaling \$23,404.00 between the amounts billed by the Chief Inspector Division and our recalculation of the amounts due as determined from the hours recorded on the Division's employee time sheets or the amount stated on signed engagement letters. We discovered the Division made three unsubstantiated billing adjustments totaling \$18,862.00, failed to charge \$2,748.00 to various local entities for financial services, and charged an entity \$1,794.00 without any documentation supporting the services provided. Our audit also revealed several instances where the Division had not maintained documentation relating to the amounts charged to entities for various audits and other services.

We Recommended:

The State Auditor's Chief Inspector Division should comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended.

Auditor's Office Action:

The Auditor's Office updated procedures to address weaknesses noted in our finding. Specifically, audit fees to be charged per the engagement letter will be compared to "cost

sheets” and billing statements to determine they are in agreement and are accurate. In addition, fee adjustments will be documented and filed with client billing information.

Post Audit Division Comments:

Implementation of the procedural changes designed to eliminate the probability of undocumented fee adjustments complies with our recommendation.

FINDING #10 - PAYMENTS NOT IN ACCORDANCE WITH CONTRACT

We determined the Auditor’s Office overpaid a private sector vendor by \$19,225.13. Further, the agency made payments to the vendor totaling \$134,575.91 that violated the terms of the contract.

We recommended:

The Auditor’s Office should comply with Chapter 12, Article 3, Section 9 of the West Virginia Code, as amended, the Purchasing Division’s Agency Purchasing Manual, and the Governor’s Travel Regulations.

Auditor’s Office Action:

The State Auditor’s Office has added controls relating to contract monitoring to eliminate the probability of this problem occurring in the future. Specifically, agency personnel will review contracts to determine vendor payments are in compliance with contract terms and are made in accordance with applicable sections of the West Virginia Code, as well as, other rules, regulations, policies and procedures.

Post Audit Division Comments:

The procedural changes relating to contract monitoring and vendor payments complies with our recommendation.

FINDING #11 - UNTIMELY DISTRIBUTION OF PUBLIC SERVICE TAXES

We noticed the Auditor’s Office distributed \$3,768,616.49 in 2000 fiscal year public service corporation taxes anywhere from 35 to 53 days after receipt. According to State law, these tax distributions are to be made within twenty days of receipt.

We Recommended:

The Auditor’s Office should comply with Chapter 11, Article 6, Section 18 of the West Virginia Code, as amended.

Auditor's Office Action:

The agency plans to propose legislation at the next regular session of the Legislature which would allow the State Auditor's Office to make public service tax distributions on the 15th of each month.

Post Audit Division Comments:

Although the State Auditor's Office has not yet complied with our recommendation, the agency will propose changes in legislation that will bring it into compliance with our recommendation. Until the law is changed the Auditor's Office should make every effort to comply with the current law.

**FINDING #12 - NORTH AMERICAN SECURITIES ADMINISTRATORS
ASSOCIATION TRAVEL REIMBURSEMENTS**

Third party travel reimbursement checks received by a Securities Division employee during the 1999 fiscal year were not remitted to the Auditor's Office for deposit until February 29, 2000.

We Recommended:

The Auditor's Office should comply with Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended.

Auditor's Office Action:

The Auditor's Office has enacted procedural changes whereby all third party travel reimbursements due the agency are made payable to the State Auditor and sent directly to his office for deposit.

Post Audit Division Comments:

The procedural changes relating to third party travel reimbursements comply with our recommendation.

FINDING #13 - IMPROPER FUND ALLOCATION

The Auditor's Office did not properly distribute a \$44,520.00 administrative fee payment or \$15,305.10 of a \$29,543.70 Workers' Compensation premium payment to the proper funds. These payments should have been allocated to various State Auditor funds based on the number of employees paid from each fund.

We Recommended:

The Auditor's Office should comply with Chapter 12, Article 3, Section 9; Chapter 11A, Article 3, Section 36; Chapter 32, Article 4, Section 406, as amended; and Chapter 11, Article 6, Section 26, as amended, of the West Virginia Code.

Auditor's Office Action:

Employee benefit payments are currently being charged to the proper funds. The allocation of the Public Employee Insurance Reserve administrative fees was corrected with the completion of the 2003 budget. These administrative fees are presently allocated to the various State Auditor funds based on the employee salaries paid from each account. The agency considers the improper fund allocation associated with the Workers' Compensation premium payment to have been a "one time occurrence" due to human error rather than a failure in their internal control structure; therefore, Auditor's Office management believes no further procedures should be implemented.

Post Audit Division Comments:

The State Auditor's Office is complying with our recommendation.

FINDING #14 PAYMENT FROM WRONG FUND

We found the Auditor's Office charged travel reimbursements totaling \$13,181.17 to the Real Estate Time Sharing Fund. Based on our review of the supporting documentation, the transactions should have been charged to other agency funds.

We Recommended:

The Auditor's Office should comply with Chapter 36, Article 9, Sections 21 and 25 of the West Virginia Code.

Auditor's Office Action:

The State Auditor has implemented procedural changes to ensure compliance with our recommendation.

Post Audit Division Comments:

The procedural changes comply with our recommendation.

FINDING #15 - PURCHASING CARD

Our audit revealed several instances where purchasing card purchases were not adhered to including stringing of purchasing card transactions totaling \$9,932.72, unauthorized purchasing card purchases totaling \$8,241.84, proper documentation was not maintained, improperly classified purchasing card purchases totaling \$396.00.

We Recommended:

The Auditor's Office should comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code and the State Purchasing Card Policies and Procedures.

Auditor's Office Action:

According to the State Auditor, agency staff were sent back through Purchasing Card training. Currently, any questionable purchasing card purchase is forwarded to the Senior Deputy State Auditor for review to determine the purchase complies with the State Purchasing Card Policies and Procedures.

Post Audit Division Comments:

We believe the State Auditor's Office is complying with our recommendation.

FINDING #16 - STATUTORY FUND TRANSFER

According to the provisions of House Bill 210, passed on May 20, 1999, \$150,000.00 was to be transferred from the West Virginia Supreme Court of Appeal's Family Law Administration Fund to the Department of Health and Human Resource's Domestic Violence Legal Services Fund. However, the Auditor's Office did not transfer \$4,500.00 of the legislatively mandated amount.

We Recommended:

The Auditor's Office should comply with the provisions of House Bill 210, passed on May 20, 1999.

Auditor's Office Action:

The \$4,500.00 not transferred to the Department of Health and Human Resource's Domestic Violence Legal Services Fund was credited to the State fund at the end of the 2000 fiscal year and treated as part of general revenue.

Post Audit Division Comments:

This finding which was the result an unusual occurrence and was corrected requires no further action.