

## LEGISLATIVE AUDIT REPORT

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

# BUREAU OF CHILD SUPPORT ENFORCEMENT

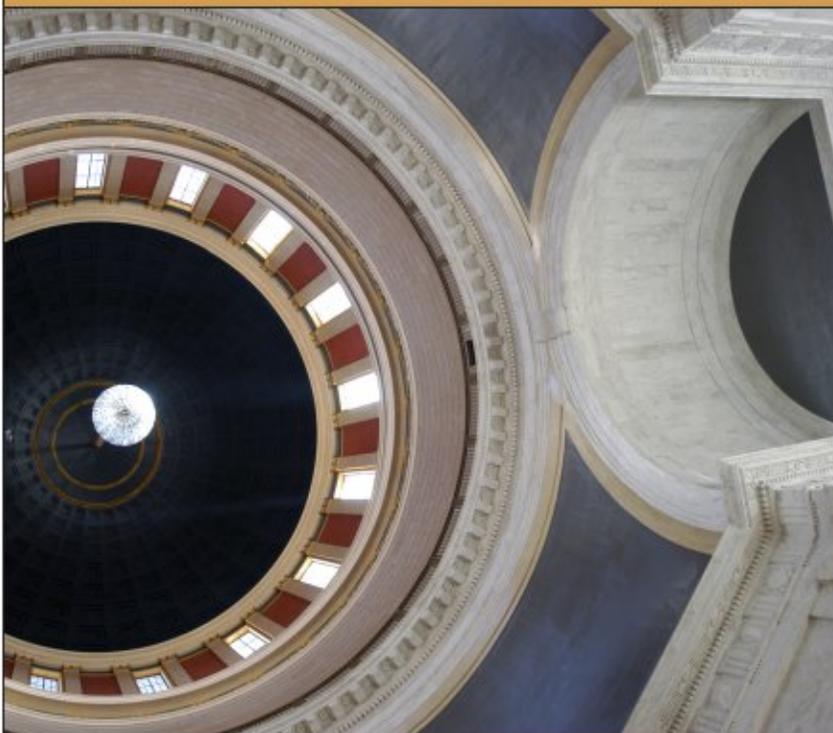
FOR THE PERIOD JULY 1, 2008 - JUNE 30, 2009

## AUDIT SCOPE

Report includes all financial activities except for the collection, documenting and disbursement of child and spousal support payments

## REPORT OVERVIEW:

- Agency failed to properly verify and document the receipt of commodities and services
- Weakness in internal control over payroll - specifically overtime payments and docking of pay
- Weakness in internal control over the Bureau's fixed asset inventory



WEST VIRGINIA LEGISLATIVE AUDITOR  
POST AUDIT DIVISION



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**WEST VIRGINIA LEGISLATURE**  
**Joint Committee on Government and Finance**

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The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we conducted a post audit of the Bureau of Child Support Enforcement for the period July 1, 2008 through June 30, 2009. This audit report includes all financial activities of the BCSE except for the collection, documenting and disbursement of child and spousal support payments. A separate report will be prepared for BCSE transactions related to child and spousal support moneys.

Except for the independence impairment referred to in the Independent Auditor's Report, we have conducted our audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Our audit disclosed certain findings which are detailed in this report. The Spending Unit's management has responded to the audit findings; we have included the responses following each finding.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stacy L. Sneed".

Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
WEST VIRGINIA BUREAU OF CHILD SUPPORT ENFORCEMENT  
JULY 1, 2008 – JUNE 30, 2009**

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**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
WEST VIRGINIA BUREAU OF CHILD SUPPORT ENFORCEMENT  
JULY 1, 2008 – JUNE 30, 2009**

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**INDEPENDENT AUDITOR'S REPORT**

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Post Audit Subcommittee:

**Compliance**

We have audited the West Virginia Bureau of Child Support Enforcement (BCSE) in compliance with the laws, rules, and regulations applicable for the fiscal year 2009. This audit includes all financial activities of the BCSE except for the collection, documenting and disbursement of child and spousal support payments. A separate report will be prepared for BCSE transactions related to child and spousal support moneys. Compliance with the requirements referred to above is the responsibility of BCSE's management. Our responsibility is to express an opinion on the BCSE's compliance based on our audit.

Except for the organizational impairment described in the following paragraph, we conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on the BCSE. An audit includes examining, on a test basis, evidence about the BCSE's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the BCSE's compliance with those requirements.

In accordance with W. Va. Code Chapter 4, Article 2, the Post Audit Division is required to conduct post audits of the revenues and expenditures of the spending units of the state government. The Post Audit Division is organized under the Legislative Branch of the State and our audits are reported to the Legislative Post Audit Subcommittee. Therefore, the Division has historically been organizationally independent when audits are performed on an agency, board, or program of the Executive Branch of the State. However, this organizational independence was impaired when the President of the Senate became acting Governor of the State on November 15, 2010, in accordance with W.Va. Code §3-10-2. Audits completed after this date will not comply with Governmental Auditing Standards sections 3.12 – 3.15. These sections of the auditing standards assert that the ability of an audit organization to perform work and report the results objectively can be affected by placement within the governmental organizational structure. Since the President of the Senate is acting Governor, the Executive Branch has the ability to influence the initiation, scope, timing, and completion of any audit. The Executive Branch could also obstruct audit reporting, including the findings and conclusions or the manner, means, or timing of the audit organization's reports.

In our opinion, except for the noncompliance noted in the findings of this report and the independence issue due to the President of the Senate becoming Acting Governor, the BCSE complied, in all material respects, with the compliance requirements referred to above that are applicable for State fiscal year 2009.

### **Internal Control**

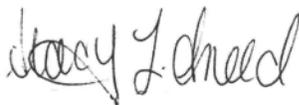
Management of the BCSE is responsible for establishing and maintaining effective internal control over compliance with the compliance requirements referred to above. In planning and performing our audit, we considered the BCSE's internal control over compliance to determine the auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the BCSE's internal control over compliance.

*A deficiency in internal control over compliance* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their functions, to prevent, or detect and correct, noncompliance on a timely basis. A *material weakness* in internal control over compliance is a deficiency, or combination of deficiencies in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies, or material weaknesses in internal control over compliance. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses.

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, and management of the BCSE. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

Respectfully submitted,



Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division

December 14, 2010

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
WEST VIRGINIA BUREAU OF CHILD SUPPORT ENFORCEMENT  
JULY 1, 2008 – JUNE 30, 2009**

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**EXECUTIVE SUMMARY**

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**Finding 1      Receiving Reports for Commodities and Services**

We found 25 purchases of services totaling \$116,664.07 that were not evidenced by the required agency receiving report. Also, our tests revealed an additional 11 transactions totaling \$4,331.12 that had a receiving report present, but these reports were not authorized by approved receivers of goods and services as required by State Purchasing Regulations.

**Auditor's Recommendation**

We recommend the BCSE and the DHHR comply with Section 6 of the West Virginia Purchasing Handbook and Section 5.5 of 155CSR1. We also recommend the BCSE and the DHHR develop and implement procedures to ensure receiving reports are completed for both goods and services and receiving reports are completed only by authorized employees.

**Spending Unit's Response**

The DHHR does not concur with this finding. **See pages 14 & 15.**

**Finding 2      Delayed Payroll Adjustments**

Lack of adequate internal controls in BCSE's payroll resulted in the following: (a) Three employee overpayments totaling \$333.87 were not adjusted until an average of 54 business days after the date the employees were paid for days not worked; (b) Six overtime payroll transactions totaling \$691.82 were not promptly processed. The time elapsed from the next payroll date after overtime was earned until the overtime was paid ranged from 11 to 64 business days; (c) One employee was overpaid \$6,643.51. Subsequent additional assessments due to "tax regulations" increased the amount owed to the agency to \$8,212.69.

**Auditor's Recommendation**

We recommend that BCSE and DHHR comply with WV Code 12-3-13, as amended, 143CSR1, and DHHR Policy Memorandum 2102. We further recommend the DHHR and the BCSE perform adjustments and pay overtime promptly.

**Spending Unit's Response**

The DHHR concurs with this finding. **See pages 16 & 17.**

**Finding 3      Equipment Not Properly Inventoried**

During the testing of BCSE equipment and inventory we noted the following: (a) Five assets purchased for a total of \$6,090.35 were reported as lost in the inventory system even though we located the items during our equipment trace, (b) Three inventory items were not affixed with the required inventory tags and were not listed in the agency's equipment inventory listing, (c) The Fixed Asset Inventory did not reflect the theft of a laptop computer and a projector purchased for a combined \$5,657.87.

**Auditor's Recommendation**

We recommend the BCSE and the DHHR comply with the sections 3.3, 3.14 and 3.11 of the WVFIMS Fixed Asset Training Manual and ensure that all assets are correctly recorded within the Department's Equipment Inventory listing.

**Spending Unit's Response**

The DHHR concurs with this finding. **See pages 18 & 19.**

**Finding 4      Missing Documentation for Equipment**

During the BCSE equipment and inventory audit, the BCSE was unable to provide us with following documents: (a) A Sole source authorization and receiving report for 2008 WV Code Court Rules valued at \$2,803.60; (b) Transfer documentation between the BCSE and the Bureau for Children and Families (BCF) for two items valued at \$1,831.00; and (c) A receiving report for 140 computer monitors originally purchased for a total of \$28,840.00.

**Auditor's Recommendation**

We recommend BCSE comply with WV Code §5A-8-9, as amended, Section 4.6 of the WVFIMS Fixed Asset Training Manual and Section 6 of the WV Purchasing Handbook. We further recommend BCSE maintain all required documentation and receiving reports. Finally, we recommend BCSE follow their policies concerning the transfer of assets.

**Spending Unit's Response**

The DHHR partially disagrees with this finding. **See pages 20 & 21.**

**Finding 5 Missing Equipment**

During the BCSE equipment and inventory audit, we noted six computers and eight monitors with a combined original purchase price of \$5,861.00 could not be located. All items were purchased from March 2004 through April 2009.

**Auditor's Recommendation**

We recommend BCSE comply with Section 3.3 of the WVFIMS Fixed Asset Training Manual and ensure all assets are properly safe guarded.

**Spending Unit's Response**

The DHHR concurs with this finding. **See page 22.**

**Finding 6 Employee Pay Before Services Rendered**

We noted several instances where employees were allowed to take more paid leave than they had accrued. This resulted in these employees having negative leave balances with a combined gross employee pay value of \$2,108.84.

**Auditor's Recommendation**

We recommend the BCSE comply with WV Code §12-3-13, as amended, and Sections 14.3 and 14.4 of 143CSR1. We further recommend BCSE improve internal controls to minimize the risk of paying employees prior to services rendered.

**Spending Unit's Response**

While the DHHR recognizes the need to improve internal controls in an effort to ensure that leave request forms are completed properly, we disagree with the condition of this finding. **See pages 23 & 24.**

**Finding 7 Incorrect Employee Leave**

While testing BCSE paid leave, we noted the following: (a) Several errors in leave balances in the agency's computerized leave system; (b) 33 instances where leave was granted in increments less than 0.25 hours in violation of Division of Personnel's Administrative Rule; and, (c) Approval signatures were absent from eight leave forms and three timesheets.

**Auditor's Recommendation**

We recommend the BCSE comply with WV Code §5A-8-9, as amended, and Sections 14.3 and 14.4 of 143CSR1 by developing and implementing internal controls to minimize errors in the BCSE's leave system and ensure leave is properly approved by

means of signatures on leave forms. Further, we recommend BCSE follow DHHR's Policy Memorandum 2102, section IX., P. concerning the maximum monthly balance of compensatory time. We also recommend the BCSE alter employee leave balances in their leave system to reflect our audited balances. In addition, we recommend BCSE comply with the 143CSR1 and require paid leave be taken in increments no smaller than .25 hours.

**Spending Unit's Response**

We will ensure that prorated leave is computed in proportion to normal hours worked. **See pages 25 – 27.**

**Finding 8      Errors in Employee Separation Pay**

During our audit of the BCSE's separation payout for terminated employees, we noted several payroll errors as follows: (a) Seven separating employees were overpaid a total of \$56.81 and four employees were underpaid a total of \$861.33 for unused annual leave, pro-rata annual increment and termination/severance pay; (b) Four terminated employees were incorrectly overpaid \$412.60 for unused compensatory time; and, (c) Retirement contributions totaling \$25.86 were withheld in error from an employee's severance pay.

**Auditor's Recommendation**

We recommend the BCSE and DHHR comply with Chapter 12, Article 3, Section 13 and Chapter 5, Article 5, Sections 2 and 3 of the West Virginia Code, as amended, the West Virginia Attorney General's Opinion number 37 and DHHR's Policy 2101 and DHHR's Severance Pay Policy. We also recommend the DHHR and the BCSE develop and implement internal controls in order to diminish the likelihood of errors in employee terminal pay.

**Spending Unit's Response**

The DHHR concurs with this finding. **See pages 28 – 30.**

**Finding 9      Missing Documentation**

The BCSE was unable to provide us with several supporting documents requested as follows: (a) Payroll Transaction Forms (WV-11s) requested for personal services audit tests; (b) One employee's monthly timesheet; (c) Application for Leave with Pay forms supporting 247 hours of annual leave, 252 hours of sick leave, and 57 hours of holiday/comp leave; (d) 81 miscellaneous payroll forms, including payroll docking forms, donated leave forms, insurance authorization forms, and employee State and

Federal tax withholding forms; (e) Documents (invoices, receipts, etc.) supporting six P-card credits totaling \$6,549.54 and seven purchase transactions totaling \$2,463.51.

**Auditor's Recommendation**

We recommend the BCSE comply with WV Code §5A-8-9, as amended, by making and maintaining records that support agency transactions.

**Spending Unit's Response**

The DHHR Division of Payroll recently revised their system of filing to increase availability of supporting documentation. **See pages 31 & 32.**

**Finding 10      Incorrect Payroll Earnings and Deductions**

We noted several discrepancies between BCSE employee payroll earnings and our audited calculations. We also noted several inconsistencies between actual employee payroll withholdings and our audit calculations for withholdings based on supporting documents provided by the agency.

**Auditor's Recommendation**

We recommend DHHR and BCSE comply with WV Code §12-3-13 and §5A-8-9, as amended, and develop internal controls in order to diminish computational errors and unsupported payroll deductions.

**Spending Unit's Response**

DHHR staff members within the Division of Payroll are attempting to locate the missing insurance forms to determine the appropriate course of action and we are still waiting for overtime forms from the DHHR's storage vendor. **See pages 33 & 34.**

**Finding 11      Excessive Payments for Overtime**

We noted BCSE excessively paid two exempt employees overtime totaling \$3,385.35 during our audit period. Additionally, during our audit period BCSE excessively paid exempt employees \$484.35 at a straight-time rate.

**Auditor's Recommendation**

We recommend the BCSE and DHHR comply with their policy and pay overtime only to non-exempt employees from the provisions of the Fair Labor Standards Act.

**Spending Unit's Response**

The DHHR concurs with the condition in that we paid overtime to two exempt employees. **See pages 35 & 36.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
WEST VIRGINIA BUREAU OF CHILD SUPPORT ENFORCEMENT  
JULY 1, 2008 – JUNE 30, 2009**

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**INTRODUCTION**

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**POST AUDIT AUTHORITY**

This is a report on the post audit of the West Virginia Bureau of Child Support Enforcement (BCSE). This audit report includes all financial activities of the BCSE except for the collection, documenting and disbursement of child and spousal support payments. The audit was conducted pursuant to Chapter 4, Article 2 of the West Virginia Code, as amended, which requires the Legislative Auditor to “make post audits of the revenues and funds of the spending units of the state government, at least once every two years, if practicable, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization and functions of the state and its spending units.”

**BACKGROUND**

In 1975, Congress passed P.L. 93-647 establishing the Federal Child Support Enforcement program as Title IV-D of the Social Security Act. (42 U.S.C. §§ 651 *et seq.*, and Title IV-D §§ 451 *et seq.* of the Social Security Act) Title IV-D and its subsequent amendments contain the requirements for the Child Support Enforcement program. The Federal Office of Child Support Enforcement (OCSE) is part of the U.S. Department of Health and Human Services. Although, the primary responsibility for operating child support enforcement programs is placed on the States, the OCSE provides assistance to the States in developing, managing, and operating their respective child support programs.

In 1976, the child support program under Title IV-D of the Act began operating in West Virginia. West Virginia’s Bureau for Child Support Enforcement (BCSE) is located within the Department of Health and Human Resources. It is the office which has been designated as the single State agency to administer and operate the State’s IV-D Program. The program is provided in all 55 counties of the State. The BCSE processes approximately \$210 million in child and spousal support payments per year by receiving and processing support payment receipts from non-custodial parents and distributing them to caretakers as determined and ordered by a Family Law Judge. The majority of West Virginia’s child support laws can be found in Chapter 48 of the West Virginia Code. Laws pertaining to the BCSE can be found in WV Code §48-18 *et seq.*

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
WEST VIRGINIA BUREAU OF CHILD SUPPORT ENFORCEMENT  
JULY 1, 2008 – JUNE 30, 2009**

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**SPENDING UNIT CONTACTS**

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**Bureau of Child Support Enforcement - State Fiscal Year 2009**

Susan Perry ..... Commissioner

Garrett Jacobs ..... Deputy Commissioner (Acting Commissioner as of January 1, 2010)

David Welker ..... Deputy Commissioner

Beverly Kimberling ..... Commissioner Secretary

Hal Pendell..... Chief Financial Officer

Larry Lefevre..... Distribution Unit Manager

Heidi Talmage..... Deputy General Counsel

Betty Justice ..... Manager Performance Evaluation

Tammy Bradshaw ..... Interim Director of Personnel (Now Director)

Susan Linville ..... Fiscal Unit Manager

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
WEST VIRGINIA BUREAU OF CHILD SUPPORT ENFORCEMENT  
JULY 1, 2008 – JUNE 30, 2009**

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**AUDIT SCOPE**

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We have audited the West Virginia Bureau of Child Support Enforcement fund for the period July 1, 2008 through June 30, 2009. This audit report includes all financial activities of the BCSE except for the collection, documenting and disbursement of child support payments. Our audit scope included a review of internal control and compliance with laws, regulations, and provisions of contract agreements. Except for the independence impairment that ensued when the President of the West Virginia Senate became Acting Governor of West Virginia, we have conducted our audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

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**OBJECTIVES AND METHODOLOGIES**

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The objectives of our post audit were to audit the revenues and expenditures of the spending unit, to report any misapplication of State funds or erroneous, extravagant or unlawful expenditures by any spending unit that we find, to ascertain facts, and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization, and functions of the state and its spending units. We were to determine whether expenditure and revenue transactions were related to the spending unit's programs, were reasonable, and were recorded properly in the accounting systems. Additionally, we were to examine the spending unit's records and internal control over transactions and to evaluate its compliance with applicable State laws, rules and regulations.

In preparation for our testing, we studied legislation, applicable WV Code sections, applicable rules and regulations, and policies of the spending unit. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observations of the spending unit's operations, and through inspections of documents and records. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Additionally, we reviewed the budget, studied financial trends, and interviewed spending unit personnel to obtain an understanding of the programs and the internal controls. In planning and conducting our post audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk.

A statistical sampling approach was used. Our samples of transactions were designed to provide conclusions about the validity of transactions, as well as internal control and compliance attributes.

The BCSE's written response to the reportable compliance and other matters identified in our audit has not been subjected to the auditing procedures applied in the audit and, accordingly, we express no opinion on it.

The BCSE management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Post Audit Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

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### **CONCLUSIONS**

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This report includes findings regarding instances of noncompliance with applicable laws, rules or regulations. Other less significant findings that did not warrant inclusion in this report were communicated to the BCSE.

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### **EXIT CONFERENCE**

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We discussed this report with management of the spending unit on December 30, 2010. All findings and recommendations were reviewed and discussed. Management's response has been included at the end of each finding.

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
WEST VIRGINIA BUREAU OF CHILD SUPPORT ENFORCEMENT  
JULY 1, 2008 – JUNE 30, 2009**

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**REPORTABLE COMPLIANCE AND OTHER MATTERS**

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**Finding 1                      Receiving Reports for Commodities and Services**

**Condition:**                      During our test of agency contracts, we tested 121 purchases made under contract with a total value of \$1,770,101.38. We found 25 of these purchases totaling \$116,664.07 were not supported by the required agency receiving report. Also, our tests revealed an additional 11 of these transactions totaling \$4,331.12 had a receiving report present, but these reports were not authorized by agency approved receivers of goods and services as required by State Purchasing Regulations.

**Criteria:**                      Section 6 of the West Virginia Purchasing Handbook (*Agency Delegated Acquisition Procedures*), states in part:

“..6.3 Receiving Procedures: ....Agencies must verify the shipment against the specifications in the purchase order and retain a copy of the receiving report prepared for the Auditor’s office with the purchasing file. For receipt of services, a receiving report similar in form to that required by the Auditor’s office shall be completed, signed and retained with the purchasing file...” **(Emphasis Added)**

Title 155, Series 1 of the West Virginia Code of State Rules (155CSR1), states in part,

“..5.5. Signed Acknowledgment. All receiving reports shall contain the original signature of the authorized individual designated to receive commodities and prepare receiving reports. This signature acknowledges both receipt and the fact that the commodities received are acceptable for payment. The Signed Acknowledgement must also include the authorized receiver’s printed name and user id...” **(Emphasis Added)**

**Cause:**                      The Accounting Technician in charge of Accounts Payable for BCSE stated per BCSE policy, a receiving report should be completed for each invoice. She added that due to confusion regarding the actual invoice sent to BCSE, a receiving report may be filled out for two or more invoices that are later separated into two WVFIMS documents. The Technician then stated the BCSE does not require approved receivers be used when goods are received at the various field offices throughout the state. Instead, the agency allows a designated employee to receive the goods.

We also consulted the DHHR Division of Accounts Payable and were told services received should be exempt from having a receiving report filed.

**Effect:** Failure to maintain adequate receiving procedures, including a properly completed receiving report, increases the risk that an agency may pay for commodities not received or services not performed.

**Recommendation:** We recommend the BCSE and the DHHR comply with Section 6 of the West Virginia Purchasing Handbook and Section 5.5 of 155CSR1. We also recommend the BCSE and the DHHR develop and implement procedures to ensure that receiving reports are completed for both goods and services and that receiving reports are completed only by authorized employees.

**Spending Unit's**

**Response:** The DHHR does not concur with this finding because payments for commodities are handled differently than payments for services. It is our understanding that services rendered under a valid purchase order do not require an accompanying receiving report. This position appears to be confirmed by the WV State Auditor's Office as invoices from BCSE for services are accepted and paid without an accompanying receiving report.

**Finding 2**                      **Delayed Payroll Adjustments**

**Condition:**                      During FY 2009, the BCSE had gross payroll expenditures of approximately \$15.2 million paid to approximately 450 BCSE employees. For our test of employee pay for FY 2009, we randomly selected 96 semi-monthly employee payroll transactions totaling approximately \$107,000.00. Our audit tests revealed exceptions and a lack of adequate internal controls as follows:

- Adjustments to an employee’s pay must be made when the employee is off work and the employee has insufficient paid leave balances to cover his or her time off. We tested 12 such payroll adjustments and noted three of these adjustments totaling \$333.87 in pay were not processed timely. Payroll adjustments were not made until an average of 54 business days after the date the employees were paid for days not worked.
  
- Six overtime payroll transactions tested, totaling \$691.82, were not promptly processed. The time elapsed from the next payroll date after overtime was earned until the overtime was paid and ranged from 11 to 64 business days.
  
- One employee was paid even though the employee did not work and the employee had previously exhausted all annual and sick leave. As a result, the employee was overpaid \$6,643.51. The overpayments occurred from May through September 2008. Subsequent additional assessments due to “tax regulations” increased the amount owed to the agency to \$8,212.69. As of the date of this report, none of the moneys have been recovered.

**Criteria:**                      Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states in part:

“No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.”

The Code of State Rules, Title 143, Series 1 (143CSR1), which addresses the docking of employee pay, states in part:

“...14.6. Unauthorized Leave - When an employee is absent from work without authorization for sick or annual leave, the appointing authority shall dock the employee's pay in the next pay period for an equal amount of time paid during which no work was performed.... ” **(Emphasis Added)**

Finally, DHHR Policy Memorandum 2102, Section IX., E. (*Overtime Pay Administration*) states in part:

“...1. *Overtime Calculated on a Workweek:*

Overtime is calculated and paid on a workweek basis. There is no requirement that overtime compensation be paid weekly; however submission for payment should not be delayed beyond the pay period following the period in which the overtime occurred.” ***(Emphasis Added)***

**Cause:** Employees responsible for BCSE payroll were unaware that the employee paid in error was not working during the period of May 20, 2008 through September 26, 2010. BCSE is pursuing collection of this overpayment by virtue of an overpayment agreement; however, the agreement has yet to be signed by the overpaid employee.

According to BCSE personnel, transactions were not processed timely due to personnel within the department not promptly authorizing the pay docking and overtime transactions or supervisors in the various field offices not promptly forwarding the necessary documentation to BCSE’s main office in Charleston.

**Effect:** The BCSE paid an employee for services not rendered. In addition, the agency has now found it necessary to incur additional expense, in addition to the overpayment, in attempts to collect the moneys paid the former employee.

Failure to timely dock employee pay deprives the agency of the use of funds for the duration of the delay. Further, if an employee would terminate employment prior to the agency docking the employee’s pay, the agency would need to make efforts to collect the overpayments which may not be successful.

Employees that were not promptly paid for overtime were deprived of the use of the money for the period of the delay. Such delays in payment may also negatively affect employee morale.

**Recommendation:** We recommend that BCSE and DHHR comply with WV Code 12-3-13, as amended, 143CSR1, and DHHR Policy Memorandum 2102. We further recommend the DHHR and the BCSE perform adjustments and pay overtime promptly.

**Spending Unit’s Response:** The DHHR concurs with this finding and agrees to comply with CSR Title 143 through prompt payment procedures and the prompt docking of employee pay when warranted.

**Finding 3                      Equipment Not Properly Inventoried**

**Condition:**                      For our equipment inventory test, we selected 18 equipment purchases totaling \$272,182.97 as well as ten additional equipment items listed on agency’s WVFIMS Fixed Asset inventory system. Finally, we used auditor judgment to select additional items found at various BCSE locations. We noted the following exceptions:

- Five assets purchased for a total of \$6,090.35 were reported as lost in the inventory system even though we located the items during our equipment trace;
- Three inventory items were not affixed with the required inventory tags and were not listed in the agency’s equipment inventory listing;
- A laptop computer and a projector purchased for a combined total of \$5,657.87 were stolen; however, the stolen items were not reported to the police and the inventory listing was not updated to reflect the theft of these items;

**Criteria:**                      The WVFIMS Fixed Asset Training Manual, Section 3.3, states in part:

“Agencies are responsible for all property under its jurisdiction, regardless of its state (removable or fixed), origin, or acquisition cost. Agencies are responsible for maintaining equipment from date of purchase to date of retirement, such as keeping equipment secure, entering assets into the WVFIMS Fixed Asset system, conducting physical inventories, submitting annual certification, retiring assets properly, etc all in accordance with policy and procedures as outlined in this handbook.” **(Emphasis Added)**

Section 3.14, of this manual states in part:

“Every effort should be taken to secure all state owned equipment. Agency personnel should secure equipment when not in an office environment, i.e. vehicles containing state owned equipment should be locked when left unattended. When any property on the agency’s inventory has been stolen, the theft is to be reported to the police. The police report along with a letter from the department head detailing the theft must be attached to the WVFIMS retirement agency cover sheet and submitted to the Purchasing Division’s Surplus Property Unit.”

Section 3.11, of this manual states in part:

“All equipment over \$1,000 will have a numbered equipment identification tag and that equipment will be entered into the WVFIMS Fixed Asset system....”

**Cause:** For the exceptions noted above, employees responsible for the safeguarding of assets and the recording of these assets into the agency's inventory listing did not update the inventory listing correctly and did not inform the appropriate agency personnel when items were lost or stolen.

**Effect:** When items are either not recorded in the inventory listing or incorrectly recorded in the inventory listing, the risk of theft of assets increases. This is given credence by the fact that two pieces of computer equipment totaling \$5,657.87 were stolen from BCSE offices.

**Recommendation:** We recommend the BCSE and the DHHR comply with the sections 3.3, 3.14 and 3.11 of the WVFIMS Fixed Asset Training Manual and ensure that all assets are correctly recorded within the Department's Equipment Inventory listing.

**Spending Unit's**

**Response:** The DHHR concurs with this finding and acknowledges that agencies are responsible for all property under its jurisdiction regardless of its state (removable or fixed), origin or acquisition cost. We further agree to comply with the regulatory citations noted above and acknowledge that every effort should be made to secure and safeguard state owned equipment.

**Finding 4**                      **Missing Documentation for Equipment**

**Condition:**                      During the BCSE equipment and inventory audit, the BCSE was unable to provide us with following documents:

- A sole source authorization and a receiving report for 2008 WV Code Court Rules valued at \$2,803.60;
- Transfer documentation between the BCSE and the Bureau for Children and Families (BCF) for two items valued at \$1,831.00;
- A receiving report for 140 computer monitors originally purchased for a total of \$28,840.00.

**Criteria:**                      Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, addresses recordkeeping and states in part:

“The head of each agency shall:

. . .(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the State and of persons directly affected by the agency’s activities. . . .”

The WVFIMS Fixed Asset Training Manual, Section 4.6, “Property/Equipment Transfer”,

“The transfer of equipment/ property between agencies is prohibited unless mandated by executive order or legislative action. In this case, please contact the Purchasing Division for specific instructions.”

The West Virginia Purchasing Handbook Section “6: Agency Delegated Acquisition Procedures”, addresses receiving reports and states in part:

“..6.3 Receiving Procedures: ...Agencies must verify the shipment against the specifications in the purchase order and retain a copy of the receiving report prepared for the Auditor’s office with the purchasing file. For receipt of services, a receiving report similar in form to that required by the Auditor’s office shall be completed, signed and retained with the purchasing file...” **(Emphasis Added)**

**Cause:**                      A BCSE Accounting Technician told us that the BCSE and the DHHR personnel should have completed and retained the appropriate documentation.

**Effect:** Receiving reports are used to document what you received, when you received it, and the condition of goods received. Proper use of receiving reports adds assurance that the agency is not paying for commodities or services either not received or that are sub-standard.

Asset Activity forms should be used to document asset transfers. Failing to use these forms will increase the risk that the BCSE may be unable to determine the locations of some of their assets.

**Recommendation:** We recommend BCSE comply with WV Code §5A-8-9, as amended, Section 4.6 of the WVFIMS Fixed Asset Training Manual and Section 6 of the WV Purchasing Handbook. We further recommend BCSE maintain all required documentation and receiving reports. Finally, we recommend BCSE follow their policies concerning the transfer of assets.

**Spending Unit's  
Response:**

The DHHR does not agree that the first bullet point should result in a finding. WV Code and Court Rules were provided by Matthew Bender & Company, a member of the LexisNexis Group. The information provided is copyrighted and proprietary to the vendor, who is considered a sole-source provider and is authorized as such. The DHHR agrees with the stated condition in the second bullet but we are reviewing the matter to determine whether such transfer documentation was required in this instance, given that the transfer was internal to the DHHR and thus remains under control of the DHHR. The unofficial records for receiving reports referenced within the third bullet above rests with the DHHR Division of Accounts Payable while the official records are located at the State Auditor's Office, neither of which would accept an invoice for payment of a commodity without the required receiving report.

**Finding 5**                    **Missing Equipment**

**Condition:**                During our equipment inventory tests, we could not locate six computers and eight monitors with a combined original purchase price of \$5,861.00. All items were purchased from March 2004 through April 2009.

**Criterion:**                Section 3.3 of the WVFIMS Fixed Asset Training Manual, states in part:  
  
“Agencies are responsible for all property under its jurisdiction, regardless of its state (removable or fixed), origin, or acquisition cost. Agencies are responsible for maintaining equipment from date of purchase to date of retirement, such as keeping equipment secure, entering assets into the WVFIMS Fixed Asset system, conducting physical inventories, submitting annual certification, retiring assets properly, etc. all in accordance with policy and procedures as outlined in this handbook.” **(Emphasis Added)**

**Effect:**                    BCSE assets were either stolen or retired without the required supporting documentation either being completed or properly maintained.

**Cause:**                    The BCSE Accounting Technician and DHHR Administrative Service Assistant II stated they could not locate these assets at this time.

**Recommendation:**    We recommend BCSE comply with Section 3.3 of the WVFIMS Fixed Asset Training Manual and ensure that all assets are properly safe guarded.

**Spending Unit’s  
Response:**                The DHHR concurs with this finding and acknowledges that agencies are responsible for all property under its jurisdiction regardless of its state (removable or fixed), origin or acquisition cost. We further agree to comply with Section 3.3, the Responsibility section, of the WVFIMS Fixed Asset Training Manual.

**Finding 6 Employee Pay Before Services Rendered**

**Condition:** During fiscal year 2009, BCSE paid an estimated 450 employees approximately \$15.2 million in gross pay. We selected 78 on these employees for our annual, sick and comp time leave test. We noted several employees were granted more paid leave than they had accrued. This resulted in these employees having negative leave balances with a combined gross employee pay value of \$2,108.84. Since the agency did not dock these employees pay for the value of the negative leave, these employees were paid before their services were rendered in violation of W.V. State Code. The negative leave balances are detailed below:

- Two employees had 11 instances of negative annual leave balances with a gross pay value of \$157.65;
- Five employees had 39 occurrences of negative sick leave balances with a gross pay value of \$1,308.19;
- Three employees had 14 occurrences of negative holiday/comp leave balances with a gross pay value of \$643.00.

**Criteria:** Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states in part:

“...No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered....” **(Emphasis Added)**

Section 14.3 of Title 143, Series 1, Code of State Rules (143CSR1), states in part:

“...(c) Requesting, Granting - ...Annual leave may not be granted in advance of the employee's accrual of the leave.

Section 14.4 of 143CSR1 states in part:

...(f) Granting - Sick leave may not be granted in advance of the employee’s accrual of the leave.

**Cause:** *Leave Application with Pay* forms used by BCSE during our audit period show current leave balances for each employee. These balances should be used by employee supervisors to verify that a requesting employee has sufficient balances prior to approving leave requests. A BCSE Personnel Assistant stated employee supervisors apparently did not always note these balances prior to approving leave.

Further, leave is accrued and credited to employees twice per month as required by 143CSR1. However, BCSE personnel enter leave taken and accrued only once per month into their *Leave Accrual and Reporting System* (LARS). This “time lag” in

accounting for sick, annual, and holiday/comp leave creates opportunities for employees to be paid for leave they have not accrued.

**Effect:** Employees have been allowed to use leave with a gross pay value of \$2,108.84 prior to accruing the leave. As a result, employees received pay before their services were rendered. In all cases of negative balances noted in our test, subsequent leave accruals eventually resulted in the employees obtaining positive balances of leave. Nevertheless, if an employee with a negative leave balance in either sick, annual or holiday/comp terminates employment with BCSE, such an overpayment may become permanent if the agency fails to dock the employee's final pay.

**Recommendation:** We recommend that BCSE comply with WV Code §12-3-13, as amended, and Sections 14.3 and 14.4 of 143CSR1. We further recommend BCSE improve internal controls to minimize the risk of paying employees prior to services rendered.

**Spending Unit's  
Response:**

While the DHHR recognizes the need to improve internal controls in an effort to ensure that leave request forms are completed properly, we disagree with the condition of this finding based upon the Division of Personnel Administrative Rule section 14.4 (a), which states that "sick leave is accrued at the end of each pay period or on the last workday for separating employees. It may be prorated for employees granted a medical leave of absence or satisfying the conditions for approval of a medical leave of absence in accordance with subdivision 14.8(c) of this rule." The DHHR disagrees with the cause. Employees of the BCSE accrue leave twice per month in accordance with the Division of Personnel Administrative Rule section 14.4 (b). Leave request forms and records maintained by managers are used to determine if employees have sufficient leave available. Entering leave into the LARS system twice per month would not resolve this issue because the system is utilized solely for record keeping purposes and for generating attendance reports for applicable agency personnel. Accordingly, LARS timekeepers key leave into the system the month following the actual leave usage.

**Finding 7**

**Incorrect Employee Leave**

**Condition:**

We tested the accuracy of employee leave balances recorded in the DHHR’s Leave Accrual and Recording System (LARS) for the 78 employees in our test sample and noted the following errors:

<u>Type of Error</u>	<u>Number of Employees</u>	<u>Hours Over/(Under) Audited</u> ⌘	<u>Approx. Value Over/(Under) Audited</u> ⌘
<b>Overstated Annual Leave</b>	5	22.7	\$287.00
<b>Understated Annual Leave</b>	2	( 0.2)	( 2.00)
<b>Overstated Sick Leave</b>	4	14.1	192.00
<b>Understated Sick Leave</b>	4	(18.6)	( 243.00)
<b>Overstated Holiday/Comp</b>	6	19.5	241.00
<b>Understated Holiday/Comp</b>	4	( 2.3)	( 30.00)

⌘ Combined hours in excess of our audited values  
⌘ Combined value of errors calculated by using hourly pay rates effective at the time error was recorded in leave system. Values for overstated hours are shown as positives and values for understated hours are shown as negatives

Also, in violation of Division of Personnel’s Administrative Rule (143CSR1), we noted 33 instances where leave was granted in increments less than 0.25 hours. For example, one employee was granted annual leave for .03 hours—which is equivalent to 1.8 minutes.

Consistent with good internal controls, BCSE’s leave forms and timesheets are designed to be endorsed by employees, as well as their respective supervisors that are responsible for approving (or denying) leave requests and timesheets. However, one or more of these signatures were absent from those leave forms and timesheets scheduled below:

- Three monthly timesheets.
- Four “Leave with Pay Applications” for annual leave.
- Two “Leave with Pay Applications” for sick leave.
- Two “Leave with Pay Applications “ for holiday/comp leave

**Criteria:**

Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, states in part:

“The head of each agency shall:

. . .(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency . . .”

Section 14, Subsection 3(a) of 143CSR1 states in part:

“...Less than 5 years of qualifying service  
1.25 days/month...  
5 years but less than 10 years of qualifying service  
1.50 days/month...  
10 years but less than 15 years of qualifying service  
1.75 days/month...  
15 years or more of qualifying service  
2.00 days/month...”

Subsection 1(d) of 143CSR1 states in part:

“...An employee is not eligible to be paid for any holiday that occurs prior to his or her first day of work...”

Section IX.P of the DHHR’s Policy Memorandum 2102 (Hours of Work/Overtime) states in part:

“Compensatory Leave:

1. ...The balance of compensatory leave at the end of any month shall not exceed 24 hours...”

Section 14.3 of 143CSR1 states in part:

“...(e) Minimum Charge - The minimum charge against annual leave shall be one quarter ( $\frac{1}{4}$ ) hour. Additional leave shall be in multiples of a quarter hour...”

Section 14.4 of 143CSR1 states in part:

“...(c) Minimum Charge - The minimum charge against sick leave is one quarter ( $\frac{1}{4}$ ) hour. Additional leave is charged in multiples of one quarter hour...”

**Cause:**

According to BCSE Personnel Coordinator, (the Coordinator) some errors in sick, annual, and holiday/comp leave balances were due to employees incorrectly applying sick leave to annual leave and vice-versa. She added that there were also some computational errors made when employees were added to or removed from payroll.

The Coordinator and a BCSE Payroll Assistant said that employees were allowed to use all available leave—even if leave charges were less than 0.25 hr. increments—in order to minimize the work required to remove/reinstate them from/to the payroll system. However, for this finding, we only included those instances where employees were in no immediate peril of exhausting their leave balances.

For the missing approvals, the Coordinator stated the employee was not available for signature or the supervisor just missed it.

**Effect:** If the employees with overstated leave balances were to terminate employment with the agency, they would be overpaid if the agency failed to properly dock their final pay. Also, those employees with understated leave balances may be denied leave to which they are entitled.

Entries of leave in less than quarter hour increments increases the risk of bookkeeping errors and the cost of maintaining annual, sick, and holiday/comp leave records.

Lastly, due to an absence of signatures on leave requests, we are unable to verify that 44.5 hours of leave was properly requested and approved. We were also unable to verify if one month's pay each for two employees was actually legitimate, since the employee time sheets were not signed by the employees' supervisor.

**Recommendation:** We recommend the BCSE comply with WV Code §5A-8-9, as amended, and Sections 14.3 and 14.4 of 143CSR1 by developing and implementing internal controls to minimize errors in LARS and ensure leave is properly approved by means of signatures on leave forms. Further, we recommend BCSE follow DHHR's Policy Memorandum 2102, section IX., P. concerning the maximum monthly balance of compensatory time. We also recommend the BCSE alter employee leave balances in the LARS to reflect our audited balances. In addition, we recommend BCSE comply with the 143CSR1 and require that paid leave be taken in increments no smaller than .25 hours.

**Spending Unit's**

**Response:** We will ensure that prorated leave is computed in proportion to normal hours worked and/or hours of paid sick and/or annual leave during the pay period. The only instances whereby leave should be exhausted in less than 0.25-hour increments is when the employee is going off the payroll and is thus exhausting all of their remaining leave.

**Finding 8**                      **Errors in Employee Separation Pay**

**Condition:**                      When employees terminate employment, agencies are responsible for calculating and paying the separating employees final pay—including unused annual leave and pro rata annual increment. Agencies are also responsible for ensuring terminated employees are removed from the agency’s regular payroll, that these employees receive no additional pay for unused sick and compensatory leave and that all payroll deductions from final pay are appropriately calculated.

During fiscal year 2009, 36 employees terminated employment at BCSE. We selected 13 of these employees for our test of separation pay. Our test of separation pay revealed the following exceptions:

- Seven separating employees were overpaid a total of \$56.81 and four employees were underpaid a total of \$861.33 for unused annual leave, pro-rata annual increment and termination/severance pay.
- Four terminated employees were incorrectly overpaid \$412.60 for unused compensatory time.
- The BCSE incorrectly deducted retirement contributions totaling \$25.86 from an employee’s severance pay. As a result, the employee was underpaid this amount for his terminal pay.

**Criteria:**                      Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states in part:

“...No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered....” **(Emphasis Added)**

Chapter 5, Article 5, Section 3 of the West Virginia Code, as amended, states in part:

“Every eligible employee,... may be paid in a lump sum amount, at his or her option, for accrued and unused annual leave....”

Chapter 5, Article 5, Section 2 of the West Virginia Code, as amended, states in part:

“(a) Every eligible employee with three or more years of service shall receive an annual salary increase equal to sixty dollars times the employees’ years of service...”

West Virginia Attorney General’s Opinion Number 37, which opines on WV Code §5-5-2 code, states in part:

“...Considering that this sections incremental increase constitutes part of an eligible state employees regular pay for services previously rendered, any such employee has a statutory right to any accrued pro rata share of that increment owing but not due on his final day of employment. By entitlement to a pro rata share, it is meant that an employee who does not work an entire fiscal year is entitled to a fractional portion of the total increment to which the employee would have been entitled had he been employed during the entire fiscal year....”  
**(Emphasis Added)**

The West Virginia Department of Health and Human Resources Policy 2102, section IX, states in part:

“...Employees separating from the Department must use all compensatory leave hours prior to their last day of work (the last calendar date and hour an employee is physically on the job) or forfeit those hours...” **(Emphasis Added)**

West Virginia Department of Personnel Severance Pay policy states in part:

“B. Dismissal With Immediate Separation and Severance Pay

...3.c....no deductions from severance pay may be made for contributions toward retirement.” **(Emphasis Added)**

**Cause:**

Computational errors were made by DHHR Payroll Department employees in determining annual leave balances for separating employees and in calculating pay for unused annual leave. Also, one employee was improperly denied leave.

We were told by a BCSE Personnel Assistant, the BCSE Payroll Unit was unaware that DHHR’s policy prohibits the payment of unused compensatory time for a terminated employee. Finally, a DHHR Payroll Department employee stated the EPICS payroll system has an option for paying terminated employees that, when selected, does not withhold retirement from employee pay. Apparently, this payroll option was not selected for the employee whose final pay had a deduction for retirement.

**Effect:**

Employees underpayments and overpayments were \$887.19 and \$469.41, respectively. Employee underpayments denied employees use of moneys legitimately earned. The overpayments resulted in employees being paid before their services had been rendered in noncompliance with State statute.

**Recommendation:**

We recommend the BCSE and the DHHR comply with Chapter 12, Article 3, Section 13 and Chapter 5, Article 5, Section 2 and 3 of the West Virginia Code, as amended, the West Virginia Attorney General’s Opinion number 37 and DHHR’s Policy 2101 and DHHR’s Severance Pay Policy. We also recommend DHHR and

BCSE develop, and implement internal controls designed to minimize the likelihood of the agency making errors in employee terminal pay.

**Spending Unit's  
Response:**

The DHHR concurs with this finding and agrees to address internal controls in an effort to minimize the likelihood of future errors in employee terminal pay.

**Finding 9**                      **Missing Documentation**

**Condition:**                      For our audit of the BCSE, we requested numerous agency documents necessary for us to conduct our audit work. However, the BCSE was unable to provide us with several supporting documents requested as scheduled below:

- 37 Payroll Transaction Forms (WV-11s) requested for personal services audit tests;
- One employee’s monthly timesheet;
- Application for Leave with Pay forms supporting 247 hours of annual leave, 252 hours of sick leave, and 57 hours of holiday/comp leave;
- 81 miscellaneous payroll forms, including payroll docking forms, donated leave forms, insurance authorization forms, and employee State and Federal tax withholding forms;
- Documents (invoices, receipts, etc.) supporting six P-card credits totaling \$6,549.54 and seven purchase transactions totaling \$2,463.51.

**Criterion:**                      Chapter 5A, Article 8, Section 9, of the West Virginia Code, as amended, states in part:

“...The head of each agency shall: Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency...” **(Emphasis Added)**

**Cause:**                              The Director of Employment Services for the DHHR Office for Human Resource Management told us “...due to age, some of our forms have deteriorated. When WV11’s were processed over the years, we did not maintain the originals. They were kept by the Division of Personnel. We rely on the personnel cards that I have already sent to you, to verify any dates in question....”

Concerning annual, sick, and holiday/comp leave, the BCSE’s Personnel Coordinator stated “that all documentation and leave slips should be completed, submitted and maintained.”, The Coordinator was unsure why the documents were not present in the BCSE files.

For the missing P-card documents, the BCSE Fiscal Officer informed us that certain transactions were unobtainable due to the retirement of the cardholders that were responsible for the transactions.

**Effect:** We were unable to conduct audit tests to verify the accuracy and/or legitimacy of those BCSE payroll and purchasing transactions that were not properly evidenced by sufficient detailed supporting documentation.

**Recommendation:** We recommend the BCSE comply with WV Code §5A-8-9, as amended, by making and maintaining records that support agency transactions.

**Spending Unit's  
Response:**

The DHHR Division of Payroll recently revised their system of filing to increase availability of supporting documentation (insurance authorization forms, and employees' State and Federal tax withholding forms). The DHHR disagrees with the condition of the four missing timesheets and leave with pay forms: One of the employees had resigned in June 2008; therefore, a timesheet for July 2008 would not be available. One of the employees was off on an extended medical leave of absence and was not at work in June 2009. We provided the auditors with the files and related timesheets for the remaining two employees.

**Finding 10**

**Incorrect Payroll Earnings and Deductions**

**Condition:**

For our test sample of 94 transactions of employee pay, we reviewed each employee’s Payroll Transaction Form (WV-11) and timesheet to determine the gross salary due the employee for the applicable pay period. We discovered the following errors in employee pay:

- One \$29.50 underpayment in regular employee pay;
- One \$17.50 overpayment in regular employee pay;
- Three overtime transactions were incorrectly calculated of which two were underpayments totaling \$25.14 and one was an overpayment of \$17.14;
- There were also two earnings adjustments not properly calculated resulting in underpayments totaling \$17.37;
- We noted inconsistencies between actual payroll insurance deductions and our calculated deductions based on the documentation provided by BCSE. Based on the documents provided, on four occasions the agency failed to withhold sufficient amounts for insurance deductions by a combined \$95.12. Conversely, documents indicated the agency over withheld insurance deductions on six occasions by a combined \$67.82.
- We also noted inconsistencies between actual employee Federal tax withholdings and our calculated withholdings based on the tax withholding forms provided by the agency. Based on documentation provided, the agency over withheld Federal tax on nine occasions totaling \$308.20. Conversely, we noted on six occasions the agency under withheld Federal tax by a combined \$197.91.
- We also noted inconsistencies between actual employee State tax withholdings and our calculated withholdings based on the tax withholding forms provided by the agency. Based on documents provided, the agency over withheld State tax on eight occasions totaling \$62.04. Conversely, we noted on ten occasions the agency under withheld State tax by a combined \$61.98.

**Criteria:**

Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states in part:

“No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.”

Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, states in part:

“...The head of each agency shall: Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities....”

**Cause:** Computational errors were made in calculating employee pay. Also, inconsistencies between actual withholdings and our calculated amounts based on supporting documents provided by the agency is the result of either missing, incomplete, or erroneous documentation or errors made inputting payroll deduction information in the EPICS payroll system.

**Effect:** BCSE overpaid some employees while underpaying others. Failure to remit correct amounts to insurance companies and tax departments may result in services being denied to employees or penalties being assessed.

**Recommendation:** We recommend DHHR and BCSE comply with WV Code §12-3-13 and §5A-8-9, as amended, and develop internal controls in order to diminish computational errors and/or unsupported payroll deductions.

**Spending Unit’s Response:** DHHR staff members within the Division of Payroll are attempting to locate the missing insurance forms to determine the appropriate course of action and we are still waiting for overtime forms from the DHHR’s storage vendor. The calculation of taxes is an issue with EPICS in that EPICS automatically calculates the tax deductions. Tax deductions changed in February 2009 due to the Federal stimulus and this may have caused some of the miscalculations. The EPICS system calculates the amount of overtime paid. DHHR Payroll staff use the Division of Personnel pro-rate increment site to calculate the amount of the annual increment. Therefore, DHHR Payroll staff is using all available mechanisms to ensure the correct calculation of payroll.

**Finding 11**                      **Excessive Payments for Overtime**

**Condition:**                      The Federal Fair Labor Standards Act (FLSA) requires overtime pay for employees who are nonexempt from FLSA provisions to be paid at an overtime rate (*hourly rate x 1½*) for hours worked in excess of 40 in one workweek. The FLSA requires that the hourly overtime rate for hours worked in excess of 40 in a workweek be equal to one and one-half times the employee’s regular hourly rate. The FLSA does not require overtime payments to employees exempt from FLSA provisions to be paid overtime. However, during our testing of 33 overtime and straight-time payments, we noted the BCSE excessively paid two exempt employees overtime totaling \$3,385.35 during our audit period. Additionally, during our audit period BCSE excessively paid exempt employees \$484.35 at a straight-time rate (regular hourly rate).

**Criteria:**                      Title 29 of the Code of Federal Regulations, , Part 541, Section 700, addresses the determination of exempt duties as a percentage of an employees work with:

“... Primary duty.

(a) To qualify for exemption under this part, an employee's “primary duty” must be the performance of exempt work. The term “primary duty” means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole....”

DHHR’s Policy Memorandum 2102 defines exempt employee for the purposes of the type of pay they receive with:

“...D. Classification Determination:

Positions are classified as exempt or nonexempt based upon the duties of the position, not the incumbent's education or experience. Exempt employees receive a monthly salary as payment in full for all services rendered....”  
**(Emphasis Added)**

**Cause:**                      The Personnel Coordinator for BCSE, stated that one employee was performing non-exempt duties in addition to her exempt duties.

**Effect:**                      BCSE excessively paid employees by a total of \$3,869.70, and as a result, did not have these funds available for other expenditures.

**Recommendation:**                      We recommend the BCSE and the DHHR comply with their policy and pay overtime only to those employees, non-exempt from the provisions of the FLSA.

**Spending Unit's  
Response:**

The DHHR concurs with the condition in that we paid overtime to two exempt employees but it is important to note that DHHR Policy 2102 states [in part] that while there is no legal obligation to pay exempt employees additional compensation for work in excess of forty hours in a workweek, overtime for exempt employees may be authorized under certain circumstances at the discretion of the Departmental Secretary. The policy further states that managers should exercise professional discretion with regard to work time of exempt employees. Administrative, executive, or professional employees should be allowed some flexibility during regular working hours as partial compensation for working excessive hours, if the workload permits. This provision in DHHR Policy 2102 is not intended to allow circumvention of the policy and it should be used as the exception rather than the rule.

**STATE OF WEST VIRGINIA**

**OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:**

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 10th day of January 2011.



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Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division

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