



**A REPORT TO THE
WEST VIRGINIA
LEGISLATURE**
January 12, 2016

Post Audits Subcommittee

Senate Members

The Honorable William P. Cole III
The Honorable Mike Hall
The Honorable Jeffrey V. Kessler

House Members

The Honorable Tim Armstead
The Honorable Eric Nelson, Jr.
The Honorable Timothy Miley

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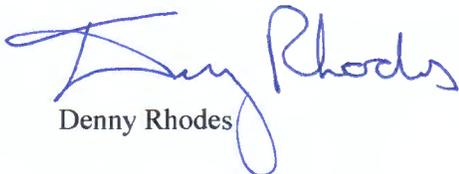
Dear Mr. President and Mr. Speaker:

In compliance with the provisions of the *West Virginia Code, Chapter 4, Article 2*, as amended, the Legislative Auditor conducted a compliance audit of the Division of Justice and Community Services (DJCS) for the period of July 1, 2013 through June 30, 2014.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit disclosed certain findings, which are detailed in this report. The DJCS management response to the audit findings is included at the end of the report.

Respectfully submitted,


Denny Rhodes

_____ *Joint Committee on Government and Finance* _____

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OBJECTIVES and CONCLUSIONS

OBJECTIVE ONE

Determine that employees accrued and used sick leave, annual leave and “flex time” in accordance with West Virginia Code, the Division of Personnel’s Administrative Rule and DJCS’s internal policies and procedures.

Conclusion

Based on the work performed we determined internal controls are functioning as described to us and sick and annual leave has been accounted for in accordance with applicable sections of West Virginia Code, Legislative intent, current State policies, and DJCS policies and procedures; with the exception of the one item noted below.

Related Findings and Recommendations

Finding 1: Payment of \$1,231 in Wages Prior to Services Rendered

- 1.1 The Legislative Auditor recommends DJCS prohibit the payment of salaries prior to services rendered.

OBJECTIVE TWO

Determine if DJCS appropriately disbursed State grant funds timely and in accordance with DJCS polices. Determine that DJCS adequately monitored grant fund reimbursements in order to provide reasonable assurance that grant funds used complied with the overall purpose of the grant program and the stipulations recounted in each respective grant agreement. Determine grant fund amounts requested and disbursed are sufficiently supported by paid invoices and/or timesheets. Determine that reimbursements match the award description approved by the Grant Award Committee.

Conclusion

Based on the work performed we have determined internal controls are functioning as described to us and State Grant disbursements were accounted for in accordance with applicable sections of West Virginia Code, Legislative intent, current State policies and DJCS Policies and Procedures.

Related Findings and Recommendations

No findings to report.

OBJECTIVE THREE

Determine to a reasonable degree of certainty that purchases and travel reimbursements disbursed by DJCS complied with applicable sections of the West Virginia Purchasing Division Purchasing Handbook, the WV State Auditor's Office Purchasing Card Policies and Procedures and the State Purchasing Division's Travel Policy.

Conclusion

We did not observe any unusual or unallowable purchases made by DJCS during our audit period. Additionally, there were no instances of non-compliance with applicable criteria for travel reimbursements noted during our audit period.

Related Findings and Recommendations

No findings to report.

OBJECTIVE FOUR

Determine if DJCS has developed a work-at-home policy and has implemented that policy during the course of our audit period.

Conclusion

The DJCS did not have a work-at-home policy prior to allowing an employee to work from home. Best business practices emphasize the critical importance of developing and implementing a written work-at-home policy outlining the qualifying conditions that should be present prior to authorizing an employee to work from home.

Related Findings and Recommendations

Finding 2: Failure to Develop and Implement Work-at-Home Policy

- 2.1 We recommend DJCS either develop and implement a detailed written work-at-home policy or prohibit DJCS employees from working from their homes.
- 2.2 We also recommend the WV Division of Personnel develop and implement a work-at-home policy to provide guidance for agencies and employees under its authority.

FINDINGS and RECOMMENDATIONS

Finding 1: Payment of \$1,231 in Wages Prior to Services Rendered

Four Employees Were Paid Salaries Totaling \$1,231 for 72 Hours That Were Not Worked Until Subsequent Pay Periods.

Four employees were paid salaries totaling \$1,231 for 72 hours that, at the time of payments, had neither been worked¹ nor deducted from annual or sick leave balances. As a result, the Division of Justice and Community Services (DJCS) violated W. Va. Code §12-3-13 that states “No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.”

According to the employees’ worktime records, all of the employees eventually made up the deficit in subsequent pay periods. Nevertheless, if an employee separated from employment prior to doing so, the State and DJCS would have received no benefit for these payments unless any unpaid salary due the employee was reduced for an amount equal to the deficit.

Recommendation

1.1 The Legislative Auditor recommends DJCS prohibit the payment of salaries prior to services rendered.

¹ We reviewed the accrual and use of paid leave for 11 of the 38 employees that worked at DJCS during fiscal year 2014. Four employees, or 36% of the 11 employees in our review sample, received pay prior to earning the pay. These payments were for 72 hours of “work time” and were made as part of 15 separate payments of salaries to four employees.

Finding 2: Failure to Develop and Implement Work-at-Home Policy

A Former DJCS Employee Was Allowed to Work From Home Even Though DJCS Had No Work-At-Home Policy.

A DJCS employee was permitted to work from home even though DJCS had no work-at-home policy. Best business practices emphasize the critical importance of developing and implementing a written work-at-home policy outlining the qualifying conditions that should be present prior to authorizing an employee to work from home. Although a business or agency may benefit by allowing employees to work from home in certain situations, there are issues that could complicate such an arrangement if they are not addressed in a written policy.

We received the following response from the DJCS Chief Deputy Director after requesting information in regards to the time period the employee was permitted to work from home. *"...As for the 1st day (the employee) was allowed to work from home I apologize but that is uncertain. Regardless (the employee) was considered "on duty" whether it was from home or here at DJCS. There was a period in time when (the employee) was working only some % at home and another % at work..."* Since there are no records documenting the employee's work location, we could not substantiate the time frame and number of workdays the employee was on work-at-home status².

Also, we requested that DJCS provide us with any records documenting work performed by the employee while at home. The Chief Deputy Director replied that *"...the employee's supervisor at the time is no longer employed with this Division and any notes, articles or emails are not available..."* Although we reviewed the employee's time sheets, the time sheets only documented work start and end times for each workday. Therefore, we could not determine the work performed by the employee while the employee was working from home.

There Are No DOP Rules, Policies or Procedures Related to State Employees Working From Their Residences

We contacted the Department of Administration and inquired about any Division of Personnel (DOP) rules, policies or procedures in regards to agencies allowing employees to work from home. The Deputy Secretary for the Department of Administration responded by letter with the following: *"...DOP offers guidance and assistance to agencies who wish to implement policies specific to allowing employees to work from home. The specific location from which an employee performs work, however, has no impact on compliance with DOP law, rules, and policies so the agency has determined it to be unnecessary to implement a statewide policy. Should the State Legislature task the agency with this assignment, we would be pleased to oblige."*

² We attempted to calculate the total pay earned by the employee while on work-at-home status; however, due to a lack of records documenting the employee's work location, we were unable to perform this calculation.

Recommendations

- 2.1 We recommend DJCS either develop and implement a detailed written work-at-home policy or prohibit DJCS employees from working from their homes. Such a policy should include, but not be limited to, the following:
- (1) A stipulation that no other commitments be present during work hours, including dependent care responsibilities, which may conflict with the requirement to work;
 - (2) A provision stating that hours of work be defined and documented;
 - (3) A requirement that duties be clearly stipulated and work output be thoroughly monitored and documented by the employee's supervisor;
 - (4) A stipulation that the employer may withdraw their approval for a work-at-home arrangement if they believe its use is being abused;
 - (5) A requirement that work-at-home candidates sign an agreement indicating they understand and will adhere to the policy provisions incumbent upon them as a prerequisite to an employee working from home.
- 2.2 We also recommend the WV Division of Personnel develop and implement a work-at-home policy to provide guidance for agencies and employees under its authority. At a minimum, the policy should require agencies to adhere to the general provisions specified in 2.1 above.

APPENDIX A

AUTHORITY

The audit was conducted pursuant to WV Code §4-2, 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.”

The Post Audit Division of the Office of the Legislative Auditor is organized under the Legislative Branch of the State and the audits are reported to the Legislative Post Audits Subcommittee. This organizational structure has historically allowed the Division to be organizationally independent when audits are performed on an agency, board, or program of the Executive Branch of the State.

This communication is intended solely for the information and use of the Post Audits Subcommittee, the members of the WV Legislature, management of DJCS, and WV taxpayers. Once presented to the Post Audits Subcommittee this report is a matter of public record and its distribution is not limited. This report is intended to assist the Post Audits Subcommittee in exercising its legislative oversight function, to provide constructive recommendations for improving State operations, and report agency activities to the WV taxpayers.

SCOPE

The audit scope included a review of applicable internal control policies and procedures, grant request for reimbursements change orders, receipts, and invoices; compliance with West Virginia Code, West Virginia State Purchasing Division Purchasing Handbook, best business practices and DJCS policies and procedures applicable for the audit period.

The audit included examining, on a test basis, evidence of compliance with those requirements referred to above and performing other procedures, as necessary. The audit does not provide a legal determination of DJCS’s compliance with those requirements.

DJCS management is responsible to accurately and efficiently performing all duties mandated under WV Code Chapter 62, Article 11C, as well as other applicable areas of WV Code, the Code of State Rules, and its own internal policies. To achieve this DJCS must create and maintain policies and procedures to ensure all duties mandated are performed. Additionally, it is the duty of DJCS to accurately track and account for all State monies.

DJCS management is also responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding assets, and compliance with applicable laws, rules, and regulations are achieved. Due to inherent limitations in internal control, errors and fraud may nevertheless occur and not be detected.

The scope over internal controls involved only assessing controls significant to the audit objectives. To conclude on the adequacy of internal controls regarding DJCS as a whole was not a specific objective of the audit. Any significant internal control weaknesses discovered were reported in the findings.

This report includes findings regarding significant instances of noncompliance with applicable laws, rules and regulations as related to the objectives. Instances of noncompliance deemed insignificant to warrant inclusion in the report, or instances outside the scope of the audit, but still merited the attention of DJCS management, were communicated in a letter to DJCS management.

EXIT CONFERENCE

A draft of the report was sent to management on December 30, 2015. An exit conference was held with the Director of DJCS on January 4, 2015, during which all findings and recommendations were discussed.

OVERALL SUFFICIENCY OF EVIDENCE

All testimonial evidence obtained by the audit team was evaluated for objectivity, credibility, and reliability and was obtained under conditions in which the employee was able to speak freely without intimidation. The employees had direct knowledge of their working area and there was no evidence employees were biased. Additionally, we assessed the sufficiency and appropriateness of computer processed information regardless of whether the information was provided to us, or was independently extracted, by using an Internal Control Questionnaire, assessing the reliability and integrity of data, performing analytical reconciliations, and testing the supporting documentation.

The auditors performed and documented an overall assessment of the collective evidence used to support findings and conclusions, including the results of any specific assessments conducted to conclude on the validity and reliability of specific evidence, according to Section 6.69 of the Yellow Book, by documenting internal controls, and performing tests of an appropriate size.

The overall evidence obtained was relevant to the objectives and findings. The evidence was determined to be valid and reasonable and supported the auditor's conclusions and findings. The overall evidence was reliable when tested and can be verified and supported. In establishing the appropriateness of the evidence as a whole, the auditors tested reliability by obtaining supporting documentation, used original documents when available, verified the credibility of testimonial evidence, evaluated analytical review, assessed risk through an analytical risk assessment, and applied auditor judgment on the overall evidence.

When assessing the sufficiency and appropriateness of evidence, the auditors evaluated the expected significance of evidence to the audit objectives, findings, and conclusions, available corroborating evidence, and the level of audit risk as described in Section 6.71 of the Yellow Book, by using professional judgment and statistical sampling to determine a sufficient quantity for the testing and to determine the type of evidence needed based on the audit objectives.

The auditors did not identify any limitations or uncertainties in evidence that were significant to the audit findings and conclusions. The evidence obtained in the course of the audit provides a reasonable basis for the findings and conclusions based on the audit objectives.

METHODOLOGIES

OBJECTIVE ONE

Determine that employees accrued and used sick leave, annual leave and "flextime"³ in accordance with WV Code, the Division of Personnel's Administrative Rule and DJCS's internal policies and procedures.

To achieve our objective, we reviewed applicable internal controls and compliance with WV Code and DJCS internal policies and procedures. We also performed substantive testing on a sample of employee timesheets. The testing involved recalculating leave balances based on documented and approved leave and flextime usage as well as recalculating leave accruals and flextime earned.

Applicable Laws, Policies and Agreements

- West Virginia Division of Personnel Legislative Rule 143-1-14-Attendance and Leave
- West Virginia Division of Justice and Community Services' Policies and Procedures

³ Flextime is defined by "DJCS Guidelines" as "a policy of personal management that allows employees limited exceptions to the standardized workweek. Employees may use "Flextime" to adjust their work schedules to arrive early and leave early, or arrive late and leave late...." The Guidelines further state that work in excess of an eight hour day can "...be accrued in flextime...."

- West Virginia Division of Justice and Community Services' Flex Policy

OBJECTIVE TWO

Determine if DJCS appropriately disbursed state grant funds timely and in accordance with DJCS policies. Determine that DJCS adequately monitored grant fund reimbursements in order to provide reasonable assurance that grant funds used complied with the overall purpose of the grant program and the stipulations recounted in each respective grant agreement. Determine grant fund amounts requested and disbursed are sufficiently supported by paid invoices and/or timesheets. Determine that reimbursements disbursed match the award description approved by the Grant Award Committee.

To achieve our objective we reviewed grant documentation to determine that DJCS appropriately disbursed State grant funds timely and in accordance with DJCS policies. We reviewed a sample of grant fund reimbursements in order to provide reasonable assurance that grant funds used complied with the overall purpose of the grant program and the stipulations recounted in each respective grant agreement. We also determined grant fund amounts requested and disbursed were sufficiently supported by paid invoices and/or timesheets. Finally, we determined that reimbursement receipts match the award description approved by the Grant Award Committee.

Applicable Laws, Policies and Agreements

- Section 12-4-14 of the West Virginia Code;
- Section 5F-2-1 of the West Virginia Code;
- Section 148-18 of the West Virginia Code of State Rules;
- DJCS Grantee Audit Compliance Guide;
- DJCS Policy for Award and Monitoring of Sub recipient Grants;
- Grant Agreements from various DJCS Spending Units

OBJECTIVE THREE

Determine to a reasonable degree of certainty that purchases and travel reimbursements disbursed by DJCS complied with applicable sections of the West Virginia Purchasing Division Purchasing Handbook, the WV State Auditor's Office Purchasing Card Policies and Procedures and the State Purchasing Division's Travel Policy.

We reviewed expenditures and travel reimbursements listed in WVFIMS from FY 2014 for any unusual items. We reviewed the WEX⁴ report and matched expenditures per the expenditure report to the WEX report to see if reimbursements were being charged appropriately.

⁴ The "WEX Report" is a report prepared by the vendor under State contract charged with providing agency credit cards for purchasing gasoline for use with State-owned vehicles. The report compiles card usage and highlights outliers that might indicate improper or excessive card purchases.

Applicable Laws, Policies and Agreements

- West Virginia Purchasing Division Purchasing Handbook
- WV State Auditor's Office Purchasing Card Policies and Procedures
- State Purchasing Division's State Travel Policy

OBJECTIVE FOUR

Determine if DJCS has developed a work-at-home policy and has implemented that policy during the course of our audit period.

We performed a series of interviews and meetings with DJCS staff and management to determine if the agency had any written work-at-home policies. We requested management provide us all supporting documentation listing those employees permitted to work from home. For DJCS employees who worked from home, we requested all documents supporting the specific hours the employees worked, as well as documents supporting their work output.

Applicable Laws, Policies and Agreements

- West Virginia Division of Personnel
- Best Business Practices

APPENDIX B MANAGEMENT RESPONSE

Earl Ray Tomblin, Governor



Division of
**Justice &
Community**
Services

W. Richard Staton, Director

Department of Military Affairs & Public Safety

January 5, 2016

Denny Rhodes, Director
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RE: Compliance Audit
Division of Justice and Community Services

Dear Mr. Rhodes:

This is in response to the Compliance Audit prepared by your division for the Division of Justice and Community Services.

There are two Findings and Recommendations contained in the audit: 1. That the Division paid \$1,231.23 in wages prior to services rendered; and 2. Failure to develop and implement a work-at-home policy.

We agree with these findings and have taken steps to prevent these from happening again. Accounting staff has been instructed to be diligent in making sure wages are not paid prior to any services rendered. We do not have a work-at-home policy, because it is not allowed. This was allowed in an exceptional circumstance where an employee was experiencing health issues. In the future, in the unlikely event that the Division would approve a work-at-home arrangement, it will be reduced to writing to cover all expectations of the employee and to make sure that proper controls are in place to monitor compliance.

I want to express my appreciation to Mr. Lynch and Mr. Lindsco for their diligence, thoroughness and professionalism in conducting this audit. They were pleasant to deal with, and were very accommodating of our work schedules. Congratulations to them and to you.

I very much appreciate your office's assistance in this audit.

Sincerely,

W. Richard Staton
Director

WRS/amw

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