



June 2012
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UPDATE

REGISTRATION STUDY FOR CORPORATIONS AND CHARITABLE ORGANIZATIONS

AUDIT OVERVIEW

The Secretary of State Has Verified the Registration Status of Organizations Identified in a 2010 Report and Taken Steps to Bring Organizations Into Compliance as Necessary



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EXECUTIVE SUMMARY

This Update on the Registration Study of Corporations and Charitable Organizations is authorized by West Virginia Code §4-2-5 and examines the registration status of organizations identified in the Legislative Auditor's December 2010 report and the Secretary of State's efforts to bring organizations into compliance with registration requirements found in state Code as necessary. It was found that the Secretary of State has verified organizations' registration statuses and is making continuing efforts to bring organizations into compliance with registration requirements. However, the Legislative Auditor is concerned that other organizations may be operating and receiving state grant funds without being properly registered.

Report Highlights:

Issue 1: The Secretary of State Has Verified the Registration Status of Organizations Identified in a 2010 Report and Taken Steps to Bring Organizations Into Compliance as Necessary.

- The Secretary of State has notified the 71 non-profit corporations that had failed to register as charitable organizations of this requirement and all but one has completed registration.
- The Secretary of State has determined that 22 of the 106 organizations that were not registered as for-profit or non-profit corporations or as charitable organizations are required to register as corporations. Information obtained from the West Virginia State Tax Department indicates that one of these is no longer conducting business as a corporation and so is not required to register. Of the remaining 21 organizations, 18 are registered as required. The remaining three had their registration revoked and did not reinstate registration.
- Fifty of the 106 unregistered organizations are required to register as charitable organizations. Registration had been completed by 13 of the 50, and 6 are in the process of completing their registration.
- Fifteen of the 29 organizations for which Form 990s could not be found at the time of the 2010 report are required to register as charitable organizations. Of these 15 charities, 3 have registered, 4 are in the process of completing registration, and 8 failed to respond to the Secretary of State's notification.
- Although the Legislative Auditor commends the Secretary of State for the ongoing efforts to bring organizations identified in the 2010 report into compliance, the concern remains that organizations may operate and receive state moneys in the future without proper registration. Therefore, the Legislative Auditor reiterates the recommendations made in the previous report.

Recommendations:

1. *The Legislature should consider requiring state agencies to verify whether grantees are properly registered with the Secretary of State.*
2. *The Legislature should consider amending statute to provide the Secretary of State with the authority to enforce corporate registrations and an increased authority to enforce charitable registration.*
3. *The Secretary of State should determine whether organizations are still in operation or fundraising one year after registration has expired or been revoked.*
4. *The Office of the Governor should work with the Secretary of State to add standard language to executive branch grant application forms informing grantees of their registration requirements.*
5. *The Office of the Governor and the Secretary of State should also consider requiring grantees to attest to their registration status.*

ISSUE 1

The Secretary of State Has Verified the Registration Status of Organizations Identified in a 2010 Report and Taken Steps to Bring Organizations Into Compliance as Necessary.

Issue Summary

In the Registration Study for Corporations and Charitable Organizations, released in 2010, the Legislative Auditor found that over \$2.2 million in state grant monies had been awarded to charitable organizations that were not properly registered with the Secretary of State as required by state Code. An additional \$2.7 million in state grant moneys had been awarded to organizations that were not registered as corporations and it was unknown whether they should be registered with the Secretary of State or not. In a follow-up to this report, the Legislative Auditor sought to determine whether the Secretary of State had verified the registration status of organizations identified in the 2010 report and taken action to help bring organizations into compliance as necessary. The Secretary of State indicated the following:

- The Secretary of State has notified the 71 non-profit corporations that had failed to register as charitable organizations of this requirement and all but one has completed registration.
- The Secretary of State has determined that 22 of the 106 organizations that were not registered as for-profit or non-profit corporations or as charitable organizations are required to register as corporations. Information obtained from the West Virginia State Tax Department indicates that one of these is no longer conducting business as a corporation and so is not required to register. Of the remaining 21 organizations, 18 are registered as required. The remaining two had their registration revoked and did not reinstate registration.
- Fifty of the 106 unregistered organizations are required to register as charitable organizations. As of March 2012, registration had been completed by 13 of the 50, and 6 are in the process of completing their registration.
- Fifteen of the 29 organizations for which Form 990s could not be found at the time of the 2010 report are required to register as charitable organizations. Of these 15 charities, 3 have registered, 4 are in the process of completing registration, and 8 failed to respond to the Secretary of State's notification.

Although the Legislative Auditor commends the Secretary of State for taking action to verify registration requirements and bring organizations into compliance as necessary, there are still no methods in place to ensure

that state grant funds are not given to unregistered corporations and charitable organizations in the future. Therefore, the Legislative Auditor stands by the recommendations made in the 2010 report and suggests that they be implemented. Additionally, the Legislative Auditor recommends that the Office of the Governor work with the Secretary of State to add standard language to executive branch grant application forms informing organizations of their registration requirements.

A December 2010 Report by the Legislative Auditor Found That State Grant Monies Had Been Awarded to Organizations That Were Not Properly Registered With the Secretary of State as Required by Statute

In a report issued in December 2010, the Legislative Auditor sought to determine whether organizations were registering with the Secretary of State as required by state Code. West Virginia Code §31D-1-101 et seq. and §31E-1-101 et seq. require for-profit and non-profit corporations doing business in the State to register as corporations with the Secretary of State. West Virginia Code §29-19-1 further requires charitable organizations that receive \$25,000 or more in charitable donations per calendar year to file an annual registration statement with the Secretary of State. In order to determine whether organizations were complying with these requirements, the Legislative Auditor reviewed a sample of 358 organizations that received grant money from the State in from July 1, 2010 to August 25, 2010. Of these 358 organizations, 49 were registered as for-profit corporations, 203 were registered as non-profit corporations, and 106 were not registered at the time of the 2010 report. Of the 203 non-profit corporations in the sample, 71 should have also been registered as charitable organizations but were not. Additionally, the Legislative Auditor was unable to locate Form 990 documents for 29 organizations in order to determine whether or not these organizations received \$25,000 or more during the calendar year. Form 990 is used by tax-exempt and non-profit organizations to provide annual financial information to the Internal Revenue Service.

In a follow-up to the 2010 report, the Legislative Auditor sought to determine the following:

1. Whether the 71 charitable organizations not properly registered have correctly registered.
2. Whether the 106 unregistered organizations need to register as corporations or charities and whether those required to register have done so.
3. Whether the 29 organizations for which 990 forms could not be found should be registered as charitable organizations and whether those required have registered.

West Virginia Code §31D-1-101 et seq. and §31E-1-101 et seq. require for-profit and non-profit corporations doing business in the State to register as corporations with the Secretary of State.

West Virginia Code §29-19-1 further requires charitable organizations that receive \$25,000 or more in charitable donations per calendar year to file an annual registration statement with the Secretary of State.

All but One of the 71 Non-profit Corporations Have Brought Their Registration Into Compliance

The Secretary of State notified the 71 non-profit corporations that had failed to register as charitable organizations of this requirement by certified mail in December 2010. Organizations that failed to respond or that had incomplete filings were sent a follow-up letter by certified mail in April 2011. **Only one, the Historic Beverly Preservation, has failed to register as required.** Table 1 lists the 70 non-profit corporations not properly registered as charitable organizations at the time of the 2010 report that have since become registered.

Table 1
Charitable Organizations Now Registered
With the Secretary of State

25045 A New Clendenin Inc.	McArts Fine Arts Organization Inc.
Appalachian Center for Independent Living Inc.	McDowell County Economic Development Authority
Arts Resources For The Tri-State	Mercer County Opportunity Industries
Athens Volunteer Fire Department	Mountaineer Food Bank Inc.
Big Otter Volunteer Fire Department	North Central WV Recycling Co-Op Inc.
Blennerhassett Volunteer Fire Department	National Committee for the New River
Bluestone Health Association Inc.	New Haven & Community Volunteer Fire Department Inc.
Bradshaw Volunteer Fire Department Inc.	New River Convention & Visitors Bureau
Business Development Corporation of the Northern Panhandle	New River Health Association Inc.
Cabin Creek Health Center	Nicholas County Family Resource Network
Capitol Market Inc.	Northern Greenbrier Health Clinic Inc.
Central City Market Corporation	Northern Panhandle Resource Conservation & Development Council, Inc.
Charleston Convention Bureau	Ohio County Country Fair Inc.
Chemical Alliance Zone Inc.	Op Shop Inc.

**Table 1
Charitable Organizations Now Registered
With the Secretary of State**

Clarksburg Mission	Partnership Of African American Churches
Coalfield Community Action Partnership Inc.	Pinch Volunteer Fire Department
Convention & Visitors Bureau Of Marion County	Randolph County Convention & Visitors Bureau
Eastern WV Community Action Agency Inc.	Reach Family Resource Center Inc.
Education Alliance Business & Community	Regional Contracting Assist Center
Elk District Volunteer Fire Department	Roane County Family Health Care
Gilmer County Economic Development Association	Ronceverte Development Corporation
Hancock Brooke County Child Advocacy	Rowlesburg Revitalization Committee Inc.
Harpers Ferry Historic Town Foundation	South Charleston Visitors & Convention Bureau
Huntington Symphony Orchestra Association	Summersville Convention & Visitors Bureau
Jackson County Commission On Aging	Top of WV Convention & Visitors Bureau
Jane Lew Volunteer Fire Department	Tri County Health Clinic Inc.
Kingwood Main Street Program Inc.	Tri River Transit Authority Inc.
Lewis County Fair Association	Tucker County Convention & Visitors Bureau
Lincoln County Fair & Festivals Inc.	Unlimited Future Inc.
Main Street Fairmont Inc.	Upshur County Senior Citizen Opportunity Center Inc.
Main Street Martinsburg Inc.	Weirton Transit Corporation
Marion County Child Advocacy Center Inc.	Wetzel County Committee on Aging
Marion Regional Development Corporation	WV Child Advocacy Network
Marshall University Research Corporation	WVSU Metro Area Agency On Aging Inc.
Mason County Action Group Inc.	WVU Research Corporation

Source: Secretary of State

The Secretary of State Has Verified the Registration Requirements of the 106 Unregistered Organizations

Of the 358 organizations evaluated in the 2010 report, 106 were not registered as for-profit or non-profit corporations or as charitable organizations. In November 2011, the Secretary of State mailed certified letters to these organizations to determine whether or not they were required to register as corporations. Additionally, if organizations were listed as having revoked registrations in the Secretary of State's database, they were contacted and advised that they must bring the organization back into good standing. Of the 106 organizations, 22 were required to register as corporations. However, the West Virginia State Tax Department indicates that one of these organizations, Barbour County Fair Association, is registered with the State Tax Department as a non-profit association and so is not currently conducting business as a corporation. Eighteen of the remaining 21 complied with the registration requirement. The remaining three had their registration revoked and did not reinstate registration. Table 2 provides the registration status of organizations that are required to register as corporations.

Eighteen of the 21 organizations required to register as corporations have complied.

Table 2
Registration Status of Organizations Required to Register as Corporations

Organization Name	Registration Status
Arts Monongahela Inc.	Revoked
Barbour County Fair Association	Revoked ¹
Boone County Community Organization Inc.	Registered
Cairo Community Development Association Corporation ²	Registered
Campbells Creek Lions Club	Registered
Concord University Research & Development Corporation	Registered
Earl Kiger Post #120, Inc. ³	Registered
Flanagan-Murrell House	Registered
Green Valley Volunteer Fire Department	Registered

Table 2
Registration Status of Organizations Required to Register as Corporations

Organization Name	Registration Status
Guest Services, Inc ⁴	Registered
K.S. of West Virginia Corporation Ltd.	Registered
Lafayette Club 49 ⁵	Registered
Middleway Conservancy Association, Inc.	Revoked
Nicholas County Fair Association	Registered
Preston County Senior Citizens Inc.	Registered
Pride Community Services, Inc ⁶	Registered
Randolph County Children’s Advocacy Center, Inc.	Registered
Rock Forge Neighborhood House Inc.	Revoked
The Randolph County Sheltered Workshop Inc. ⁷	Registered
U S Carburetion, Inc	Registered
West Virginia Center for Civic Life	Registered
WVSU Metro Area Agency on Aging, Inc.	Registered

Source: Secretary of State , State Tax Department
¹Currently registered as a non-profit association and not conducting business as a corporation.
² Doing business as (DBA) – Cairo Days Community Development Association.
³DBA – American Legion Post 120.
⁴DBA – Canaan Valley Resort.
⁵DBA - American Legion Post 149.
⁶Formerly Pride in Logan County, Inc.
⁷DBA – Seneca Designs.

The Secretary of State also contacted those of the 106 unregistered organizations that are charitable organizations to determine whether their solicitation exceeded the \$25,000 threshold at which registration is required. Agencies that are exempt from registration were provided with a letter for their own future reference notifying them of the section of West Virginia State Code under which they are exempt. Fifty organizations are required to register. **As of March 2012, registration had been completed by 13 of the 50, and 6 are in the process of completing their registration.** One organization, Rock Forge Neighborhood House, Inc. has allowed its registration to expire. Twelve organizations failed to respond to the Secretary of State and the remaining 19 were unable to be notified by certified mail due to unknown or inaccurate addresses. Table 3 provides the registration status of the 50 organizations required to register as charitable organizations.

Table 3
Registration Status of Organizations Required to Register as Charities

Organization	Status
Arts Monongahela, Inc.	Registered
Barbour Co Fair Association, Inc.	No response
Beckley Composite Squadron	Address unknown
Boone Co Community & Economic Development Corp	Registration pending
Boone County Community Organization	Returned – No forwarding address
Boone Composite Squadron Civil Air Patrol	Returned – No forwarding address
Capon Bridge Annual Volunteer Fire Department Celebration	No response
Clay County Business Development Authority	No response
Concord University Research & Development Corporation	No response
Dollywood Foundation	Registered
Fort Ashby Fort ¹	Registered
Friends Auxiliary of W.R. Sharpe Hospital	Registration pending
Green Valley Glenwood Volunteer Fire Dept	Registration pending
Greenbrier Repertory Theatre ²	Registered

Table 3
Registration Status of Organizations Required to Register as Charities

Hampshire County Development Authority	No response
Harrison County Child Advocacy Center	Registered
Lakeview Golf Resort Spa	No response
Laurel Mountain Reenactment Foundation	Returned unclaimed–mailed regular mail
Mason County Development Authority	No response
Mid Valley Composite Squadron	Address unknown
Monroe County Health Center Board of Trustees	Registration pending
National Society of Collegiate Scholars	Address unknown
New River Community & Technical College Workforce Education	No response
Newburg Volunteer Fireman’s Field Day	Address unknown
Ohio Valley Jr. Beef Association	Returned – No forwarding address
Parkersburg Composite Squadron	Returned – No forwarding address
Pinch Reunion Association	Address unknown
Pine Bluff Fall Festival	Returned - No forwarding address
Playmates Child Care	No response
Point Pleasant Sternwheel Regatta	Address unknown
Preston County Senior Citizens, Inc.	Registered
Pride in Logan County, Inc.	Registered
Randolph County Committee on Aging	Registered
Randolph County Sheltered Workshop Inc. ³	Registered
Randolph Tucker County Children’s Advocacy	Registered
Ravenswood Octoberfest	Registration pending
Region 1 Workforce Investment Board	Registered
Rock Forge Neighborhood House, Inc.	Registration expired
Springfield Peach Festival	Returned - No forwarding address

Table 3
Registration Status of Organizations Required to Register as Charities

Taylor Sherwood Press	Address unknown
Webster County Economic Development Authority	Registered
White Sulphur Springs Rotary Club	No Response
Widen Days Clay County	No Response
Wood County Historic Landmarks Commission	Returned – No forwarding address
Wood County Parks & Recreation Commission	Mailed to wrong address – resent regular mail
WV Center for Civic Life	Registration pending
WV State Route 2 & I-68 Authority	Mailed to wrong address – resent regular mail
WV Storytelling Festival	No response
WVSU Metro Area Agency on Aging, Inc.	Registered
Wyoming Co 4-H Leaders Association	Address unknown
<i>Source: Secretary of State</i>	
¹ <i>Registered as National Society for the Daughters of the American Revolution</i>	
² <i>DBA Greenbrier Valley Theatre</i>	
³ <i>DBA – Seneca Designs</i>	

Fifteen of the 29 Organizations For Which Form 990 Could Not Be Found Are Required to Register as Charitable Organizations

The Legislative Auditor identified 29 organizations in the 2010 report for which Form 990 could not be found. The Secretary of State included these organizations in the November 2011 mailings to determine registration requirements. Fourteen of the organizations are exempt from registration. Of the 15 organizations required to register, 3 have done so, 4 are in the process of completing registration, and 8 failed to respond to the Secretary of State's notification. Table 4 provides the registration status for the 15 organizations required to register as charities.

Of the 15 organizations required to register, 3 have done so, 4 are in the process of completing registration, and 8 failed to respond to the Secretary of State's notification.

Table 4
Registration Status of Organizations Required to Register as Charitable Organizations for Which Form 990s Could Not Be Found

Clay County Golden Delicious Festival, Inc.	Registration pending
Community of Rand Association	Registered
Elizabeth Volunteer Fire Department	No Response
Follansbee Blue Wave Youth Football Association, Inc.	No Response
Jefferson County Convention & Visitors Bureau	No Response
Lizemore Volunteer Fire Department	Registration pending
North Bend Rails to Trails Foundation, Inc.	No Response
Paint Creek Scenic Trail Association, Inc.	No Response
Pleasants County Agricultural Youth Fair	Registration pending
Robert C. Byrd Institute	Registered
Shawnee Parkway Authority, Inc.	No Response
Taylor County Annual Fair Association, Inc.	Registration pending
UMWA Labor Day Celebration	No Response
Winding Gulf Restoration Organization	No Response
WVU Research Corporation/WVUCED	Registered

Source: Secretary of State

Conclusion

In a December 2010 report, the Legislative Auditor found over \$2.2 million in state grant monies had been awarded to charitable organizations that were not properly registered with the Secretary of State as required by state Code and \$2.7 million had been awarded to unregistered organizations whose registration requirements were unknown. In response to this report, the Secretary of State has taken steps to verify the registration status of organizations identified by the Legislative Auditor and to bring organizations required to register into compliance. As a result of the efforts by the Secretary of State:

- 70 of the 71 nonprofit corporations that were not registered as charitable organizations have now registered,
- 21 of the 106 unregistered organizations should be registered as corporations, of which 18 are now in compliance,
- 50 of the 106 unregistered organizations should be registered as charitable organizations, of which 19 are either registered or in the process of becoming registered, and
- 15 of the 29 organizations for which Form 990 could not be found should be registered as charitable organizations, of which 3 are registered and 4 are in the process of completing registration.

The Legislative Auditor commends the Secretary of State for verifying the registration status of organizations identified in the 2010 report and for the ongoing efforts to bring organizations into compliance as necessary. However, **the Legislative Auditor is concerned that organizations may continue to operate and receive state grant funds in the future without being properly registered.** Therefore, the Legislative Auditor reiterates the following recommendations made in the 2010 report:

- The Legislature should consider requiring state agencies to verify whether grantees are properly registered with the Secretary of State,
- The Legislature should consider amending statute to provide the Secretary of State with the authority to enforce corporate registrations and an increased authority to enforce charitable registration, and
- The Secretary of State should determine whether organizations are still in operation or fundraising one year after registration has expired or been revoked.

Additionally, **the Legislative Auditor recommends that the Office of the Governor work with the Secretary of State to add standard language to executive branch grant application forms informing grantees of their registration requirements,** such as:

The West Virginia Business Corporation Act – West Virginia Code §31D-1-101 et. seq. – and the West Virginia Non-profit Corporation Act – West Virginia Code §31E-1-101 et. seq. – require for-profit and nonprofit corporations doing business within the state to register with the West Virginia Secretary of

State. Additionally, West Virginia Code §29-19-1 et. seq. – the Solicitation of Charitable Funds Act - requires non-profit corporations that are charitable organizations to file an additional annual registration statement with the Secretary of State.

Select the type of organization for which you are seeking grant funds

- a. Corporation*
- b. Charitable organization*
- c. LLC*
- d. Non-profit organization (unincorporated)*
- e. Sole proprietorship*

If you checked corporation, charitable organization, or LLC, are you currently registered with the West Virginia Secretary of State's office?

- a. Yes*
- b. No*
- c. Not sure*

If you answered “no” or “not sure”, please contact the West Virginia Secretary of State's Office at 304-558-8000 to discuss registration requirements and/ or your organization's registration status.

If you checked sole proprietorship or unincorporated non-profit organization, is your organization currently registered with the West Virginia State Tax Department?

- a. Yes*
- b. No*
- c. Not sure*

If you answered “no” or “not sure”, please contact the West Virginia State Tax Department at 304-558-3333 to discuss registration requirements and/ or your organization's registration status.

The Office of the Governor stated in correspondence to the Legislative Auditor that the office would coordinate with the Secretary of State to develop the appropriate language for state agencies that report directly to the Governor's Office. This correspondence is included in Appendix C. **The Office of the Governor and the Secretary of States Office should also consider requiring grantees to attest to their registration status.** Implementation of the changes recommended in the 2010 report along with the inclusion of standard language on executive agency grant forms will help to prevent state grant funds from being awarded in the future to organizations in noncompliance with the registration requirements of West Virginia Code.

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

April 18, 2012

Natalie E. Tennant, Secretary of State
West Virginia Secretary of State's Office
Building 1, Suite 157-K
State Capitol Complex
Charleston, WV 25305

Dear Madam Secretary:

This is to transmit a draft copy of the Update of the Registration Study for Corporations and Charitable Organizations. This report will be presented during a future interim meeting of the Joint Committee on Government Operations and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify Tina Baker at 304-347-4890 by April 23, 2012. If you would like to provide a written response to be included in the final version of the report, please do so by noon on May 3, 2012.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in blue ink.
John Sylvia

Joint Committee on Government and Finance

Appendix B: Objective, Scope and Methodology

Objective

This Update on the Registration Study for Corporations and Charitable Organizations is authorized by West Virginia Code §4-2-5. The objective of this report was to determine whether the Secretary of State has verified the registration status of organizations identified in the December 2010 report and made efforts to bring organizations into compliance with registration requirements found in state Code as necessary. Specifically, the Legislative Auditor sought to determine the following:

1. Whether the 71 charitable organizations not properly registered have registered.
2. Whether the 106 unregistered organizations need to register as corporations or charities and whether those required to register have done so.
3. Whether the 29 organizations for which 990 forms could not be found should be registered as charitable organizations and whether those required to register have done so.

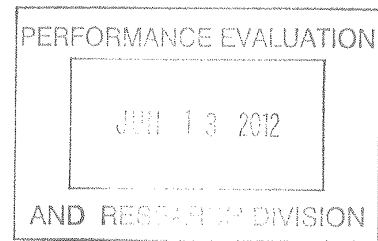
Scope

This report focused on the status of organizations identified in the Legislative Auditor's December 2010 study on Corporate and Charitable Registration. The West Virginia Secretary of State verified the registration status of the organizations and attempted to bring the organizations necessary into compliance with the registration requirements of West Virginia Code §31D-1-101 et. seq. (The West Virginia Business Corporation Act), §31E-1-101 et. seq. (The West Virginia Non-profit Corporation Act), and West Virginia Code §29-19-1 et. seq. (The Solicitation of Charitable Funds Act).

Methodology

The Legislative Auditor corresponded with the Secretary of State's office to determine what actions had been taken. Registration statuses reported by the Secretary of State were verified using the Secretary of State's online Business and Licensing database. Information was also obtained from the West Virginia State Tax Department to verify registration requirements for corporations whose registration with the Secretary of State had been revoked. In the interest of full disclosure, it should be noted that Aaron Allred, the Legislative Auditor, is the spouse of the Chief Counsel of the Secretary of State's Office. Every aspect of this review complied with Generally Accepted Government Auditing Standards (GAGAS) as set forth by the United States Comptroller General.

Appendix C: Letter From the Office of the Governor



State of West Virginia
Earl Ray Tomblin
Governor

Office of the Governor
State Capitol
1900 Kanawha Boulevard, East
Charleston, WV 25305

Telephone: (304) 558-2000
Toll Free: 1-888-438-2731
FAX: (304) 342-7025
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June 13, 2012

Mr. Denny Rhodes
Performance Evaluation and Research Division
West Virginia Legislature
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Mr. Rhodes:

I am pleased to respond to your letter dated June 6, 2012 concerning the follow-up to the Performance Evaluation and Research Division's special report titled "Registration Study for Corporations and Charitable Organizations."

There is not a standard application/grant award form across all state agencies within the executive branch. It would be impossible to have a uniform application because of the varying nature of the funds, both state and federal, that our agencies are responsible for distributing. The executive branch agencies could, however, attach to our forms standard language suggested by the Secretary of State (the "Secretary") that will inform organizations of their applicable registration requirements. To the extent that a particular state agency reports directly to the Governor, my office will be happy to assist in coordination with the Secretary on the appropriate language. In fact, more and more state agencies have begun to routinely use the database maintained by the Secretary to determine if a particular grantee is properly registered before processing a grant.

I also wanted to point out that the Governor's Office aggressively enforces the accountability and reporting provisions contained in W.Va. Code §12-4-14 *et seq.* Moreover, and in accordance with the provisions of W.Va. CSR § 148-1-6.1.7, the executive branch requires all vendors doing business with the State of West Virginia to be licensed and in good standing with the Secretary of State, the State Tax Department, Offices of the Insurance Commissioner, etc.

If I may be of any other assistance to you, or if you have additional questions, please do not hesitate to contact me.

OFFICE OF THE GOVERNOR

Mr. Denny Rhodes
June 13, 2012
Page Two

Very truly yours,

A handwritten signature in black ink, appearing to read 'Rob Alsop', written in a cursive style.

Rob Alsop
Chief of Staff

JRA/sf

cc: The Honorable Natalie Tennant, Secretary of State
Aaron Allred, Legislative Auditor/Legislative Manager
Jason Pizatella, Director of Legislative Affairs

Appendix D: Agency Response



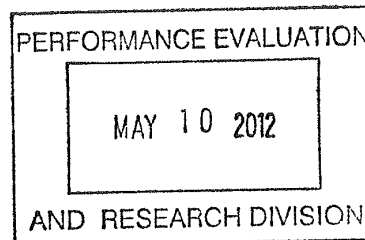
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May 10, 2012

John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610



Dear Mr. Sylvia:

Thank you for providing the West Virginia Secretary of State with a draft copy of your update on the Registration Study for Corporations and Charitable Organizations report. The Secretary of State would like to clarify two items within your report by offering additional information.

- 1) Issue 1: Issue Summary, bottom of Page 1.

Although the Legislative Auditor commends the Secretary of State for taking action to verify registration requirements and bring organizations into compliance as necessary, there are still no methods in place to ensure that state grant funds are not given to unregistered corporations and charitable organizations in the future. - Therefore, the Legislative Auditor stands by the recommendations made in the 2010 report and suggests they be implemented.

West Virginia Secretary of State Response: While the Secretary of State does not have any authority to require registration by recipients of grant funds, it does support the Legislative Auditor's recommendation for their registration prior to the dispersal of funds and stands ready to aid in the implementation of this requirement by working with the design of the application form to ensure information relevant to registration is received.

- 2) Conclusion:

In a December 2010 report, the Legislative Auditor found over \$2.2 million in state grant monies had been awarded to charitable organizations that were not properly registered with the Secretary of State as required by state Code and \$2.7 million had been awarded

to unregistered organizations whose registration requirements were unknown. In response to this report, the Secretary of State has taken steps to verify the registration status of organizations identified by the Legislative Auditor and to bring organizations required to register into compliance. As a result of the efforts by the Secretary of State:

- 70 of the 71 nonprofit corporations that were not registered as charitable organizations have now registered. The one organization that has yet to register is being followed up on by the Secretary of State's Investigation's Unit.
- 21 of the 106 unregistered organizations should be registered as corporations, of which 18 are now in compliance. Three of the organizations were revoked for not filing an annual report and/or not paying the annual filing fee and did not reinstate. The remaining 85 organizations were not structured as corporations, therefore not required to file with the Secretary of State.
- 51 of the 106 unregistered organizations should be registered as charitable organizations, of which 18 are either registered or in the process of becoming registered. The remaining non-responsive organizations have been turned over to the Secretary of State's investigations unit to try to illicit a response, and
- 15 of the 29 organizations for which Form 990 could not be found should be registered as charitable organizations, of which 3 are registered and 4 are in the process of completing registration. The remaining 14 organizations were exempt from registering as a charitable organization according to §29-19-6.

Thank you for the opportunity to present information included in this report and I appreciate all of the cooperation our office has received from the Performance Evaluation and Research Division.

Sincerely,



Natalie E. Tennant
West Virginia Secretary of State



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