

Preliminary Performance Review

Bureau of Senior Services

**The Bureau of Senior Services Provides
Valuable Services to the Citizens of
West Virginia**

**The Advisory Function of the West Virginia
Council on Aging Can Be Improved**

**Local Service Providers and Regional
Area Agencies on Aging Are Not in
Compliance with Financial
Reporting Requirements**



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John Sylvia
Director

October 20, 2002

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable Vicki V. Douglas
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Preliminary Performance Review of the Bureau of Senior Services, which will be presented to the Joint Committee on Government Operations on Sunday, October 20, 2002. The issues covered herein are "The Bureau of Senior Services Provides Valuable Services to the Citizens of West Virginia;" "The Advisory Function of the West Virginia Council on Aging Can Be Improved;" and "Local Service Providers and Regional Area Agencies on Aging Are Not in Compliance with Financial Reporting Requirements."

We transmitted a draft copy of the report to the Bureau of Senior Services on October 4, 2002. We held an Exit Conference with the Bureau on October 10, 2002. We received the agency response on October 11, 2002.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

JS/wsc

_____ *Joint Committee on Government and Finance* _____

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Executive Summary

Issue 1: The Bureau of Senior Services Provides Valuable Services to the Citizens of West Virginia.

The Bureau of Senior Services is the designated state agency for handling all federal government programs relating to the aging population. Through the Bureau, services are provided to thousands of West Virginians. The Bureau provides funding for 13 programs, totaling over \$90 million in fiscal year 2001. The U.S. Administration on Aging informed the Legislative Auditor that the West Virginia Bureau of Senior Services is in full compliance with all 94 federal assurances.

The services provided by the Bureau are necessary for the delivery of services to thousands of West Virginians. Termination of the Bureau would result in a loss of needed services for senior citizens and their families.

Recommendation

1. *The Legislative Auditor recommends that the Bureau of Senior Services be continued.*

Issue 2: The Advisory Function of the West Virginia Council on Aging Can Be Improved.

The Legislative Auditor has determined that the Council on Aging is needed, as it provides a public forum for citizens to express their concerns and to offer input to the Bureau on matters concerning senior citizens. The Council's function is hindered by untimely receipt of information and poor meeting attendance. The Council is not in compliance with the Open Governmental Proceedings Act. The Council's rules also conflict with the current statute and legislative intent. The Legislative Auditor concludes that while the Council is necessary, its effectiveness can be improved.

Recommendation

2. *The Council on Aging should comply with the Open Governmental Proceedings Act.*

-
3. *The Bureau of Senior Services should promulgate rules addressing the amended role of the Council on Aging.*
 4. *The Commissioner of the Bureau of Senior Services should devise a method to keep Council members better informed of current issues between meetings to allow Council members opportunities to advise on more of the Bureau's decisions.*

Issue 3: Local Service Providers and Regional Area Agencies on Aging Are Not In Compliance With Financial Reporting Requirements.

The Bureau of Senior Services funds services to the elderly through grants to regional Area Agencies on Aging and local service providers. Grant recipients are required to provide financial audits to the Legislative Auditor. In fiscal year 2000, only 32 out of 60 grant recipients submitted an audit, as required by B12-4-14.

The Bureau of Senior Services is in possession of audits that were not provided to the Legislative Auditor and has agreed to provide the Legislative Auditor with the required audits for fiscal years 1998, 1999 and 2000.

Recommendation

5. *The Bureau of Senior Services should assist its grant recipients in complying with the statutory requirement of filing annual financial audits with the Legislative Auditor.*

Review Objective, Scope and Methodology

This Preliminary Performance Review of the Bureau of Senior Services is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10, Section 5 of the West Virginia Code, as amended. The Bureau is the designated agency for this Preliminary Performance Review.

Objective

The objective of this review is to determine if the Bureau of Senior Services is operating in an efficient and effective manner and to determine whether or not there is a demonstrable need for the agency. The Legislative Auditor determined, as required by the Code, that there is no need for a Full Performance Evaluation of this agency.

Scope

This review covers the period from fiscal year 1998 to present. The Legislative Auditor determined the need for the Bureau of Senior Services and for the Council on Aging. Financial reporting compliance was also measured.

Methodology

Information used in this review was acquired from the West Virginia Code, interviews and correspondence with the Bureau of Senior Services, the Secretary of State's Office, the State Auditor's Office, the Department of Health and Human Resources, the Division of Rehabilitation, the State Police, staff of local service providers and citizens. The Legislative Auditor attended CORE management meetings and toured a local Senior Center. Documentation received from the Bureau included: (1) meeting minutes; (2) documented policies and procedures; (3) financial information required by the federal government; (4) the number of clients served; and other information as requested by the Legislative Auditor. Financial audits, maintained in the Legislative Auditor's Post Audit Division were also catalogued and examined. Every aspect of this review complied with the Generally Accepted Government Auditing Standards (GAGAS).

The Bureau of Senior Services Provides Valuable Services to the Citizens of West Virginia.

As created by the "Senior Services Act of 1997" under §16-5P-1 of the West Virginia Code, the Bureau of Senior Services is the designated agency for handling all federal government programs relating to the aging population within the State. It is intended to promote the enhancement of the health, safety and welfare of West Virginia's senior population. The Bureau oversees 15 programs and funds 13 programs through four regional offices, which are responsible for the oversight of 56 local agencies covering all 55 counties with a combined state and federal funding over \$64 million. As the primary agency within state government to provide services to the senior population, the Bureau provides necessary and ongoing services to the citizens of West Virginia. **The Legislative Auditor has determined the Bureau of Senior Services is needed.**

The Bureau Provides Necessary and Ongoing Services

The federal Older Americans Act requires a state to designate a state agency as the sole agency to promote federal aging programs in order to receive federal grants (42 U.S.C. 3025). Each state agency designates planning and service areas in the state and makes a subgrant under an approved plan to one area agency in each service area. Area agencies in turn make subgrants to local service providers to perform specified functions. Through the Bureau of Senior Services, services are provided to thousands of West Virginians. West Virginia has the nation's second highest percentage of population age 60 and older (20.1%). The 2000 Census indicates significant growth in all populations over the age of 75. In fiscal year 2001, over 87,000 West Virginians received direct services from the Bureau, and several thousand participants received indirect benefits from the programs offered by the Bureau. The most utilized programs offered in the state are:

i Older Americans Act

Traditional services provided under the Act are transportation, health screenings, exercise programs, shopping, housekeeping, congregate meals, adult day care, telephoning, chore services, information and assistance, home-delivered meals, legal assistance, letter writing/reading and visitation.

ï Legislative Initiatives For The Elderly (LIFE)

LIFE uses lottery funds, appropriated by the Legislature, to support existing and new Older American Act services.

ï Community Care

This program provides in-home personal care services to Medicaid and non-Medicaid clients. It includes assistance with bathing, dressing, grooming, toileting, shaving, housekeeping, chores, shopping, meal preparation, transportation and low-level medical care.

The Bureau provides funding for 13 programs. These programs, their funding sources and the number of clients served are available in Table 1.

Table 1			
Senior Services Program Costs - FY 2001			
Name of Program	Funding Source	Clients Served	Costs
Medicaid Personal Care	Medicaid FFP, Lottery	5,100	\$28,000,000
Community Care Non Medicaid	State, Lottery	491	\$765,070
Medicaid Waiver Program	Medicaid FFP, Lottery	4,175	\$40,157,126
Older Americans Act	State, Lottery, AOA	44,563	\$11,620,213
Legislative Initiatives For The Elderly (LIFE)	Lottery	16,529	\$4,990,854
Senior Centers	Lottery	75 projects	\$2,778,289
Holly Grove Mansion	Lottery	Building Renovation	\$68,553
Silver-Haired Legislature	State	134 Members	\$35,876
Title V Senior Community Service Employment Program	State, Department of Labor	138 Positions	\$902,089
Senior Health Insurance Network (SHINE)	State, CMS	15,231	\$330,754
Ombudsman Program	State, Lottery, AOA	1,360 complaints, 953 facility visits	\$539,031
Senior Conference	State	275 Attendees	\$16,000
Golden Mountaineer Discount Card	State	18,000 cards issued	\$13,792
WV Senior Legal Aide	Lottery, AOA	1,000 cases	\$83,843
Source: Program Expenditure Summary provided by BSS.			

Federal Oversight Agency Reports Compliance

The Older Americans Act requires the Bureau of Senior Services to provide assurances and meet certain conditions for the receipt of federal grants. Some requirements of 42 U.S.C. 3025 B305 are:

- ï Division of the State into distinct planning and service areas;
- ï Assurance that services will be provided to those with the greatest economic and social needs, with particular attention to low- income minority individuals and individuals residing in rural areas; and
- ï Consideration of recipient views.

Federal regulations also require designated state agencies to submit a State Plan for Older Americans Act Programs. The new State Plan was available for public comment from June 1 - 30, 2002. The State Plan is based on the development of goals in three areas:

- ï Administration and Systems Development;
- ï Elder Rights and Advocacy; and
- ï Programs and Services.

The State Plan includes all assurances and plans to be conducted and is the basis for funding under the Older Americans Act.

U.S. Administration on Aging is fully satisfied with the manner in which the Bureau conducts its programs and operations on behalf of older persons in West Virginia.

The U.S. Administration on Aging informed the Legislative Auditor that the West Virginia Bureau of Senior Services is in full compliance with all assurances in 42 U.S.C. 305, 306, 307 and 705. The Administration on Aging's Regional Administrator for regions I, II and III stated to the Legislative Auditor:

Our office has been monitoring the activities of the Bureau for many years and I am pleased to report that we are fully satisfied with the manner in which the Bureau conducts its programs and operations on behalf of older persons in West Virginia.

The Legislative Auditor notes that there are ninety-four separate assurances and conditions governing the use of Older American Act funds. **The Bureau of Senior Services is in full compliance with all ninety-four requirements of the Federal Administration on Aging.**

Conclusion

The Legislative Auditor recommends that the Bureau of Senior Services be continued. The services provided by the Bureau are necessary for the delivery of services to thousands of West Virginians. Termination of the Bureau of Senior Services would result in a loss of needed services for senior citizens and their families.

Recommendation

1. *The Legislative Auditor recommends that the Bureau of Senior Services be continued.*

Issue 2

The Advisory Function of the West Virginia Council on Aging Can Be Improved.

The West Virginia Council on Aging was created by West Virginia Code §16-5P-7 to serve as an advisory council to the Commissioner of the Bureau of Senior Services. The Legislative Auditor has determined that the Council is needed. The Council provides a public forum for citizens to express their concerns, and it allows the Council to offer input to the Bureau on important matters concerning senior citizens. **However, the Council's advisory function is hindered by untimely receipt of information from the Bureau for Council input.** As a result, the Bureau of Senior Services sometimes reports issues to the Council that have already been addressed by the Bureau. In addition, meeting attendance by members has been low. Two meetings could not be held because they lacked a quorum, and the Open Governmental Proceedings Act has not been complied with consistently. The Legislative Auditor determines that the Council is necessary to provide advice to the Commissioner. **However, the Commissioner needs to devise a method that would involve the Council on more important matters instead of informing the Council after the fact.**

Change In Council's Statutory Role

In 1997, when the Commission was restructured into the cabinet level Bureau of Senior Services, the Council's statutory purpose changed significantly. Members of the former Commission on Aging, which is now the Council on Aging, had the authority to appoint and advise the director of the Commission on Aging. After the restructuring, the Council's remaining statutory mandate is to meet at least twice a year and to advise the Commissioner of the Bureau of Senior Services. The Legislative Auditor asked the Commissioner what advice and/or direction the Council has provided to the Bureau since it was restructured. The Commissioner informed the Legislative Auditor that:

The Bureau often reports on things that have already happened rather than requesting input prior to implementation....

The Bureau takes all of its policy changes and new programs and its planned goals and objectives to the Council for discussion. Unfortunately, since the Council meets only quarterly, often we are reporting on things that have already happened rather than requesting input prior to implementation.... [Emphasis Added]

However, the Commissioner did inform the Legislative Auditor that:

They have advised us over the years on such issues as the Silver Haired legislative processes, the Silver Haired Congress, and our Bureau goals and objectives. We [the Bureau] provide information to them about our proposed budget and legislation for [their] comments and support. In addition they have written letters of support to our Congressional members for the preauthorization of the Older Americans Act....

A review of meeting minutes from February 1999 through January 2002 reveals that the staff of the Bureau of Senior Services expends significant time providing information to the Council. The Bureau indicates that the Council costs approximately \$1,650 per meeting. This includes compensation for members' travel, meeting rooms and Bureau staff time. The Bureau also covers the travel and enrollment costs of the Council when it attends Bureau sponsored events, such as the Senior Conference at Jackson's Mills or the Governor's Summit on Aging.

Low Attendance and Vacancies Inhibit Council Effectiveness

Attendance at Council meetings has been low in the period reviewed by the Legislative Auditor. The Council is composed of five government members and ten citizen members. Citizen members are appointed by the Governor for terms of four years. A review of meeting minutes indicate that at two of the past eight meetings the Council failed to have a quorum. No meeting during the period reviewed by the Legislative Auditor had full attendance. Attendance of government members has been low as well. In 2002, the average total government and member attendance was just over 60%. A breakdown of meeting attendance is provided in Table 2.

No meeting during the period reviewed by the Legislative Auditor had full attendance.

Table 2 - Council Attendance			
Meeting Date	Government Members in Attendance	Citizen Members in Attendance	Total Members in Attendance
02/10/99	0	8	8
05/13/99	1	7	8
11/10/99	3	6	9
04/12/00	1	9	10
11/28/00	3	4	7*
10/10/01	1	4	5*
01/25/02	3	5	8
05/9/02	3	5	8
<p><i>* Indicates that a quorum was not present.</i> <i>Source: 2002 PERD analysis of Council meeting minutes.</i></p>			

In March 2002, the Commissioner informed the Legislative Auditor that the Council had just received legislative approval for two reappointments and one new appointment approved by the Legislature. This still leaves the Council with two vacancies. One position has been vacant since August 2001, and the other has been vacant since December 2001. The Commissioner reports that individuals have been appointed for all of the agency designations with the exception of the position representing the State Police.

Citizen Members Respond to Inquiry

The Legislative Auditor sent letters to the citizen members to ask what type of advice the Council on Aging has provided to the Commissioner of the Bureau of Senior Services. Also, citizen members were asked if the results achieved by the Council are worth the effort put in by Council members and Bureau staff. Four citizen members responded to the Legislative Auditor. Opinions from responding members are available in Table 3.

Table 3 - Council on Aging Member Survey	
Member Status	Opinion
Citizen Member	Feels "Council needs to be involved."
Citizen Member	Council "represent a testing ground..." "Council [is] a useful and effective arm of Bureau of Senior Services."
Citizen Member	Believes "meetings are helpful and educational to our members." Council advised Bureau of Senior Services to reduce AAA's from nine to five and to provide training to county Board of Directors.
Citizen Member	Council is a "sounding board." Seniors provide input which Council gives to Bureau of Senior Services.
<i>Source: 2002 PERD survey of Council on Aging members.</i>	

Council Does Not Comply With Applicable Laws

Information from the Secretary of State's Administrative Law Division indicates that between February 1999 and January 2002, 3 out of 11 meetings did not comply with the Open Government Proceedings Act, nor did the Council file cancellation notices of meetings scheduled for August and September 1999. Failure to comply with the Act denies public access to a Council that should represent the interests of older West Virginians. Meeting dates and compliance for the period under review are available in Table 4.

Table 4 - Council on Aging's Compliance with Open Governmental Proceedings Act	
Meeting Date	Compliance with Law
2/10/99	Yes
5/13/99	Yes
11/10/99	Yes
4/12/00	No
11/28/00	Yes
5/29/01	No
10/10/01	No
1/25/02	No
5/9/02	Yes
<i>Source: 2002 PERD analysis of meeting minutes and information from the Secretary of State's Administrative Law Division.</i>	

Rules Do Not Reflect Current Role of Council

After the reorganization in 1997 neither the Council nor the Bureau of Senior Services promulgated rules reflecting the changing role of the Council. Title 76, Series 2 of the Code of State Rules gives the former Commission on Aging authority to appoint the Director. Legislative Rule 76-2-2.7 states:

Action taken in the name of the Commission on matters of public policy or interest must be approved by the membership or by the Executive Committee in advance of such action.

After the restructuring, the Council has only the statutory duty to advise the Commissioner. The rules governing the Council conflict with current statute and legislative intent.

Conclusion

The West Virginia Council on Aging was created to serve as an advisory council to the Commissioner of the Bureau of Senior Services. The Council has provided advice to the Commissioner on several matters. Bureau staff has also provided the Council with reports on the Bureau's activities. The Legislative Auditor concludes that the Council is necessary to provide advice to the Commissioner and to be a public forum for senior citizen issues. However, the Council's effectiveness can be improved. In some instances, the Council is being informed of Bureau decisions after the fact. The Council should be made aware of such issues prior to implementation to allow members input or to allow a meeting to be held if members want the matter discussed before the Council. The Commissioner should devise a method that would inform Council members between meetings of Bureau activities and decisions before implementation. This would allow the Council to call a meeting on issues it determines should be discussed before the Council. Also, the Open Governmental Proceedings Act should be complied with consistently in order for members of the public to have access to Council meetings.

Recommendations

2. *The Council on Aging should comply with the Open Governmental Proceedings Act.*
3. *The Bureau of Senior Services should promulgate rules addressing the amended role of the Council on Aging.*
4. *The Commissioner of the Bureau of Senior Services should devise a method to keep Council members better informed of current issues between meetings to allow Council members opportunities to advise on more of the Bureau's decisions.*

Local Service Providers and Regional Area Agencies on Aging Are Not In Compliance With Financial Reporting Requirements.

The Bureau of Senior Services funds services to the elderly through grants of state funds to regional Area Agencies on Aging and local, county-level, service providers. Local service providers are nonprofit corporations required to provide financial audits to the Legislative Auditor. These audits are one method the Legislative Auditor utilizes to provide assurance that public funds are properly disbursed. In fiscal year 2000, the last year in which an accurate determination is possible, only 32 out of 60 grant recipients submitted an audit to the Legislative Auditor, despite the fact that all providers were audited. West Virginia Code, §12-4-14 states:

*Any corporation, association or other organization in West Virginia, whether nonprofit or for profit, which receives state funds or grants in the amount of \$15,000 or more **shall file an audit of the disbursement of funds with the legislative auditor's office.** The audit shall be filed within two years of the disbursement of funds or grants by the grantee and shall be made by an independent certified public accountant at the cost of the corporation, association or other organization and must show that the funds or grants were spent for the purposes intended when the grant was made...[Emphasis added.]*

Legislative Auditor Did Not Receive a Number of Audits

A review of audits maintained by the Post Audits Division of the Legislative Auditor's Office and reviewed by PERD staff indicates that not all grant recipients are in compliance with West Virginia Code. The number and percentage of grant recipients providing audits to the Legislative Auditor for the three fiscal years in the study are presented in Table 5.

23% of all grant recipients failed to ever provide the Legislative Auditor with a copy of the required audit.

Table 5 - Percent of Audits Received by the Legislative Auditor			
Fiscal Year	Number of Audits Received	Number of Audits Required	Percentage of Audits Received
1998	38	60	63%
1999	33	60	55%
2000	32	60	53%

Source: 2002 PERD review of documents

In the three fiscal years examined, 23% of all grant recipients failed to ever provide the Legislative Auditor with a copy of the required audit. Only 35% of all recipients provided the Legislative Auditor with audits every year, as required.

All Grant Recipients Were Audited

The Bureau of Senior Services is in possession of audits that were not provided to the Legislative Auditor. The Legislative Auditor has determined that all grant recipients for fiscal years 1998, 1999 and 2000 did have audits conducted and did provide the Bureau of Senior Services with these audits, despite the fact the Bureau's policy is clear that an audit is to be filed with the Legislative Auditor. The Bureau's Notification of Grant Awards involving state funds also states that compliance is required. The Bureau expressed to the Legislative Auditor that lack of training was responsible for the failure of the providers to submit audits to the Legislative Auditor in a timely manner. The Bureau is developing mandatory training for members of service providers' board of directors. The Bureau has also agreed to provide the Legislative Auditor with the required audits for fiscal years 1998, 1999 and 2000.

Conclusion

The Audit reports are an important oversight method available to the Bureau of Senior Services. Fulfilling their statutory duty to file audit reports with the Legislative Auditor is not a hardship for providers. It is, however, one of the avenues the Legislative Auditor has to assure that public monies are spent for their intended purposes.

Recommendation

5. *The Bureau of Senior Services should assist its grant recipients in complying with the statutory requirement of filing annual financial audits with the Legislative Auditor.*

Appendix A: Transmittal Letter to Agency

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

October 4, 2002

Ann M. Stottlemeyer, Commissioner
West Virginia Bureau of Senior Services
1900 Kanawha Boulevard, East
Holly Grove - Building 10
Charleston, WV 25305-0160

Dear Commissioner Stottlemeyer:

This is to transmit a draft copy of the Preliminary Performance Review of the Bureau of Senior Services. This report is scheduled to be presented at the Sunday, October 20, 2002 interim meeting of the Joint Committee on Government Operations. 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 committee may have.

If you desire to schedule an exit conference to discuss any concerns you may have with the report, please notify us to schedule a meeting. In addition, we need your written response by noon on Friday, October 11, 2002 in order for it to be included in the final report.

We request that your personnel treat the draft report as confidential and that it not be disclosed to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

Enclosure

_____ *Joint Committee on Government and Finance* _____

Appendix B: Agency Response



Bob Wise
Governor

STATE OF WEST VIRGINIA
BUREAU OF SENIOR SERVICES
1900 Kanawha Boulevard, East
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Ann M. Stottlemeyer
Commissioner

MEMORANDUM

DATE: October 11, 2002

TO: John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division

FROM: Ann M. Stottlemeyer, Commissioner *AMS*
Bureau of Senior Services

RE: Performance Review of the Bureau of Senior Services

R E C E I V E D
OCT 11 2002

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Thank you for the opportunity to respond to the Performance Review of the Bureau. We will address pertinent points with each issue.

Issue 1: Bureau of Senior Services

We appreciate the kind words of the review team and our funding sources. We truly believe our mission is of paramount importance to the senior citizens of our state who represent 20% of our population.

Issue 2: Advisory Council on Aging

The Bureau understands the comments of the review team relative to the functions of the Advisory Council. It is difficult to provide timely information always when meetings are held only a few times each year. The Bureau will try to utilize electronic means through E-Mail or Internet connection to update Council members on issues occurring between meetings to gather their input and recommendations.

Sincere efforts were made to properly comply with Open Government Proceedings notice requirements, but in a few instances due to minor errors, date requirements were not met. They will be strictly adhered to in the future.

The Bureau will also notify the Secretary of State's office that promulgated rules of the old Commission on Aging have been superceded by current statute for the Bureau of Senior Services regarding the changed role of the Council.

Issue 3: Audit requirements, \$15,000 State funds

As was stated in the review, 100% of Bureau of Senior Services subgrantees have had audits completed and submitted for the years 1998, 1999, 2000. The Legislative Auditor reported several audits for those years not received in their office as required by code. Copies of those were provided shortly thereafter to the Legislative Auditor. Many of our subgrantees stated that those audits had been submitted as documented by copies of correspondence. In some cases the parent agency having the audit done differed from the subgrantees component name, which might have resulted in some audits shown as missing.

The Bureau has included on all state award grants/contracts the applicable rule requiring this audit submission by subgrantees. We have reiterated this to our subgrantees and in the future recommend these audit copies be sent by certified mail. We also will offer the Legislative Auditor a periodic copy of our audit logs for comparison purposes.

Once again, thank you for the opportunity to respond to the report. And thank you for recommending our continuation.

KYW/vgs