



West Virginia Legislature
Joint Committee on Government and Finance

Legislative Post Audit Division

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**A COMPLIANCE AUDIT REPORT TO THE WEST VIRGINIA
LEGISLATIVE POST AUDITS SUBCOMMITTEE:**

**HATFIELD-MCCOY REGIONAL
RECREATION AUTHORITY**

LEGISLATIVE POST AUDIT DIVISION

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WEST VIRGINIA LEGISLATURE
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Denny Rhodes
Director

The Honorable William Cole III, President
West Virginia State Senate
Post Audits Subcommittee, Co-Chair
Room 229 M, Building 1
State Capitol Complex
Charleston, WV 25306

The Honorable Timothy Armstead, Speaker
West Virginia House of Delegates
Post Audits Subcommittee, Co-Chair
Room 228 M, Building 1
State Capitol Complex
Charleston, WV 25306

Dear Mr. President and Mr. Speaker:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we conducted a compliance audit of the Hatfield-McCoy Regional Recreation Authority (HMRRA).

We did **not** conduct this compliance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). However, we planned and performed the audit to obtain sufficient, appropriate evidence to provide 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 HMRRA management responses to the audit findings are included at the end of the report.

Respectfully submitted,

A handwritten signature in blue ink that reads "Denny Rhodes".

Denny Rhodes

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ABBREVIATIONS:

HMRRA	Hatfield-McCoy Regional Recreation Authority
GAGAS	Generally Accepted Governmental Auditing Standards
IRS	Internal Revenue Service

OBJECTIVES & CONCLUSIONS

OBJECTIVE ONE

Determine if the contracts the Hatfield McCoy Regional Recreation Authority has reinstated and/or bid out from December 29, 2014 to August 4, 2015 (after our initial audit findings were issued in November 2014) were issued through the proper bidding process and if management was properly overseeing the contracts.

Conclusion

The Hatfield McCoy Regional Recreation Authority failed to implement a proper bid evaluation process for its legal services contract that considered all relevant factors, including cost. This would assure the correct vendor is selected and eliminate the appearance of favoritism when all factors of a proper bid evaluation process are considered.

Related Findings and Recommendations

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OBJECTIVE TWO

Determine if contracts and purchases entered into by HMRRRA from January 1, 2014 to December 31, 2014 were performed and executed ethically as detailed by The West Virginia Ethics Act in WV State Code to identify any appearances of self-dealing or conflicts of interest.

Conclusion

Other than the contracts reported in a letter in November 2014 to the Post Audits Subcommittee, no new conflicts of interest or self-dealing were found.

Related Findings and Recommendations

No Findings.

OBJECTIVE THREE

Determine if vehicle stipends/allowances given from January 2010 to March 2014 were allowable under State law.

Conclusion

Under current State law, the use of a vehicle allowance is contrary to the Department of Administration’s statutes and rules in place for both state employee travel and permissible compensation because it does not take into account the actual cost of the employee’s uses of their personal vehicle, or require the spending officer to account for that cost to the state agency.

However, under new legislation passed during the 2015 session, HMRRA is now considered a new public corporation created as a joint development entity. Due to this change, HMRRA does not have to follow the Department of Administration’s travel policy. Therefore, the HMRRA Board can now authorize vehicle allowances.

Related Findings and Recommendations

Finding 2: Improper Issuance of Vehicle Allowances to Executive Director and Deputy Director 6

OBJECTIVE FOUR

Determine if any employees at the Hatfield McCoy Regional Recreation Authority are commuting in company vehicles and whether or not the Authority is tracking the taxable fringe benefit for commuters from January 1, 2013 through June 30, 2015.

Conclusion

Between January 1, 2013 and June 30, 2015, HMRRA improperly applied the Commuting Rule from the Internal Revenue Service (IRS) Publication 15-B *Employer’s Tax Guide to Fringe Benefits* to calculate the value of company vehicle use for commuting for 24 employees.

Related Findings and Recommendations

Finding 3: HMRRA Improperly Assessed Commuting Fringe Benefits 8

OBJECTIVE FIVE

Determine if bonuses awarded for the time period January 1, 2011 through December 31, 2013 were performed reasonably in relation to revenue collection, state funds appropriated, and operations of the agency.

Conclusion

As previously reported during the January 2015 interims, HMRRA bypassed the State Constitution by awarding its full-time employees incentive pay/bonuses. In determining whether or not bonuses would be given, HMRRA included funds received through state and federal grants as well as state P-card rebate funds.

Related Findings and Recommendations

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FINDINGS & RECOMMENDATIONS

FINDING 1: INCORRECT ISSUANCE OF BONUS PAY TO EMPLOYEES

Over a 3 year period, HMRRA awarded over \$235,000 in bonuses while having an operating loss of over \$4.2 million.

As previously reported during the January 2015 interim meetings, HMRRA bypassed the State Constitution by awarding its full-time employees incentive pay/bonuses¹. Additionally, HMRRA's Board had two requirements in order for incentive pay to be awarded including increasing permit sales and a positive net income². HMRRA's Executive Director provided four different responses of what the Board required regarding a positive net income for bonuses to be awarded.

HMRRA's management provided its Board with calculations of cash flows³ instead of income. Therefore, HMRRA did not award bonuses based on the Board's requirements. HMRRA's calculations were also made from internally generated, unaudited financial statements for the year which did not match the outside auditors' financial statements.

Bonuses were awarded because HMRRA used state grant and P-card rebate funds to make up for operating losses.

In determining whether or not bonuses would be given, HMRRA's Board requirement and HMRRA's calculation both included funds received through state and federal grants as well as state appropriations and P-card rebate funds. State funds should not be considered part of HMRRA's normal operations because they are not guaranteed revenues each year. The Legislature could lower the percentage of state funds received or take all funds away entirely and grant funds must be re-applied for at the end of the grant agreement.

HMRRA should have based its decision of whether or not to give bonuses on operating profit or loss. Operating profit or loss would exclude state and federal funds because those funds are considered non-operating revenue. Operating revenue is money earned from selling products and/or services. It excludes any revenue or gains earned outside of the typical day-to-day activities. For HMRRA, operating revenue includes permit sales, marketing and promotional revenue and sponsorship revenue.

When state and federal monies were not included in the calculations, HMRRA had an operating loss of over \$4.2 million⁴ from calendar year 2011 through 2013 but still gave bonuses of over \$235,000⁵.

¹ Article 6, Section 38 of the WV State Constitution as amended states in part "No extra compensation shall be granted or allowed to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract made..."

² Upon inquiry, a Board member indicated the Board required a positive net income before bonuses were awarded.

³ HMRRA's management calculated the total change in cash flow for the year and then added back cash spent on capital expenditures (i.e. heavy equipment purchases).

⁴ Obtained from HMRRA audited financial statements completed by Gibbons & Kawash for calendar year 2011 and Arnett Foster Toothman for calendar years 2012 and 2013. Portions of the financial statements can be found in Appendix B.

⁵ Bonuses for calendar years 2011, 2012 and 2013 were paid in the beginning of calendar years 2012, 2013 and 2014 respectively. During the January 2015 interim meeting, we reported bonus payments close to \$220,000. However, the \$220,000 amount was from HMRRA's budgeted amounts. We utilized HMRRA payroll summaries to determine the bonus payments actually exceeded \$235,000.

Going Forward

Under new legislation passed during the 2015 session, HMRRRA is now considered a public corporation created as a joint development entity effective May 31, 2015. According to a legal opinion obtained from a Legislative Services attorney, HMRRRA employees are no longer state employees but would still be considered public employees and have to follow the Emoluments Clause of the West Virginia Constitution¹. The legal opinion states, "...as a general statement of law, these public employees ("public servants") could not be paid bonuses... for the work that they have performed for the Authority."

HMRRRA has previously stated the decision to provide incentive pay was based on an Attorney General Opinion. The Legislative Services' legal opinion states, "...the Attorney General said that incentive payments could be made to public employees if those payments were conditioned on a defined event or circumstance and if such payment was a part of a contract for services established at the commencement of a person's employment..."

Additionally, the Legislative Services' legal opinion states, "...It is also important that the incentive be reasonably related to the work performed by the employee. If, for example, the Authority experienced an overall increase in revenue, distribution of shares of that revenue to all employees might be unlawful if it could not be demonstrated that each employee did something to cause or contribute to that increase..."

Recommendations

- 1-1. The Legislative Auditor recommends HMRRRA continue to follow Article 6, Section 38 of the West Virginia Constitution as amended and not issue employee bonuses. HMRRRA ceased awarding employee bonuses after the bonuses for calendar year 2013 were paid in early 2014.
- 1-2. The Legislative Auditor recommends HMRRRA follow the instructions from its Board of Directors for business endeavors and utilize audited financial statements when applicable to business decisions.
- 1-3. The Legislative Auditor recommends HMRRRA consult the Legislature to determine if it is the Legislature's intent to allow HMRRRA to give bonuses. If so, the Legislature may modify the statute to clearly allow bonus payments.

FINDING 2: IMPROPER ISSUANCE OF VEHICLE ALLOWANCES TO EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR

In 4 years, HMRRA improperly paid vehicle allowances totaling \$66,500 to the Executive Director and Deputy Director.

From January 2010 through March 2014, HMRRA paid its Executive Director \$37,100 and Deputy Director \$29,400 in vehicle allowances. HMRRA also allowed the Executive Director to charge \$32,990 and the Deputy Director to charge \$19,380 for fuel purchases on HMRRA company credit cards. The vehicle allowances were for the cost of using their personal vehicles in lieu of utilizing company vehicles.

The payment of a vehicle allowance is contrary to the Department of Administration’s statutes and rules⁶ in place for both state employee travel and permissible compensation because there is no consideration of the actual cost of the employee’s use of the personal vehicle. Fuel expenses were not included in the allowance, and no information was provided (i.e. – trip/mileage logs) that could be used to reconcile the amount of travel for business purposes. Therefore, we cannot determine whether or not vehicle allowance payments and fuel purchases were utilized for personal trips.

In addition to the vehicle allowances, the Director and Deputy Director spent \$52,370 in fuel purchases on the company credit card.

The HMRRA Board improperly authorized a \$500 monthly (\$6,000 annually) vehicle allowance for the Executive Director. HMRRA’s payroll department incorrectly issued the Executive Director vehicle allowance payments on a bi-weekly basis at a rate of \$350 (\$9,100 annually). As a result, from January 2010 through March 2014, HMRRA issued vehicle allowance payments of \$11,600 in excess of the amount approved by the Board for the Executive Director. Additionally, the Executive Director spent an average of \$647 per month on fuel purchases. The high dollar amount of fuel purchases may have been due, in part, to the Executive Director’s distance between his home in the Charleston area and HMRRA’s main office in Lyburn (approximately 125 miles round trip).

Table 1: Executive Director’s Vehicle Allowance Payments & Fuel Purchases from January 2010 through March 2014

Calendar Year	Vehicle Allowance	Fuel Purchases	Total
2010	\$7,700	\$6,788	\$14,488
2011	\$9,100	\$8,327	\$17,427
2012	\$9,100	\$8,371	\$17,471
2013	\$9,100	\$7,838	\$16,938
2014 ⁷	\$2,100	\$1,666	\$3,766
Total	\$37,100	\$32,990	\$70,090

Beginning in calendar year 2011, HMRRA began issuing vehicle allowance payments on a bi-weekly basis at a rate of \$350 (\$9,100 annually) to the Deputy Director. These payments were not approved by the Board. As a result,

⁶ The “State Travel Policy” governs travel “for state officials, employees and non-employees.” The Travel Policy makes clear that “reimbursement will be made at the prevailing rate per mile established by the Travel Management Office... This rate is intended to cover **all operating costs of the vehicle** (including **fuel**, maintenance...) and **no additional reimbursement will be made.**” (emphasis added)

⁷ After March 2014, the beginning of our initial audit, the HMRRA ceased vehicle allowance payments to both the Executive Director and the current Deputy Director.

HMRRA’s payroll department issued \$29,400 of unapproved vehicle allowance payments to the current Deputy Director during calendar years 2011-2014. Additionally, the Deputy Director spent an average of \$497 per month on fuel purchases.

The HMRRA vehicle allowance payments to the Deputy Director were against State law and also not approved by the HMRRA Board.

Table 2: Deputy Director’s Vehicle Allowance Payments & Fuel Purchases from January 2011 through March 2014

Calendar Year	Vehicle Allowance	Fuel Purchases	Total
2011	\$9,100	\$5,140	\$14,240
2012	\$9,100	\$6,247	\$15,347
2013	\$9,100	\$6,165	\$15,265
2014 ⁷	\$2,100	\$1,828	\$3,928
Total	\$29,400	\$19,380	\$48,780

Going Forward

Under new legislation passed during the 2015 session, HMRRA is now considered a new public corporation created as a joint development entity effective May 31, 2015. Due to this change, HMRRA does not have to follow the Department of Administration’s travel policy. Therefore, the HMRRA Board can now authorize vehicle allowances.

Recommendations

- 2-1. The Legislative Auditor recommends HMRRA determine whether future use of a company vehicle is more cost beneficial than use of a personal vehicle.
- 2-2. The Legislative Auditor recommends HMRRA only issue vehicle allowance payments in the amounts approved by its Board.
- 2-3. The Legislative Auditor recommends HMRRA require employees to complete trip/mileage logs that could be used to reconcile the amount of travel to ensure vehicle allowance payments are not in excess of the amount needed to conduct state business.

FINDING 3: HMRRA IMPROPERLY APPLIED THE IRS COMMUTING RULE FOR COMMUTING FRINGE BENEFITS

The HMRRA improperly utilized the Commuting Rule for 24 employees for commuting in a company vehicle.

Between January 1, 2013 and June 30, 2015, HMRRA improperly applied the Commuting Rule⁸ from the Internal Revenue Service (IRS) Publication 15-B *Employer's Tax Guide to Fringe Benefits*⁹ to calculate the value of company vehicle use for commuting for 24 employees.

Misapplication of Commuting Rule

IRS Publication 15-B stipulates that in order for the employer to use the commuting rule, the employer must "...establish a written policy..." prohibiting an employee from using "...the vehicle for personal purposes other than for commuting¹⁰ or *de minimis* personal use...." HMRRA has no such written policy and, therefore, is ineligible to use the rule.

Recommendations

- 3-1. HMRRA should issue amended W-2s (Form W-2c) for three years if any employees' W-2 amounts were reported incorrectly.
- 3-2. The Legislative Auditor recommends HMRRA create a written policy for commuting in a company vehicle that specifically states the HMRRA does not allow employees to use the vehicle for personal purposes other than for commuting or *de minimis* personal use. This would allow HMRRA to utilize the commuting rule when appropriate.

⁸ The Commuting Rule is outlined in IRS Publication 15-B allowing the employer to assess the employee \$1.50 per commute (\$3.00 per day) from their place of residence to their assigned duty station.

⁹ When assessing fringe benefits for commuting purposes the employer is required to report personal use, including commuting, of the vehicles as a taxable fringe benefit by including the calculated amount in gross income.

¹⁰ The IRS Publication 15-B defines commuting as "from home to work or from work to home."

FINDING 4: FAILURE TO IMPLEMENT A PROPER BID EVALUATION PROCESS

HMRRRA failed to consider cost when awarding the legal services contract.

As previously reported during the November 2014 interim meetings, HMRRRA would be considered a state agency and therefore should have followed the Purchasing Division guidelines¹¹. HMRRRA had canceled all existing contracts by January 2015 in order to properly bid out the services as required by WV Code and the Purchasing Division. HMRRRA solicited bids for its legal services contract in April 2015¹². The legal services were to be provided from June 1, 2015 through May 31, 2018.

The bid evaluation process utilized by HMRRRA failed to eliminate the appearance of favoritism because HMRRRA awarded the contract to its prior legal services provider, Shaffer and Shaffer, Attorneys at Law, without evaluating all relevant factors, including cost, before awarding the contract.

In May 2015, HMRRRA received two bids for the legal services contract, one from Ernest F. Hays, II, Attorney at Law and one from Shaffer and Shaffer, Attorneys at Law. The proposal submitted by Ernest F. Hays, II, Attorney at Law was \$200 per hour for the principal attorney assigned to the account and would charge "\$100 per hour for travel and other related travel expenses when required." The bid submitted by Shaffer and Shaffer, Attorneys at Law was \$225 per hour for the principal attorney and Shaffer may utilize three other attorneys who charge either \$200 or \$190 per hour. Shaffer also charges \$75 per hour for paralegals.

HMRRRA failed to implement a proper bid evaluation process that considered factors other than interview responses, including price and qualifications.

In May, HMRRRA held interviews with both Ernest Hays, II and Shaffer and Shaffer. However, all but one¹³ interview question was the same as questions answered in the initial proposals. HMRRRA Board members participated in and scored¹⁴ the interviews. HMRRRA then compiled a score tabulation sheet and awarded¹⁵ the contract to Shaffer and Shaffer based on a higher total interview score.

HMRRRA stated the selection was based on qualifications and interview scores. There is no evidence HMRRRA implemented a proper bid evaluation process that considered all relevant factors, including bid price. Additionally, based on the

¹¹ In January 2015, the Legislative Auditor reported HMRRRA was a spending unit of the state government and was required to follow the Purchasing Division's guidelines regarding the purchase of goods and services. However, HMRRRA was unable to utilize the Purchasing Division for purchases over \$25,000 because they were unable to gain access to the wvOASIS system. Under HMRRRA's new Code section, they do not have to follow the Purchasing Division's guidelines.

¹² HMRRRA issued a Request for Qualifications (RFQ) for Legal Services that stated, "All proposals will be reviewed and scored by a committee of the Board of Directors. The Committee may choose to interview two or more of the Respondents prior to making its selection." The RFQ also outlined the required contents of the proposal and the criteria for review and selection of the proposals.

¹³ The only other interview question was, "Is there anything you would like to tell us about your qualifications that you feel the committee should be aware off [sic]."

¹⁴ There were a total of 10 points available for each interview question.

¹⁵ Shaffer & Shaffer accepted the offer for the contract on June 5, 2015 for the period July 1, 2015 - June 30, 2018.

bid proposal responses provided by Ernest Hays, II, there appears to be no evidence the attorney was not qualified to provide legal services to HMRRA.

When examining and evaluating bids, all relevant factors¹⁶, including cost, should be considered. In order to make a proper and unbiased evaluation, each factor should be assigned a weighted value based on importance¹⁷ before selecting the winner of the contract.

Going Forward

During the 2015 Legislative session, HMRRA's Code changed and it is now considered a public corporation created as a joint development entity in Chapter 20, Article 14 of WV Code which went into effect May 31, 2015. According to the new Code, HMRRA must solicit bids for purchases reasonably expected to exceed \$25,000 in one year¹⁸. The Code section also states, "After all bids are received, the authority shall enter into a written contract with the lowest responsible bidder; however, the authority may reject any or all bids that fail to meet the specifications required by the authority or that exceed the authoritys [sic] budget estimation for those commodities or services."

It was impossible to determine a low bidder for the legal services contract because of an unknown amount of travel costs and differing per hour rates for multiple attorneys and paralegals. Therefore, going forward, HMRRA could not award a legal service contract without having a way to determine which vendor is actually the low bidder.

Recommendations

- 4-1. The Legislative Auditor recommends HMRRA establish a proper method of evaluating bids received for goods and services. The evaluation should include all relevant factors to the contract and weight¹⁷ each factor according to importance.

¹⁶ Other relevant evaluation factors may include: prior experience, including past performance; personnel qualifications, including technical excellence; and management capability, including schedule compliance.

¹⁷ A bid evaluation process should assign a set number of available points to each factor, then each vendor is awarded points based on their proposals, interviews, etc. up to the maximum number of points set for each factor. Once the scores are totaled, the vendor with the most points is awarded the contract. See Appendix J of the August 1, 2015 revision of the Purchasing Division Handbook for more information on a bid evaluation process.

¹⁸ For the years 2013, 2014 and prior to this contract in 2015, Shaffer and Shaffer received over \$25,000 each year.

APPENDIX A – AUDIT INFORMATION

AUTHORITY

The audit was conducted pursuant to WV Code §4-2-5, as amended, which states the Legislative Auditor has “the power and authority to examine the revenues, expenditures and performance of every spending unit of the state government and for these purposes shall have the authority, by such means as are necessary, to require any person holding office in the state government or employed by the state, to allow him to inspect the properties, equipment, facilities and records of the various agencies, departments, subdivisions or **institutions of the state government for which appropriations are to be made or have been made**, either before or after estimates therefor are submitted, and before, during and after the sessions of the Legislature. Refusal of any person to allow such inspection shall be reported by the Legislative Auditor to the committee.”

During the 2015 Legislative session, HMRRA’s Code changed and it is now considered a public corporation created as a joint development entity in Chapter 20, Article 14 of WV Code which went into effect May 31, 2015. This Code section states, “If the authority receives any funds from the Legislature by appropriation or grant, the Legislative Auditor shall have the power and authority to examine the revenues, expenditures and performance of the Hatfield-McCoy Regional Recreation Authority and for these purposes shall have the power to inspect the properties, equipment, facilities of the authority and to request, inspect and obtain copies of any records of the authority.”

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 HMRRA, and WV taxpayers. Once presented to the Post Audits Subcommittee this report is a matter of public record and its distribution is not limited. The reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function, to provide constructive recommendations for improving State operations, and as a report of agency activities to the WV taxpayers.

EXIT CONFERENCE

A draft of the report was sent to HMRRA management on August 25, 2015 and the exit conference was held on September 2, 2015.

APPENDIX B – HMRRRA AUDITED FINANCIALS

HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY

STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS

Years Ended December 31, 2011 and 2010

	2011	2010
Operating revenues:		
User permit sales	\$ 1,095,003	\$ 1,070,596
Marketing and promotional revenue	503,840	503,264
Sponsorship revenue	<u>189,626</u>	<u>154,826</u>
Total operating revenues	<u>1,788,469</u>	<u>1,728,686</u>
Operating expenses:		
Salaries and wages	724,574	718,418
Contract labor	250,413	147,763
Payroll taxes	83,318	87,426
Employee benefits	328,518	307,780
Travel and meeting	117,951	70,442
Office	97,083	123,177
Marketing and promotional	892,122	830,182
Trail permits	10,320	10,443
Rent and utilities	26,980	39,343
Legal and professional	172,909	174,672
Insurance	168,921	170,402
Depreciation	226,683	222,042
Trail development and maintenance	169,608	206,299
Building repairs and maintenance	9,154	20,864
Equipment and vehicle repairs and maintenance	90,730	100,044
Small tools and equipment	34,880	26,368
Miscellaneous expense	2,045	-
Other licenses and taxes	-	386
Total operating expenses	<u>3,406,209</u>	<u>3,256,051</u>
Operating loss	<u>(1,617,740)</u>	<u>(1,527,365)</u>
Nonoperating revenues (expenses):		
Intergovernmental revenues	1,294,289	1,129,243
Grant revenues	63,937	337,115
Interest income	10,212	22,846
Gain on disposal of capital assets	25,774	148
Other expense	<u>(22,909)</u>	<u>(25,518)</u>
Total nonoperating revenues	<u>1,371,303</u>	<u>1,463,834</u>
Change in net assets	(246,437)	(63,531)
Net assets, beginning of year	<u>2,820,931</u>	<u>2,884,462</u>
Net assets, end of year	<u>\$ 2,574,494</u>	<u>\$ 2,820,931</u>

The accompanying notes are an integral part of these financial statements.

HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY

STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET POSITION
Years Ended December 31, 2012 and 2011

	2012	2011
Operating Revenues		
User permit sales	\$ 1,168,079	\$ 1,095,003
Marketing and promotional revenue	532,109	503,840
Sponsorship revenue	182,932	189,626
Total operating revenues	<u>1,883,120</u>	<u>1,788,469</u>
Operating Expenses		
Salaries and wages	766,883	724,574
Contract labor	247,079	250,413
Payroll taxes	77,525	83,318
Employee benefits	264,488	328,518
Travel and meeting	86,543	117,951
Office	98,263	97,083
Marketing and promotional	565,457	892,122
Trail permits	10,398	10,320
Rent and utilities	17,952	26,980
Legal and professional	178,273	172,909
Insurance	162,906	168,921
Depreciation	217,916	226,683
Trail development and maintenance	209,379	169,608
Building repairs and maintenance	16,401	9,154
Equipment and vehicle repairs and maintenance	97,676	90,730
Small tools and equipment	28,589	34,880
Miscellaneous expense	7,501	2,045
Total operating expenses	<u>3,053,229</u>	<u>3,406,209</u>
Operating (loss)	<u>(1,170,109)</u>	<u>(1,617,740)</u>
Nonoperating Revenues (Expenses)		
Intragovernmental revenues	1,424,801	1,294,289
Grant revenues	425,186	63,937
Interest income	9,864	10,212
Gain on disposal of capital assets	(5,182)	25,774
Other expense	(25,820)	(22,909)
Total nonoperating revenues (expenses)	<u>1,828,849</u>	<u>1,371,303</u>
Change in net position	<u>658,740</u>	<u>(246,437)</u>
Net position, beginning of year	<u>2,574,494</u>	<u>2,820,931</u>
Net position, end of year	<u>\$ 3,233,234</u>	<u>\$ 2,574,494</u>

See Notes to Financial Statements

HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY

STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET POSITION
Years Ended December 31, 2013 and 2012

	2013	2012
Operating Revenues		
User permits sales	\$ 1,371,275	\$ 1,168,079
Marketing and promotional revenue	475,270	532,109
Sponsorship revenue	129,817	182,932
Total operating revenues	<u>1,976,362</u>	<u>1,883,120</u>
Operating Expenses		
Salaries and wages	909,595	766,883
Contract labor	241,062	247,079
Payroll taxes	93,042	77,525
Employee benefits	241,458	264,488
Travel and meeting	68,249	86,543
Office	112,576	98,263
Marketing and promotional	540,766	565,457
Trail permits	13,485	10,398
Rent and utilities	19,389	17,952
Legal and professional	289,471	178,273
Insurance	158,849	162,906
Depreciation	197,564	217,916
Trail development and maintenance	313,467	209,379
Building repairs and maintenance	26,963	16,401
Equipment and vehicle repairs and maintenance	160,354	97,676
Small tools and equipment	37,528	28,589
Miscellaneous expense	100	7,501
Total operating expenses	<u>3,423,918</u>	<u>3,053,229</u>
Operating (loss)	<u>(1,447,556)</u>	<u>(1,170,109)</u>
Nonoperating Revenues (Expenses)		
Intragovernmental revenues	1,278,358	1,424,801
Grant revenues	294,416	425,186
Interest income	9,636	9,864
Gain (loss) on disposal of capital assets	2,349	(5,182)
Other expense	(42,455)	(25,820)
Net nonoperating revenues (expenses)	<u>1,542,304</u>	<u>1,828,849</u>
Change in net position	94,748	658,740
Net position, beginning of year	<u>3,233,234</u>	<u>2,574,494</u>
Net position, end of year	<u>\$ 3,327,982</u>	<u>\$ 3,233,234</u>

See Notes to Financial Statements

APPENDIX C – HMRRA MANAGEMENT RESPONSE



September 2, 2015

Denny Rhodes
Director
Legislative Post Audit Division
West Virginia Legislature
Building 1, Room W-329
1900 Kanawha Blvd, East
Charleston, WV 25305-0610

RE: Agency Response Post Audit Report

Dear Mr. Rhodes:

The Hatfield McCoy Regional Recreation Authority (HMRRA) appreciates the opportunity to respond to the findings in the Post Audit Report of the Authority dated September 13, 2015. HMRRA was recently reestablished as a multi-county economic development agency with new board members and is currently reorganizing its structure to comply with new state code and your audit findings.

FINDING 1: INCORRECT ISSUANCE OF BONUS PAY TO EMPLOYEES

- 1-1 HMRRA has discontinued its incentive pay program; the Board of Directors will comply with Article 6, Section 38 of the West Virginia Constitution on employee compensation.
- 1-2 The Board of Directors has hired Suttle & Stalnaker, PLLC to prepare all financial statements presented to the Board of Directors at each Board meeting and will utilize these external prepared independent statements as well as audited financial statements in its business decisions.
- 1-3 The Board of Directors has discontinued its incentive pay program and will not issue any further incentives/bonuses.

FINDING 2: IMPROPER ISSUANCE OF VEHICLE ALLOWANCES TO EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR

- 2-1 HMRRA Board of Directors has discontinued all vehicle allowances and requires all administrative employees to file travel claims on a per trip basis based on actual travel or to use an HMRRA provided fleet car if available at the time of travel. No administrative employees are assigned an HMRRA provided vehicle.
- 2-2 HMRRA Board of Directors no longer issues any vehicle allowance payments to any employees and will only have HMRRA cars issued to field employees and outside sales employees. HMRRA requires travel claims reimbursed on a per trip basis for all administrative staff if an HMRRA non assigned fleet vehicle is not available for use.
- 2-3 HMRRA no longer has vehicle allowances of any type.

FINDING 3: HMRRA IMPROPERLY APPLIED THE IRS COMMUNITNG RULE FOR COMMUTNG FRINGE BENEFITS

3-1, 3-2 and 3-3

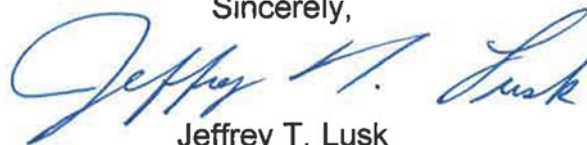
HMRRA has requested Suttle & Stalnaker, PLLC, their current accounting firm, to assist in headquarters designation for each employee whom commutes and to consult on IRS regulations in determining these headquarters and what is necessary for HMRRA to designate each employee a headquarters. HMRRA has also requested Suttle & Stalnaker develop a policy, for the Board of Directors approval and inclusion in the Personnel Policies and Procedures manual, on commuting that meets the IRS guidelines on prohibition of personal use of a vehicle by employees. HMRRA has additionally requested they review all employee commuting use additions to W-2s for the past 3 years and determine if employees were properly charged a commuting fee, based on IRS guidelines, and to issue amended W-2's to those employees who's W-2s were deemed incorrect due to commuting.

FINDING 4: FAILURE TO IMPLEMENT A PROPER BID EVALUATION PROCESS

HMRRA will follow bidding procedures as outlined in West Virginia Code 20-14-10 for awarding contracts and develop an appropriate system for scoring bids. HMRRA will utilize the West Virginia Purchasing Division handbook in the development of a fair and comprehensive scoring system for bids and request assistance from the West Virginia Purchasing Division in the development of a scoring system to include all factors including cost, prior experience, past performance, personnel qualifications, technical excellence, management capability and schedule compliance. HMRRA will score vendors on all available information and ensure that price and qualifications are weighted appropriately in the decision process. This bid was one of the first HMRRA has undertaken that could not be awarded solely on price due to the factors involved in hiring legal counsel. HMRRA will ensure any future bids for services include all relevant factors and are scored in accordance with guidelines that weigh each area appropriately including cost.

We appreciate the opportunity to reply to the findings and will work to make all necessary changes to fully comply with all recommendations included in the Audit Report.

Sincerely,



Jeffrey T. Lusk
Executive Director