

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

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**Memorandum**

**To:** Thedford L. Shanklin, Director

**From:** Ethelbert Scott, Jr., Audit Manager *ES*  
Stacey Sneed, Legislative Auditor III *SS*

**Date:** January 3, 2007

**Subject:** FOLLOW-UP REVIEW OF THE AUDIT REPORT OF WEST VIRGINIA DEPARTMENT OF ADMINISTRATION, PURCHASING DIVISION, SURPLUS PROPERTY, FOR THE PERIOD JULY 1, 2001 - JUNE 30, 2003

In accordance with your instructions, we conducted a follow-up review to examine the implementation of recommendations contained within the audit report of Surplus Property for the period July 1, 2001 - June 30, 2003. As part of the follow-up process we interviewed Mr. Ken Frye, Surplus Property Manager on December 21, 2006, and Ross Taylor, the Department of Administration, Finance Director on December 28, 2006. We reviewed supporting documents to determine the actions taken to satisfy the recommendations made in our report.

Our review showed that action has been taken on most of the findings. However, our recommendation for Surplus Property to maintain an inventory of State surplus property available for sale has not been carried out.

**Federal Property Converted to Secondary Utilization**

We tested the donation of 437 items of federal surplus property to eligible organizations during the period July 1, 2001 through April 8, 2004. We noted 41 of 437 tested were designated as being for "Secondary Utilization", this is equipment to be used for parts (cannibalized) 40 of the 41 items noted were donated to a volunteer fire department. The total acquisition cost to the federal government for these items was \$1,283,739.14. Surplus Property charged the volunteer fire department a total surcharge of \$8,510.00. The remaining item was donated to a state agency. The Federal government purchased the item at a cost of \$32,990.00 and the state agency paid \$400 surcharge for the item.

Surplus did not provide a written request for cannibalization to the GSA before the items were

allocated to the donee as secondary utilization as set out in the General Services Administration Federal Management Regulation 102-37.220. The General Services Administration Federal Management Regulation 102-37.235. (See p.24) which states in part. "You must conduct utilization reviews, as provided in your plan of operation, to ensure that donees are using surplus property during the period of restriction for the purposes for which it was donated.

We recommended:

Surplus Property comply with the General Services Administration Federal Management Regulation.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will comply with the General Services Administration Federal Management Regulations.**

**Spending Unit Action:**

**Surplus Property responded they have not had any items donated which were designated as being for "secondary utilization." However, the Surplus Property Manager stated Surplus Property will comply with the prior recommendation and obtain written approval from GSA if any items donated are designated as being for "secondary utilization."**

**No Inventory of State Surplus Property**

As noted in our previous audit (Oct, 1, 1977 through June 30, 1980), Surplus Property does not maintain an inventory of State surplus property available for sale. We were unable to audit sales of state property (excluding public auctions) because we could not determine what items were available for sale. Amounts of \$1,540,699.85 and \$1,256,288.60 were deposited into the Sale of State Surplus Property Fund for state property sales (excluding public auctions) for the years ended June 30, 2003 and June 30, 2002 respectively. The Surplus Property Manager stated that he would request an up to date cost estimate from IS&C to design and build such a system.

We recommended:

Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.**

**Spending Unit Action:**

**Surplus Property made a request to IS&C for an estimate on constructing an inventory of State surplus property. IS&C provided them with a \$400,000 estimate. The Surplus Property Manager stated the inventory system would be too expensive to build and maintain,**

therefore, the process has come to a halt. We inquired as to why Surplus Property does not operate a system similar to the Federal system and the Surplus Property Manager stated the systems would have to be different. He stated there is no system to track inventory from the beginning of the process, when spending units purchase items, and 90% of the items that come into Surplus Property are less than the \$1,000 threshold.

#### **Sales on Credit Not Authorized by the West Virginia Code**

We noted Surplus Property is selling property to state agencies and eligible organizations on credit, however we can find no authority in the West Virginia Code or Surplus Property's Legislative Rule permitting credit sales. As of June 30, 2003 the aged accounts receivable balance of \$190,730.93 (\$71,300.49 for federal surplus and \$119,430.44 for state surplus). The accounts receivable report includes negative accounts receivable balances totaling \$43,224.81 (\$7,158.65 for federal sales and \$36,066.16 for state sales). These negative amounts are accounts payables due to state agencies and eligible organizations for their overpayments of accounts receivable or for their pro rata share from the sale of an item by Surplus Property. As of September 4, 2003 Surplus Property owed Travel Management \$848,066. Surplus made a payment of \$400,647.62 to Travel Management on October 10, 2003.

We recommended:

Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code and the General Services Administration Federal Management Regulation.

#### **Agency's Response:**

**We will direct the Division of Finance, which handles the accounting function for the Surplus Property Unit, to aggressively pursue the collection of outstanding account receivables and will comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code and the General Services Administration Federal Management Regulations.**

#### **Spending Unit Action:**

**Surplus Property has discontinued the policy of making credit sales. The Department of Administration, Finance Director stated to his knowledge, sales on credit are no longer permitted by the Surplus Property Unit. The Surplus Property Manager sent a memorandum dated December 14, 2004 to all spending units to inform them that sales on credit will no longer be permitted, effective January 1, 2005. Currently only cash sales are made. However, according to Finance Director, in a meeting with the Director of the Legislative Post Audit Division stated that a 30-day-same-as-cash plan would be acceptable. As of June 30, 2003, the accounts receivable outstanding balance was approximately \$190,730.93. The Finance Director provided with an accounts receivable report as of December 28, 2006, and as of this date, the outstanding balance was \$57,733.91 (\$25,152.10 for federal surplus and \$32,581.81 for state surplus) . Also on December 28, 2006 Surplus Property accounts payables balance was \$27,666.72 (\$429.23 for federal surplus and \$27,237.49 for state surplus ).**

## **Unable to Determine Reimbursements to State Agencies Were Correct**

We were unable to determine that proper state agency funds were reimbursed by Surplus Property for sales of state property. When Surplus sells state property, they are required to reimburse the fund or funds from which the purchase of the particular commodities were made (80% to state agencies, 75% to Travel Management). Total reimbursements to State spending units was \$1,253,262.58 for the period July 1, 2001 through June 30, 2003.

We tested 14 reimbursements made to State spending units. We noted all fourteen reimbursements totaling \$990,552.22 were made to special revenue funds. We were unable to determine whether 11 of the fourteen reimbursements totaling \$274,526.83 were made to the correct fund because the documentation provided to us did not indicate from which fund the purchase had originated.

Five of the eleven reimbursements were to one spending unit totaling \$226,285.62 indicated the original purchases were made from general revenue funds, but did not indicate the fund numbers. We also noted Surplus at the spending units request, reimbursed a special revenue fund the \$226,285.62 instead of a general revenue fund.

Also, the sum of the supporting documents attached to three state spending units invoices totaling \$482,203.76 did not equal the total amount invoiced. The amount of the supporting documentation equaled \$499,748.76 for a difference of \$17,545.00.

We recommended:

Surplus Property reimburse agencies' general revenue funds in instances where general revenue funds were used to make the original purchase and Surplus Property foot state agency reimbursement invoices before submitting them for payment to ensure the correct amount is reimbursed in compliance with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

### **Agency's Response:**

**We agree with and accept the recommendation as issued. Discussion will be generated with the Division of Finance, which handles the accounting function for the Surplus Property Unit, in order to comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.**

### **Spending Unit Action:**

**Discussions were generated with the Division of Finance, which performs the accounting function for the Surplus Property Unit. As a result of the audit, Surplus Property informed all agencies they would no longer reimburse the fund the agencies requested them to reimburse. The spending units would have to provide proof of where the purchase originated. The Surplus Property Manager stated he met with the Director of Finance for the Department of Administration concerning the matter. The Surplus Property Manager informed us that the Director of the Legislative Post Audit Division told them if the agency could provide proof that the account was no longer used, and the new account was for the same purpose as the account that was no longer used, the new account could be reimbursed .**

**The Surplus Property Manager provided us with two Inter-Agency Transfer Invoices and supporting documentation showing agencies providing proof of the fund the purchase originated from or a reason why a different account should be reimbursed. Additionally, The Surplus Property Manager stated the reimbursement rate is now 50% of all sales proceeds.**

### **Sale of Non-State Agencies' Property**

Surplus is not authorized to sell property for non-state agencies. During the period July 1, 2001 through March 30, 2004, we noted 15 reimbursements was made for a total of \$84,089.47 for nine organizations; and 18 credit memos for a total of \$28,027.27 for 13 organizations were issued to non-state agencies by Surplus for sale of property totaling \$112,116.74.

Surplus did not agree with this finding and said they will seek a legal opinion regarding the applicability of Chapter 5A, Article 3, Section 8 of the West Virginia Code.

We recommended:

Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

### **Agency's Response:**

**This practice has been performed in accordance with Chapter 5A, Article 3, Section 8 of the West Virginia Code. Surplus Property will cease this practice while seeking a legal opinion regarding the applicability of this section as it pertains to the Surplus Property Program.**

### **Spending Unit Action:**

**Surplus Property did not obtain a legal opinion on whether they could sale non-state spending units property, therefore this practice has been suspended. We were provided with the sales orders of all property sold from the date of our audit report to current. We reviewed the documents and found no evidence of sales of non-state spending units property.**

### **Federal Compliance Audits**

We noted two instances where the acquisition cost of an item specified by the GSA was changed by Surplus Property without the GSA's approval. The first items acquisition cost of \$32,102 was changed to \$40,000; the second item's acquisition cost was \$5,824 and was changed to \$7,824. The Federal Surplus Property Supervisor said he increased the acquisition cost so he could charge a higher service charge because he felt that the items were worth more than the original acquisition cost.

We noted five instances where the time between compliance visits was longer than one year during the 18 month period of restriction after the property has been placed into use by the donee. Also Surplus did not require the donee to submit a written report to them on their utilization of the property.

We recommended:

Surplus Property comply with the General Services Administration Rules and Regulations 41 CFR Part§102-37.170 and the West Virginia State Agency for Surplus Property - Permanent Plan of Operations Sections 2.4, 6.7, 7.1, and Appendix I.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will comply with the General Services Administration Rules and Regulations 41 CFR§102-37.170 and the West Virginia State Agency for Surplus Property - Permanent Plan of Operations, Sections 2.4,6.7, 7.1 and Appendix I.**

**Spending Unit Action:**

**The Surplus Property Manager stated there have been federal compliance audits subsequent to the date of the audit report. We were provided documentation showing Surplus Property has been visiting donees receiving property with federal and/or state restrictions on the use of the property at least once a year during the period of restriction.**

**Legislative Rule Not In Compliance With the West Virginia Code**

The Department of Administration's Legislative Rule Title148, Series 4 "State Plan for the Operation of the West Virginia State Agency for Surplus Property, Division of the Department of Finance and Administration", and Legislative Rule Title 148, Series 5 "Availability of State Surplus Buildings and Equipment to Charity Food Banks", and the State Plan of Operations submitted to the GSA have not been updated.

We recommended:

The "State Plan for the Operation of the West Virginia State Agency for Surplus Property , Division of the Department of Finance and Administration" Legislative Rules Title 148, Series 4 and 5 be revised in order to be in compliance with Chapter 5A, Article 3, Section 43 of the West Virginia Code and the State Plan of Operations submitted to the GSA be revised.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will make the proper revisions as requested.**

**Spending Unit Action:**

**The Purchasing Division Director sent a memo dated November 17, 2004 to their legislative liaison to have this problem corrected, however, the revisions have not been made.**

## **Auctioneer Contract**

Surplus did not obtain three written bids for the auctioneer contract which exceeded \$5,000 in FY 2003 and 2002. During our audit period a total of 17 auctions were held, eight in FY 2003 and nine in FY 2002. Surplus has used the services of the same auctioneer for years. From July 1, 2001 through February 28, 2003 the fee was \$800 per auction, the fee increased to \$900 for the balance of the audit period. The total amount paid for fiscal years 2003 and 2002 were \$6,700 and \$6,400 respectively.

We recommended:

Surplus Property comply with the West Virginia Purchasing Division Policies and Procedures Handbook dated October 1, 2000.

### **Agency's Response:**

**We agree and accept the recommendation as issued and will comply with West Virginia Purchasing Division Policies and Procedures Handbook, dated October 1, 2000.**

### **Spending Unit Action:**

**The spending unit currently has an auctioneer contract. The Surplus Property Manager indicated the current winning bid is for \$615.00 per auction and is in effect from July 2006 through June 2007. He provided us with a copy of the WV-39 Bid Quotation form as well as several Auctioneer Invoices showing the winning bid. The Surplus Property Manager stated, due to the latest contract, Surplus Property has not been paying more than \$5,000.00 for the auctioneer. Additionally, effective June 8, 2006, there were changes to the state procurement regulations. For items costing between \$2,500.01 - \$5,000.00 only three verbal bids are required.**

## **Vehicle Sales**

Surplus was unable to provide National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guides for the period July 1, 2001 through June 30, 2003 which are used to calculate the average loan value. We could not determine if the target sales price for five of ten vehicle sales by sealed bids were at least the average loan value noted in the N.A.D.A. We also noted two instances in which Surplus failed to get the proper signature (Surplus Property Manager's) on the Used Vehicle Inspection Checklist for two vehicles with target prices of \$4,875 and \$4,000.

We noted Surplus's vehicle database states the price paid for a 1997 Ford F150 truck and 1994 Mercury Sable was \$5,000 and \$175 respectively. However the Distribution Document and the Sales states the buyers paid \$4,800 and \$100 for the vehicles.

We recommended:

Surplus Property comply with Chapter 5A, Article 3, Sections 2 and 45 of the West Virginia Code.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will comply with Chapter 5A, Article 3, Sections 2 and 45 of the West Virginia Code.**

**Spending Unit Action:**

**The Surplus Property Manager provided us with supporting documentation showing the Used Vehicle Inspection Checklist are being signed. We also verified National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guides are being retained by Surplus Property.**

**Unable to Physically Locate Merchandise for Resale**

During our review of Federal Surplus Property Inventory, we were unable to physically locate 34 items with a total acquisition cost of \$1,195.

We recommended:

Surplus Property comply with Section 3.1 of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will comply with Section 3.1 of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations.**

**Spending Unit Action:**

**The Surplus Property Manager stated the missing items from the audit report were located. He also informed us they only have about four or five federal property items in inventory currently because he started liquidating old GSA property through GSA.**

**Payment of Federal Excise Tax**

Federal Excise Tax was charged for gasoline purchases on several Petersen, Howell, and Heather (PHH) card monthly invoices. Surplus has not sought reimbursement from the federal government for these charges. We tested six invoices and found 100 instances in which the Excise Tax was charged for gasoline purchases. The total amount charged was \$1,270.39.

We recommended:

Surplus Property comply with the Internal Revenue Service, Publication 378, Fuel Tax Credits and Refunds.

**Agency's Response:**

**This issue will be addressed as part of the new contract for fuel services which is currently being bid by the Purchasing Division.**

**Spending Unit Action:**

**According to the Surplus Property Manager, Automotive Rentals, Inc (ARI) currently has the new contract for gasoline cards and they subtract the excise tax out of the gross amount on the invoice prior to showing the amount to be paid by Surplus Property. We acquired two invoices showing the Federal Excise Tax is being deducted from the amount of the gas purchases.**

**Equipment Inventory**

We tested nine equipment items with an acquisition price of \$1,000 or more. None of the items were reported on the Surplus Property Fixed Asset System. Four of the items were not being used by Surplus Property employees We also noted five items had no State property tag numbers.

We recommended:

The West Virginia Department of Administration's, Purchasing Division Surplus comply with Section 3.1, 3.6, and 3.11 of the Purchasing Division Inventory Management and Surplus Property Disposition Policies and Guidelines, revised October 1, 2000.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will comply with Sections 3.1, 3.6, and 3.11 of the Purchasing Division Inventory.**

**Spending Unit Action:**

**The Surplus Property Manager informed us Surplus Property has completed a physical inventory since the audit report date and all required equipment has been tagged. We obtained a current Fixed Assets System inventory listing and traced three items from the listing to their physical locations. All three items were located and properly tagged. Additionally, we traced three items from their physical locations to the inventory listing. All three items were properly listed on the inventory listing.**

**Purchases Made Not Directly Used by Surplus Property**

We tested 161 purchases. We noted 14 of 116 current expenses (\$533) were being used by the Purchasing Division; six of 31 equipment items (three computers \$4,678 and three monitors \$533) were being used by Purchasing Division employees; we noted three invoices (PA system for the Purchasing Division) for repairs and alterations totaling \$3,196. Half of the charges (\$1,598.50

was charged to the Sale of State Surplus Property Fund and the other half was paid from the Purchasing Division Fund.

We recommended:

Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

**Agency's Response:**

**We agree with and accept the recommendation as issued and will comply with Chapter 5A, Article 3, and Section 45 of the West Virginia.**

**Spending Unit Action:**

**The Surplus Property Manager informed us purchases that are not solely used by Surplus Property have stopped due to Surplus Property being low on funds. We also spoke with the Director of Finance for the Department of Administration concerning the matter, and were told that he has instructed his employees not to charge Surplus Property for items that are not used directly by Surplus Property.**

**Allocation of Salaries**

Surplus Property could not provide reasoning used to justify the percentage of salaries paid by Surplus Property funds for six Purchasing Division employees. Without documentation we could not verify the appropriate percentage of the Purchasing Division employees salaries were paid from the Sale of State Surplus Property Fund.

We recommended:

Surplus Property provide documentation noting the rationale behind the percentage calculations in compliance with Chapter 5A, Article 3, Sections 45 and 46 of the West Virginia Code.

**Agency's Response:**

**We will request that this documentation noting the rationale for the percentage calculations for salaries be provided by the Division of Finance.**

**Spending Unit Action:**

**The Director of Finance for the Department of Administration could not provide documentation for two employees that are being paid part of their salary from the Sale of State Surplus Property Fund. The Administrative Service Manager (.40 FTE) and her Executive Assistant (.84 FTE) are being paid from the Fund, however we can not determine the percentage of work time the employees are performing work for Surplus Property.**

### **Leave System Not Reliable and Documentation Not Provided**

The reports generated from the computerized leave system are not reliable. We tested the eight employees sick and annual leave balances. We noted several differences between the approved Applications for Leave with Pay (leave slips) and the Department of Administration's Leave System. We noted a difference between our audited annual balance and the Surplus balance for two employees as of June 30, 2003. We noted 21 instances where leave slips were not provided to us for two employees.

We recommended:

Surplus Property comply with Sections 14.3, 14.4, and 14.14 of the West Virginia Division of Personnel Administrative Rule.

#### **Agency's Response:**

**We will forward this recommendation to the Information Services and Communications Division and the Payroll Office of the Division of Finance for their information regarding the online system. Relating to the leave forms submitted by the Surplus Property staff, Surplus Property will comply accordingly.**

#### **Spending Unit Action:**

**Surplus Property sent a letter to IS&C to resolve the issue with the computerized leave system printouts. The Surplus Property Manager was assured the issue has been corrected. We chose one employee from one pay period and traced that employee's leave slips to the leave report. All leave reviewed was properly recorded.**