

LEGISLATIVE AUDIT REPORT

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MANAGEMENT

FOR THE PERIOD July 1, 2005 - June 30, 2007

REPORT OVERVIEW

Late Deposits and No Daily Itemized Receipt Records Maintained

Unable to Audit Hazardous Waste Annual Certification Fees

Commuting Reports Contain Conflicting Information & Weak Controls over Monitoring of Gas Purchases



WEST VIRGINIA LEGISLATIVE AUDITOR POST AUDIT DIVISION



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WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we are conducting an ongoing post audit of the West Virginia Department of Environmental Protection Division of Water and Waste Management for the period July 1, 2005 through June 30, 2007.

We are conducting our audit in accordance with auditing standards generally accepted in the United States. Our fieldwork to date has disclosed certain findings which are detailed in this report; we anticipate more reports will follow. The Spending Unit's management has responded to the audit findings; we have included the responses following each finding.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stacy L. Sneed".

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
JULY 1, 2005 – JUNE 30, 2007**

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**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
JULY 1, 2005 – JUNE 30, 2007**

INDEPENDENT AUDITOR'S REPORT

Post Audit Subcommittee:

Compliance

We have audited the Department of Environmental Protection (DEP), Division of Water and Waste Management's (DWWM) compliance with the laws, rules, and regulations applicable to (a) cash receipt collections and controls at the DEP headquarters; (b) gasoline purchases for the entire DEP; (c) DWWM collection of miscellaneous revenues; (d) DWWM expenditures for general purchases, travel, and utilities; (f) hazardous waste annual certification fee revenues; (g) NPDES annual permit fee billings; (h) DEP building allocation methodology used to allocate expenditures between DEP funds; (i) DWWM personnel services expenditures through June 30, 2008; and, (j) collections for hazardous waste Resource Conservation and Recovery Act (RCRA) permits for the two-year period ended June 30, 2007. Compliance with the requirements referred to above is the responsibility of DEP's management. Our responsibility is to express an opinion on the DEP's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on DEP. An audit includes examining, on a test basis, evidence about DEP's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. This audit was limited in scope to the items noted in (a) through (j) above and the post audit of the DEP is ongoing. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of DEP's compliance with those requirements.

In our opinion, except for the noncompliance noted in the findings of this report, DEP complied, in all material respects, with the compliance requirements referred to above that are applicable for the scope of the field work completed for the two-year period ended June 30, 2007.

Internal Control

Management of DEP is responsible for establishing and maintaining effective internal control over compliance with the compliance requirements referred to above. In planning and performing our audit, we considered DEP's internal control over compliance to determine the auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the DEP's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their functions, to prevent, or detect and correct, noncompliance on a timely basis. A *material weakness* in internal control over compliance is a deficiency, or combination of deficiencies in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis.

A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We consider Findings 1 and 2 to be significant deficiencies in internal control over compliance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies, or material weaknesses in internal control over compliance. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses.

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, and management of DEP. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

Respectfully submitted,

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

May, 28, 2010

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
JULY 1, 2005 – JUNE 30, 2007**

EXECUTIVE SUMMARY

Finding 1 Late Deposits and No Daily Itemized Receipt Records Maintained

- The DEP does not have an effective system of internal controls for maintaining daily itemized records of moneys received & ensuring deposits are made within 24 hours as required by law. Also checks are not restrictively endorsed until received by the Accounts Receivable Unit. As an off-setting strength, approximately 50% of the revenues are obtained by transfers of moneys collected by another state agency on behalf of DEP or deposited directly into DEP accounts through the WV State Treasurer's Office Lockbox System. For Fiscal Year 2006 – 2008 the DEP had total collections of \$512,017,812.18.
- We observed 247 unsecured checks totaling \$13,065.00 were held in an employee's office for an average of 13 days.
- We noted ten of the 11 reimbursements and nine of the 13 miscellaneous revenue deposits tested were in noncompliance with West Virginia Code Chapter twelve, Article 2, Section 2 of said code.

Auditor's Recommendation

We recommend the DEP strengthen internal controls over deposits by routing all checks received to the Accounts Receivable Unit from the mail room to ensure their timely receipt, deposit, safeguarding, and endorsement. We also believe checks should be restrictively endorsed immediately upon receipt by the DEP to safeguard the checks from unauthorized use or disposition.

Spending Unit's Response

DEP agrees with the finding regarding late deposits and the lack of daily itemized receipt records being maintained; however, the DEP disagrees with the recommendation that all receipts be routed through the accounts receivable unit.

(See pages 18 – 20)

Finding 2 Weakness in Internal Controls over Hazardous Waste Annual Certification Fees

- We were unable to audit revenues, totaling \$589,453.00, for Hazardous Waste Annual Certification Fees because computerized billing reports do not balance, lack of documented reconciliations and an insufficient audit trail. Reconciliations of the Hazardous Waste Office's accounting records to the ERIS System and cash collections are not documented and after the individual billing is reconciled it is deleted from the spreadsheet. We attempted to reconcile the Fiscal Year 2006 & 2007 computerized billing and revenue reports and noted unexplained differences of \$152,675 and \$52,667.00, respectively.
- The employee who maintains the Excel spreadsheet also gives notice to Accounts Receivable to adjust billings in the ERIS System. This employee could have access to the fee payments that are received at the DEP Headquarters. We were told this employee's supervisor approves all billing adjustments but such approval is not documented.

Auditor's Recommendation

We recommend the DEP implement an effective system of controls over certification fees by reconciling billings, payments, outstanding amounts and adjustments with cash collections to ensure the ERIS Billing System is functioning properly and maintain adequate records to document such reconciliations. We further recommend the DEP segregate duties of employees with access to receipts and all adjustment requests have supervisory authorization. Finally, the DEP should draft written accounting procedures to document the proper accounting for these fees.

Spending Unit's Response

DEP agrees with the finding.

(See pages 21 – 23)

Finding 3 Payment of Improper Invoice

- We noted one instance during our test of cash disbursements where DEP paid an invoice which did not meet the requirements from the State Auditor's Office.

Auditor's Recommendation

We recommend the DEP comply with the Legislative Rule Title 155, Series 1 and the West Virginia State Auditor's Office Payment Processing Guide by strengthening internal controls over payment processing.

Spending Unit's Response

DEP agrees with the finding.

(See page 24)

Finding 4 Late Payment of Invoices

- The DEP either did not timely process or pay 13 invoices, totaling \$150,604.33 in noncompliance with West Virginia Code Chapter five A, Article 3, Section 54 of said code. Three of these invoices were not paid within 60 days and were held an average of 77 days until paid.
- **NOTE: The Prompt Pay Act of 1990 (West Virginia Code Chapter five A, Article 3, Section 54 of said code) was repealed by House Bill 4582 passed on March 13, 2010.**

Auditor's Recommendation

We recommend the DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code and strengthen internal controls over the timely processing of invoices for payment.

Spending Unit's Response

DEP agrees with the finding.

(See pages 25 – 26)

Finding 5 Commuting Reports Contain Conflicting Information and Weak Controls over Monitoring of Gas Purchases

- We found conflicting information on an employee's income reporting for commuting travel and his written assertions concerning gasoline purchases for the same time period. We also found the DEP has weaknesses in the system of internal controls over gas purchases for personal commute by employees and there is a lack of compliance with DEP's Internal Policy for Conducting Audits of ARI Receipts and Exception Reports.

Auditor's Recommendation

We recommend the DEP comply with West Virginia Code Chapter 5A, Article 8, Section 9, DEP Internal policies and procedures, the IRS Taxable Fringe Benefit Guide and strengthen internal controls over gas purchases and reporting of commuting mileage by employees. We further believe internal controls at DEP will be strengthened with enforcement of the Department of

Administration's "Supplemental Report" dated October 23, 2009 which requires employees who drive state vehicles to keep maintenance and mileage logs.

Spending Unit's Response

DEP agrees with the finding.

(See pages 27 – 30)

Finding 6 Misclassified Expenditures

- During our test of DWWM General Purchases, we noted DEP misclassified seven of the 117 (6%) Fiscal Year 2006 & 2007 transactions tested.
- During our test of DWWM Annual Increment, we noted DEP misclassified three of the 135 Annual Increment payments tested for Increment paid for June 30, 2006, 2007, 2008, 2009 & 2010.
- During our test of DWWM Utilities, we noted DEP misclassified two of 14 (14%) transactions tested.

Auditor's Recommendation

We recommend the DEP strengthen internal controls over classification of expenditures to ensure transactions are made in accordance with the State of West Virginia Expenditure Schedule Instructions.

Spending Unit's Response

DEP agrees with the finding.

(See pages 31 – 33)

Finding 7 Misclassified Deposits

- During our test of DWWM Miscellaneous Revenues, we noted DEP misclassified 12 of the 22 transactions tested.
- We noted the DWWM Misclassified Resource Conservation and Recovery Act (RCRA) Permits revenues.

Auditor's Recommendation

We recommend the DEP comply with the West Virginia State Expenditure Schedule Instructions and the West Virginia Department of Administration Finance Division WVFIMS Training Materials.

Spending Unit's Response

DEP agrees with the finding.

(See pages 34 – 36)

Finding 8 Inaccurate Square Footage Cost Allocations

- During our initial test of the 2009 DEP Building Allocation Formula, we determined DEP had recorded the incorrect the square footage for one of 33 (3%) rooms measured. Based on the results of our test we selected an additional eight rooms for testing – the square footage calculation was incorrect for seven of the eight additional rooms measured.

Auditor's Recommendation

We recommend the DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code and strengthen internal controls over building allocation formula by implementing a system of controls to ensure room space, as well as any changes of use by the divisions, be properly accounted for and supporting documentation for the formula be retained. Finally, we believe the DEP should periodically reconcile recorded individual office square footage reported in the formulas to actual square footage as well as maintain accounting procedures for the formula.

Spending Unit's Response

DEP agrees with the finding.

(See pages 37 – 38)

Finding 9 Personnel Services Funding Source Unauthorized

- On the June 15, 2008 payroll, the DEP paid one of the 27 employees tested from funding not supported by the employee's WV-11 Personnel Action Form.

Auditor's Recommendation

We recommend the DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code and the West Virginia Budget Bill for Fiscal Year 2008 and maintain adequate documentation to support payroll funding.

Spending Unit's Response

DEP agrees with this finding and as stated in the finding, a subsequent WV-11 was processed to correct funding.

(See pages 39 – 40)

Finding 10 Missing Payroll Deduction & Classification Forms

- We were unable to locate adequate documentation to support payroll deductions for nine of the 27 employees tested. We were also unable to locate the Exempt/Non-Exempt White-Collar Exemption Sheet for one of the 27 employees tested.

Auditor's Recommendation

We recommend the DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code and the Fair Labor Standards Act and maintain adequate documentation to support payroll transactions.

Spending Unit's Response

DEP agrees with the finding.

(See pages 41 – 42)

Finding 11 Non-Compliance with West Virginia Travel Regulations

- We noted seven of the 81 transactions for DWWM travel expenditures were not submitted to the Auditor's Office within 15 days of the last date of travel. We also noted one of the 81 transactions tested where the Out of State Travel Authorization was not signed by a supervisor.

Auditor's Recommendation

We recommend the DEP comply with West Virginia Purchasing Division Travel Management Unit Travel Rules and the DEP Travel Rules by ensuring all out-of-state travel is properly authorized and all reimbursements are submitted in a timely manner.

Spending Unit's Response

DEP agrees with the finding.

(See pages 43 – 44)

Finding 12 WVNPDES Permit Invoices Not Timely Billed

- During our process of documenting procedures for the West Virginia national Pollutant Discharge Elimination System Water Pollution Control Permits (WVNPDES) we noted DEP in some cases does not invoice facilities in a timely fashion for fees due.

Auditor's Recommendation

We recommend the DEP comply with Legislative Rule Title 47 Series 26 Section 3.5 and collect all annual permit fees by the anniversary date.

Spending Unit's Response

DEP agrees with the finding.

(See page 45)

Finding 13 Overpayment of Separation Pay

- The DEP miscalculated the separation pay for one of the 15 employees tested. The employee received an overpayment of \$133.70.

Auditor's Recommendation

We recommend the DEP comply with West Virginia Code Chapter twelve, Article 3, Section 13 of said code as well as the Division of Personnel Policies for Severance Pay and Annual Increment.

Spending Unit's Response

DEP agrees with the finding.

(See pages 46 – 47)

Finding 14

Lack of Authority to Collect Fees

- DEP collected registration fees for “Rain Barrel Workshops” and “Nonpoint Source Volunteer Monitoring Conference” We were unable to locate statutory authority permitting the DEP to collect such monies.

Auditor’s Recommendation

We recommend the DEP collect only those monies authorized by statute and the DEP should seek legislative approval to charge participants for the above educational programs.

- **NOTE:** As of this time, the issue noted in this finding is being researched by our legal staff and is subject to revision based on their conclusions.

Spending Unit’s Response

DEP disagrees with the finding.

(See pages 48 – 49)

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
JULY 1, 2005 – JUNE 30, 2007**

INTRODUCTION

POST AUDIT AUTHORITY

This is the second of several reports on the ongoing post audit of the West Virginia Department of Environmental Protection (DEP) Division of Water and Waste Management (DWWM). The audit is being conducted pursuant to Chapter 4, Article 2 of the West Virginia Code, which requires the Legislative Auditor to “make post audits of the revenues and funds of the spending units of the state government, at least once every two years, if practicable, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization and functions of the state and its spending units.”

BACKGROUND

The DWWM was created in 2003 from The Office of Waste Management and the Division of Water Resources. In 2005 The Office of Environmental Enforcement was added to the Division of Water and Waste Management, along with the Waste Compliance Unit and Dam Safety Unit. The Division is organized into six operational units: Environmental Enforcement, Nonpoint Source, Permitting, State Revolving Fund, Water Quality Standards and Watershed Assessment. The purpose of the Division is to preserve and enhance West Virginia's watersheds for the benefit and safety of all. The Division of Water and Waste Management strives to meet its mission through implementation of programs controlling surface and groundwater pollution caused by industrial and municipal discharges as well as oversight of construction, operation and closure of hazardous and solid waste and underground storage tank sites. In addition, the Division works to protect, restore, and enhance West Virginia's watersheds through comprehensive watershed assessments, groundwater monitoring, wetlands preservation, inspection and enforcement of hazardous and solid waste disposal and proper operation of underground storage tanks. The Division has four regional offices throughout the state located in: Logan, Oak Hill, Philippi, and Welch.

A listing of personnel of the DEP is on the following page.

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
JULY 1, 2005 – JUNE 30, 2007**

SPENDING UNIT CONTACTS

Randy C. Huffman Cabinet Secretary (May 2008 – Present)
Deputy Cabinet Secretary and Director, Division of Mining & Reclamation
(April 2005 – April 2008)

Stephanie R. Timmermeyer Cabinet Secretary (March 2003 – April 2008)

Lisa A. McClung Deputy Cabinet Secretary (May 2008 – Present)
Director, Division of Water and Waste Management (March 2005 – May 2008)

Scott Mandirola Director, Division of Water and
Waste Management (September 2008 – Present)

June Casto Chief, Office of Administration (April 2008 – Present)

B. F. Smith Chief, Office of Administration (December 2003 – April 2008)

Jean J. Sheppard..... Controller (February 2010 – Present)

Ramona Dickson..... Controller (May 1998 - July 2009)

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
JULY 1, 2005 – JUNE 30, 2007**

AUDIT SCOPE

We have audited the Department of Environmental Protection (DEP) Division of Water and Waste Management's (DWWM) compliance with the laws, rules, and regulations applicable to (a) cash receipt collections and controls at the DEP headquarters; (b) gasoline purchases for the entire DEP; (c) DWWM collection of miscellaneous revenues; (d) DWWM expenditures for general purchases, travel, and utilities; (f) hazardous waste annual certification fee revenues; (g) NPDES annual permit fee billings; (h) DEP building allocation methodology used to allocate expenditures between DEP funds; (i) DWWM personnel services expenditures through June 30, 2008; and, (j) collections for hazardous waste Resource Conservation and Recovery Act (RCRA) permits for the two-year period ended June 30, 2007. The audit was conducted in accordance with auditing standards generally accepted in the United States. This audit was limited in scope to the items noted in (a) through (j) above and the post audit of the DEP is ongoing.

The funds audited by us relating to the above findings are included as Supplemental Information beginning on page 50 of this report.

OBJECTIVES AND METHODOLOGIES

The objectives of our post audit are to audit the revenues and expenditures of the DWWM related to the following areas: (a) cash receipt collections and controls at the DEP headquarters; (b) gasoline purchases for the entire DEP; (c) DWWM collection of miscellaneous revenues; (d) DWWM expenditures for general purchases, travel, and utilities; (f) hazardous waste annual certification fee revenues; (g) NPDES annual permit fee billings; (h) DEP building allocation methodology used to allocate expenditures between DEP funds; (i) DWWM personnel services expenditures through June 30, 2008; and, (j) collections for hazardous waste Resource Conservation and Recovery Act (RCRA) permits for the two-year period ended June 30, 2007; to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, that we find, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization and functions of the state and its spending units. We were to determine whether expenditure and revenue transactions were related to the above mentioned programs, were reasonable, and were recorded properly in the accounting systems. Additionally, we were to examine the spending unit's records and internal control, and to evaluate its compliance with applicable State laws, rules and regulations over the above mentioned programs.

In preparation for our testing, we studied legislation, applicable WV Code sections, applicable rules and regulations, and policies of the above mentioned programs. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observations of the spending unit's operations, and through inspections of documents and records. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Additionally, we reviewed the budget, studied financial trends, and interviewed spending unit personnel to obtain an understanding of the programs and the internal controls. In planning and conducting our post audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk.

A nonstatistical sampling approach was used. Our samples of transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Transactions were selected for testing using professional judgment.

The Department of Environmental Protection's written response to the significant deficiencies and reportable compliance and other matters identified in our audit has not been subjected to the auditing procedures applied in the audit and, accordingly, we express no opinion on it.

The Department of Environmental Protection's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Post Audit Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

CONCLUSIONS

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the spending unit's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report includes findings regarding significant instances of noncompliance with applicable laws, rules or regulations. Other less significant findings were communicated to the spending unit that did not warrant inclusion in this report.

EXIT CONFERENCE

We discussed this report with management of the spending unit on May 26, 2010. All findings and recommendations were reviewed and discussed. Management's response has been included at the end of each finding.

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
JULY 1, 2005 – JUNE 30, 2007**

SIGNIFICANT DEFICIENCIES, REPORTABLE COMPLIANCE AND OTHER MATTERS

Finding 1 Late Deposits and No Daily Itemized Receipt Records Maintained

Condition: The DEP does not have an effective internal control system in place for maintaining daily itemized records of monies received for deposit as well as ensuring deposits are made within 24 hours of receipt in noncompliance with West Virginia Code Chapter twelve, Article 2, Section 2 of said code. We found checks received at the DEP are, in general, delivered directly to various program offices/divisions that regulate or oversee the type of fee received. As such, receipts are not sent directly to the Accounts Receivable Unit for immediate deposit.

As an off-setting strength, the DEP receives approximately 50% of revenues at the DEP headquarters and regional offices; the other 50% of revenues are obtained by transfers of monies collected by the other state agencies on behalf of the DEP or receipts that are deposited directly into DEP accounts through use of the WV State Treasurer’s Office lockbox system. The table below reflects the collection of revenues for the three-year period ended June 30, 2008.

Fiscal Year	Collected by DEP	Collected by Other Agencies for DEP	Total Collections	Percent Collected by DEP
2006	\$ 83,238,981.36	\$ 97,482,030.21	\$ 180,721,011.57	46.06%
2007	102,661,421.18	66,400,811.43	169,062,232.61	60.72%
2008	<u>80,842,449.78</u>	<u>81,392,118.22</u>	<u>162,234,568.00</u>	<u>49.83%</u>
Total	<u>\$ 266,742,852.32</u>	<u>\$245,274,959.86</u>	<u>\$ 512,017,812.18</u>	<u>52.10%</u>

The results of audit tests and procedure gathering of various revenue sources revealed the following:

1. We observed an Environmental Resource Associate had numerous checks with attached applications laying unsecured on her desk and other visible places in her office. We immediately performed a count of the 247 checks which totaled \$13,065.00. Since no daily itemized record of checks received for deposit was maintained by the Associate, we used the received date-

stamp on the permit applications that accompanied the checks and found the checks had been held an average of 13 days.

2. We tested 16 of 283 reimbursement transactions for the DWWM during Fiscal Year 2006 & 2007. Our sample included five expense to expense transfers and 11 deposits. Five of the 11 deposits, totaling \$342.80 were not deposited within 24 hours of receipt and held, on average, five days before deposit. Of the remaining six deposits, we were unable to determine compliance with the 24-hour deposit requirement for five deposits, totaling \$463.58, because the DEP had not maintained a daily itemized record of monies received.
3. We tested 22 transactions totaling \$514,857.82 of the 268 transactions totaling \$517,911.35 for the DWWM Miscellaneous Revenues during Fiscal Year 2006 & 2007. Our sample included 13 deposits, totaling \$20,725.54. Because of the lack of a daily itemized record, we were unable to determine when checks were received for three of the deposits, totaling \$13,081.43. We also noted nine deposits, totaling \$7,215.61, which were not made within 24 hours of the receipt of the check.
4. Checks are not endorsed until received by the Accounts Receivable Unit.
5. Some program offices/divisions did maintain daily itemized receipt records; however, these records were not reconciled to the actual cash deposited making such record ineffective. Receipt records reconciled to actual cash is the control used to determine all receipts received were deposited.

Criteria:

West Virginia Code Chapter five A, Article 8, Section 9 of said code states in part:

“The head of each agency shall:

. . . (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities. . . .”

West Virginia Code Chapter twelve, Article 2, Section 2 of said code, as amended, states in part:

“(a) All officials and employees of the state authorized by statute to accept moneys due the State of West Virginia shall keep a **daily itemized record** of moneys received for deposit in the State Treasury and **shall deposit within twenty-four hours** with the State Treasurer all moneys received or collected by

them for or on behalf of the state for any purpose whatsoever...” (Emphasis added)

Cause: In addition to the ineffective routing system in place for mail receipts at the DEP, we found some program office staff, as procedure, record application information into the permit computerized databases before sending checks to Accounts Receivable. The Associate noted above told us that due to the large volume of permit applications her office had received, they were unable to deposit the checks within 24 hours of receipt.

Effect: The weaknesses noted above result in an increased risk that checks may be misplaced, lost or stolen. Further, depositing checks timely results in maximized interest earnings.

Recommendation: We recommend the DEP comply with West Virginia Code Chapter twelve, Article 2, Section 2 of said code, as amended, and strengthen internal controls over deposits by routing all checks received to the Accounts Receivable Unit from the mail room to ensure their timely receipt, deposit, safeguarding, and endorsement; further, internal controls would be strengthened over the safeguarding of checks from loss or theft and maximize interest earnings through timely deposits. We also believe checks should be restrictively endorsed immediately upon receipt by the DEP to safeguard the checks from unauthorized use or disposition. Further, the Accounts Receivable Unit has a safe which can be used to safeguard receipts overnight.

**Spending Unit's
Response:**

The Department of Environmental Protection (DEP) agrees with the finding regarding late deposits and the lack of daily itemized receipt records being maintained. However, the DEP disagrees with the recommendation submitted by the Legislative Post Audit Division. The DEP receives all DEP Charleston Headquarters mail in a central mail room which is distributed to each division in DEP. The DEP central mail room does not open any mail as this would cause serious delays in processing and could also cause DEP to violate the Privacy Act should an envelope contain an employee's personal information. The envelopes do not indicate that a check is inside for permit applications. Once the mail is sorted, it is placed in the individual division's mail box for pick up. Pickups occur at least two times per day by the division's staff. The division opens their mail and permit applications are distributed to the permitting staff for processing. The DEP has implemented a process wherein the division will log all checks into a log sheet and the check will be hand delivered to Accounts Receivable for immediate deposit within the 24 hour requirement. This process will ensure that the DEP complies with Chapter 12, Article 2, Section 2 of the West Virginia Code.

Finding 2

Weakness in Internal Controls over Hazardous Waste Annual Certification Fees

Condition:

1. We were unable to audit revenues, totaling \$589,453.00, for Hazardous Waste Annual Certification fees because computerized billing reports do not balance, lack of documented reconciliations and an insufficient audit trail. We attempted to reconcile the amounts billed, collected and uncollected as recorded in the ERIS Receivable System for the period of July 1, 2005 – June 30, 2007 with cash deposits. We found the reports provided to us of amounts billed (which included any outstanding balances due from prior periods) did not equal amounts collected and uncollected. We requested a record for any adjustments made to billings in ERIS and were provided with numerous copies of emails requesting billings be changed. We also found the Hazardous Waste Division maintains an Excel spreadsheet where, according to agency personnel, billings and collections are recorded and reconciled to the ERIS system and cash collections. However, such reconciliations are not documented and after an individual billing is reconciled, it is deleted from the spreadsheet. Below is the schedule of our attempted reconciliation between the computerized billing reports:

	<u>Fiscal Year 2007</u>	<u>Fiscal Year 2006</u>
Amounts Billed - ERIS Invoice Report	\$415,198.00	\$379,349.00
Amounts Paid - ERIS Revenue Report	(362,531.00)	(226,674.00)
Uncollected Report	<u>0.00</u>	<u>0.00</u>
<u>Difference</u>	<u>\$ 52,667.00</u>	<u>\$152,675.00</u>

Each year around September, the Division invoices hazardous waste facilities for annual certifications fees ranging from \$24 to \$5,000. Additional fees include a 25% penalty of the fee assessment if the amount is not paid by November 15th of each year. To perform billings, the Hazardous Waste Office sends an Excel spreadsheet which lists the facility's current year fee and any outstanding balances or late fees to the IT Department which uploads the information into ERIS Receivable System. Past due balances of prior billings in ERIS are "zeroed" out and the prior balance is included in the current year's bill making the uncollected reports show no balance due. We also found the ERIS individual customer ledgers do not maintain running balances. Finally, the DEP has not developed written accounting procedures to provide direction for reconciliations and adjustments.

2. The employee in the Hazardous Waste Office who maintains the Excel spreadsheets also gives notice to Accounts Receivable to adjust billings in the ERIS system. A majority of fee payments are made through the State Treasurer's Office Lockbox System but this employee could have access to the fee payments that are received at the DEP Headquarters. We were also told

this employee’s supervisor approves all billing adjustments but such approval is not documented.

Criteria:

West Virginia Code Chapter five A, Article 8, Section 9 of said code, as amended, states in part:

“The head of each agency shall. . .

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities.”

Legislative Rule Title 33, Series 24 states in part:

“5.1 All persons subject to this rule shall annually pay the hazardous waste management fee in accordance with the following schedule:

<u>Category</u>	<u>Fee</u>
TSD	\$3,000 per facility
Large Quantity Generator	\$2,000 per facility or a maximum of \$5,000 for multiple facilities owned by the same person, whichever is lower
Small Quantity Generator	\$200 per facility or a maximum of \$2,000 for multiple facilities owned by the same person, whichever is lower
Conditionally Exempt Small Quantity Generator	\$24 per facility”

“5.3. Fees submitted after November 15 of each calendar year are subject to a late charge of twenty-five percent of the fee assessed. Persons with a facility subject to this rule who have not paid the fee assessment and any late charge by December 31 of each calendar year may be subject to the provisions of W. Va. Code §22-18.”

Cause:

The Hazardous Waste Program Office informed us the Department was not fully integrated into the ERIS System yet, and “adjusting off” the invoices at the end of each Fiscal Year made it easier on the Fiscal Office, due to the fact that the balance would carry over anyway. The Office also told us they reconcile the

Excel spreadsheets but do not maintain any evidence such reconciliation was performed. DEP's Chief, Office of Administration, told us ERIS reports were not reconciled because the DEP reconciled the Excel spreadsheet. Also, the Chief stated an Excel spreadsheet is necessary and yearly uploads of billings into the ERIS system are required because the computerized facility database in the Office is not integrated with the ERIS System.

Effect: Without an effective billing and reconciliation process, the DEP is unable to determine if amounts billed and collected are properly accounted for. Documentation of adjustment authorizations is necessary to show supervisory approval and employees that have access to accounting records should not have access to receipts.

Recommendation: We recommend DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of the West Virginia Code, as amended. We recommend the DEP implement an effective system of controls over certification fees by reconciling billings, payments, outstanding amounts and adjustments to ensure the ERIS billing system is functioning properly and maintain adequate records to document such reconciliations. We further recommend the DEP segregate duties of employees with access to cash receipts (cashier) from the accounting function. Also, all adjustment requests should have supervisory authorization from an employee separate from the cashier function. Finally, the DEP should draft written accounting procedures to document the proper accounting for these fees.

Note: The DEP told us that since we performed our attempted reconciliation of accounting records to cash, accounting procedures have changed where adjustments are accounted for and reconciliation of all reports is possible. Based on this assertion, we will attempt to test Fiscal Years 2008, 2009 and 2010 which will be included in the scope of our next report.

Spending Unit
Response:

DEP agrees with the finding and is implementing procedures and developing reports that will enable the reconciliation of the ERIS receivable system to the state's accounting system (FIMS).

There are procedures in place that distribute the responsibility for the Hazardous Waste billings to more than one employee. We will strengthen these procedures to include actual signoffs and/or initialing for authorization in order to document these processes.

Finding 3 Payment of Improper Invoice

Condition: During our test of cash disbursements, we noted an instance where DEP paid an invoice which did not meet the requirements from the State Auditor’s Office. The invoice was for a state vehicle being “detailed” at a car wash. The amount listed on the invoice for the service did not match the total of the invoice. The invoice listed the cost of the service at \$85.00 and the total on the invoice was \$100.00.

Criteria: Legislative Rule Title 155 Series 1, states in part:

 “. . . 3.1. Itemization. All invoices submitted to the Auditor for payment shall contain the following:
3.1.a. An itemized description indicating the type of materials, supplies or service provided;
3.1.c. Any additional information required by the Auditor; . . .”

West Virginia State Auditor’s Office Payment Processing Guide Chapter 3, Section II, states in part:

“B. INVOICE REQUIREMENTS
. . . **7. Invoice extensions and total must be correct.” (Emphasis Added)**

Cause: According to DEP, the \$100.00 transaction was paid in error- the amount should have been \$85.00. It was overlooked at the program level, Fiscal Services, and the WV State Auditor’s Office.

Effect: The State overpaid a vendor \$15.00.

Recommendation: We recommend the DEP comply with the Legislative Rule Title 155, Series 1 and the West Virginia State Auditor’s Office Payment Processing Guide by strengthening internal controls over payment processing.

Spending Unit’s
Response: *DEP agrees with this finding in that DEP paid an incorrect amount. The DEP does acknowledge that a vendor was overpaid by \$15.00 due to an error in processing. The DEP will continue to audit and review payments of invoices to ensure accuracy.*

Finding 4

Late Payment of Invoices

Condition:

We found 12 transactions of 117 cash disbursement transactions tested (15%) which either were not processed or paid timely in noncompliance with West Virginia Code Chapter five A, Article 3, Section 54 of said code – also known as the “Prompt Pay Act of 1990”. These transactions were for invoices which had been allocated across multiple DEP funds, the total amount paid for these invoices was \$69,530.88. We also found one additional invoice for a Hazardous Waste expenditure which was not processed or paid timely. The schedule below details the types of noncompliance.

<u>Type of Noncompliance</u>	<u>Number of Transactions</u>	<u>Total Amount Paid for Invoice</u>
Invoices not processed within 10 days*	10	\$ 63,255.27
Invoices not processed within 10 days and not paid within 60 days*	3	87,349.06
Total	13	\$150,604.33

***excludes weekends and state holidays**

The three invoices above which were not paid within 60 days were held for anywhere from 61 to 97 days with an average of 77 days before being paid.

Criteria:

West Virginia Code Chapter five A, Article 8, Section 9 of said code states in part: “The head of each agency shall:

(a) Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities.”

West Virginia Code Chapter five A, Article 3, Section 54 of said code states in part:

“(b) (1) ... a state check shall be issued in payment thereof within **sixty days** after a legitimate uncontested invoice is received by the state agency receiving the services or commodities ...”

“(d) The state agency initially receiving a legitimate uncontested invoice shall process such invoice for payment within **ten days** from its receipt ...” (Emphasis added)

Cause: Based on inquiries with DEP, we believe the reasons for late processing and payments include, but are not limited to, the program offices not submitting invoices with proper coding or supporting documentation to Accounts Payable timely.

Effect: Before the March 2010 repeal of the “Prompt Pay Act”, late payments could result in interest penalties. However, the payments noted above did not result in any interest paid. We further believe late processing of invoices can result in invoices not being paid because the current fiscal year’s appropriation has expired and/or vendors may refuse to provide future services because of late payments.

Recommendation: We recommend DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code and strengthen internal controls over the timely processing of invoices for payment.

NOTE: The Prompt Pay Act of 1990 (West Virginia Code Chapter five A, Article 3, Section 54 of said code) was repealed by House Bill 4582 passed on March 13, 2010.

Spending Unit’s
Response:

DEP agrees with this finding and acknowledges that there were 12 invoices reviewed that were not paid within a 10 day time frame. Each of these invoices had legitimate reasons for the delay. In most cases additional documentation had to be provided in order for the payment to be processed. As a general rule, the Accounts Payable section of DEP processes all invoices received within a 3 day turnaround time.

There have not been any instances that DEP is aware of where a vendor submitted an invoice for payment of late processing fees based on the prompt payment act.

Finding 5

Commuting Reports Contain Conflicting Information and Weak Controls over the Monitoring of Gas Purchases

Condition:

1. We found conflicting information on an employee's income reporting form for commuting travel and his written assertions concerning gasoline purchases for the same time period. The employee indicates on the reporting form he had no commuting travel but provided a written response indicating his gasoline purchases made were for commuting from his home to the office.

In our test of gasoline expenditures, we noted an employee assigned a state vehicle made five purchases totaling \$283.55 between February 27 and March 21, 2008. We reviewed the employee's time sheet for any recorded activity that required travel to support the above purchases but were unsuccessful. We asked the employee's supervisor for an explanation about the purchases; the supervisor requested a response from the employee to our inquiries. The employee responded – via email to his supervisor – “Those days were spent traveling to and from the office. With the exception of going to the Charleston Office for a staff meeting on March 13th. If you notice those fuel purchases are spaced over an average 4 day period – this is about how often I buy fuel to travel the distance from home to Parkersburg.”

The supervisor also provided us with the commuting forms used to inform the payroll division of reportable income; these forms certified the employee commuted zero miles for the two-quarter period December 1, 2007 – February 28, 2008 and March 1-May 31, 2008. The forms were signed by the employee as well as his supervisor. Based on the evidence provided, we believe fraud may have occurred because the employee asserted the gas purchases made for the state vehicle were for commuting purposes but reported zero commute on the income reporting forms.

2. The DEP has weaknesses in the system of internal controls over gas purchases for personal commute by employees.

We found, based on inquiries with supervisors of employees making gas purchases and a review of the income reporting form for commuting, the DEP needs to strengthen controls over the monitoring of employee reported commuting mileage. Although supervisors sign an employee's reporting form for commuting mileage, we found the forms do not give specific dates of commuting travel therefore making it difficult for anyone to monitor the days reported. In December 2008, we emailed various supervisors of employees with assigned vehicles and asked “how do you know the number of days that the employee puts on the form [for commuting] is correct?” Some responses indicate supervisors rely on the employee to accurately report days commuted.

3. Lack of Compliance with Internal Policy for Conducting Audits of ARI Receipts and Exception Reports

According to DEP policy, “those who conduct the audits keep the receipts or copies of them [receipts] which document red flag purchases in case of an audit.” The policy also requires the person conducting the audit to sign exception reports as evidence an audit was performed. Nineteen of the 157 receipts selected for testing were listed on exception reports. Of these 19 transactions, DEP was unable to provide us with two receipts - one for a “type of fuel” exception (regular/premium) and another receipt to support the exception for “more than two fuel purchases in a day”. We also found through our inquiries of employees conducting audits that signatures were missing on the reports; however, we noted these employees did maintain receipts, exception reports and other documents which would indicate audits were performed. We also determined DEP was not using all of the monitoring reports available from ARI. In a previous review by our office, DEP stated they had requested exception reports where miles per gallon was above 50 or below 10, however, the exception reports made available to us during our audit did not have a miles per gallon calculation.

Criteria:

The *Taxable Fringe Benefit Guide* published by the IRS Office of Federal, State, and Local Governments states in part:

Page 41, Employer-Provided Vehicle

“If an employer-provided vehicle is used for both business and personal purposes, substantiated business use is not taxable to the employee. **Personal use is taxable to the employee as wages.**”

Page 42, Substantiation Requirements.

“**Separate records for business and personal mileage are required.** If records are not provided by the employee, the value of all use of the automobile is wages to the employee, and the employee can take itemized deductions for any substantiated business use on Form 1040, Schedule A. If records are provided by the employee to the employer, only the personal use of the automobile is wages to the employee.” **(Emphasis Added)**

The Department of Environmental Protection “Procedures for Auditing Vehicle Fuel Invoices” Section III, B states in part:

“Each quarter, the person designated by Division/Office management will review the exception report and question red-flag purchases. . . Any explanations should be documented and a copy maintained with the Division/Office. The person conducting the audit must sign off on the exception report audited indicating that they have conducted the audit.”

The WV Department of Environmental Protection “Vehicle Policy” Section 3.5, states in part:

“If a vehicle is used to commute, the employee **must complete the required tax forms and return them to the Human Resources section**”... (Emphasis added)

West Virginia Code Chapter five A, Article 8, Section 9 of said code, as amended, states in part:

“The head of each agency shall:

... (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights for the state and of persons directly affected by the agency’s activities... .”

Cause: We believe audit reports were not signed because the DEP has no procedure in place to determine if supervisory audits of exception reports are being performed in accordance with internal policy. We further believe the DEP has not implemented an adequate internal control system for the reporting of commuting mileage.

Effect: The lack of effective monitoring of mileage and gasoline purchases may result in a) employees not reporting or under-reporting commuting travel to the payroll department resulting in underreported income by the employer to the IRS; and, b) an increased risk that gasoline purchases could be used for illegal personal use and go undetected by management.

Recommendation: We recommend that DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code, as amended, DEP internal policies and procedures, the IRS Taxable Fringe Benefit Guide and strengthen internal controls over gas purchases and reporting of commuting mileage by employees. We further believe internal controls at DEP will be strengthened with enforcement of the Department of Administration’s “Supplemental Report” dated October 23, 2009 which requires employees who drive state vehicles to keep maintenance and mileage logs.

Spending Unit's
Response:

DEP agrees with the finding for the commuting report. That employee is no longer a DEP employee and there was some confusion regarding his need to be on call for the agency. He received an opinion from his tax preparer that stated if he was on call, he did not have to claim the commuting value. He was assigned a vehicle because he had to be available for emergencies but was free to move about as he pleased. Therefore, he should have paid a commuting value to the IRS.

DEP has implemented a process in our time and activity system that requires the assigned drivers to record their odometer reading each day, their destination and their commuting. This time and activity report is reviewed by their supervisor for accuracy before approval. At the end of each quarter, the payroll office receives the commuting information from the time and activity system and charges the appropriate amount for commuting to each employee.

DEP has a documented process in place for the auditing of gas receipts. Although there were a few coordinators that did not sign off on the audits, the audits are being performed. The process requires vehicle coordinators in each division to audit fuel exception reports quarterly to ensure employees purchase the proper type of fuel, multiple fuel purchases in one day and miles per gallon is normal. DEP drivers are asked to keep their fuel receipts until the quarterly audit is performed. The DEP has resolved the ARI reporting issue and we are now receiving adequate reports from them to perform the audit.

Note: *In most instances, the ARI reports are incorrect in regard to the type of fuel purchases. Often the report will note that it is premium gas and our receipt indicates that the purchase was for regular gas. ARI has explained that some of the gas stations are not equipped with electronic means to transfer the information and the attendant must keypunch the information in and the discrepancy is from the attendant's data entry errors.*

Finding 6 Misclassified Expenditures

Condition:

1. Test of General Purchases

We noted seven of the 117 (6%) DWWM transactions tested were misclassified. The schedule below details the misclassification by object code noted during our test of Fiscal Year 2006 & 2007 expenditures:

<u>#</u>	<u>Agency Code</u>	<u>Audited Code</u>	<u>FIMS ID#</u>	<u>FY</u>	<u>Transaction Amount</u>	<u>Description of Purchase</u>
1	034	035	I007126789	2006	\$ 1,481.25	DNR/T-Shirts/090705
2	020	025	I007665586	2007	11,424.00	Epiphany Consulting LLC - Virtual Assessment Center
3	020	077	I007041858	2006	2,839.53	West Payment Center - West Information Charges Subscription
4	020	077	I007876343	2007	3,011.06	West Payment Center - Professional Journal Subscription
5	020	077	I007876351	2007	3,011.06	West Payment Center - Professional Journal Subscription
6	020	077	I007098574	2006	2,839.53	West Payment Center - West Information Charges Subscription
7	051	053	I007170304	2006	386.18	Innovation Exhibits Inc - DWM/Shipping and Handling only for Display Items
					<u>\$24,992.61</u>	

2. Test of Annual Increment

We noted three payments, totaling \$2,150, of 135 payments (2%) tested, totaling \$104,741.00, where annual increment was misclassified as personal services in noncompliance with the WV Expenditure Schedule Instructions. Our population consisted of 1,028 increment payments made during FY 2006 through 2010 for the June 30 Increment and totaled \$896,056.25. The schedule below shows the employees total increment.

<u>Employee #</u>	<u>Increment Year</u>	<u>Total Increment</u>	<u>Agency Code</u>	<u>Audited Code</u>
1	July 2006	\$ 700.00	001	004
2	July 2006	250.00	001	004
3	July 2006	<u>1,200.00</u>	001	004
Totals		<u>\$2,150.00</u>		

3. *Test of Utilities*

The DEP misclassified two of 14 transactions (14%) reviewed during the test of utilities. The population for DWWM Utility expenditures was 1,944 transactions totaling \$220,287.88. Our sample of 14 transactions totaled \$13,537.24

<u>#</u>	<u>Agency Code</u>	<u>Audited Code</u>	<u>FIMS ID#</u>	<u>FY</u>	<u>Transaction Amount</u>	<u>Description of Purchase</u>
1	023	025	I007527751	2007	\$106.00	Payment on Contract for Field testing samples for Landfill
2	023	026	I007132529	2006	<u>18.00</u>	Employee travel reimbursement
					<u>\$124.00</u>	

Criteria:

The State of West Virginia Expenditure Schedule Instructions states in part:

“001 - *Personal Services*: Compensation paid to full-time, part-time, temporary or intermittent employees with payroll deductions, e.g., Federal or State withholding, social security, retirement, etc. . .”

“004 - *Annual Increment*: Annual compensation to an eligible employee as defined in the state code (W.Va. Code §5-5-1). . . **Annual Increment shall always be paid using Object Code 004.**”

“020 – Office Expenses: Those supplies normally used in the operation of an office are primarily considered expendable in nature ...”

“023 – Utilities: Natural gas, electric, fuel oil or any other substance used for heating, cooling, light, sanitation fees, trash/garbage disposal, fire service, septic tank maintenance, . . .”

“025 – Contractual and Professional: Services performed by individuals or firms considered to be professional or semiprofessional in nature...(C) Consultants and Consulting Fees: Fees for service, per diem, and/or honorariums for consultants in accordance with an approved agreement with the spending agency.”

“026 – Travel: Payments for authorized in-state travel and out-of-state travel expenses. . .”

“034 – Clothing, Household and Recreational Supplies: Articles of clothing purchased or rented for state employees ...”

“035 – Advertising and Promotional: ...special sponsorships, publicity advertising to include pamphlets, road maps, and bill boards. . .”

“051 – Miscellaneous: ...those supplies and services which cannot be classified under any other object code...”

“053 – Postal and Freight: Charges for either shipping or receiving material ...”

“077 – Books and Periodicals: ... Films, **Internet library access**, VCR tapes, CD’s and recordings (**value greater than \$5,000**). This would include a single book

purchased with a value of less than \$5,000 if when added to a collection, the total value of the collection would exceed \$5,000. . .”(Emphasis Added)

Cause: According to DEP, some of the causes for the misclassifications were due to the State Auditor’s Office considering payments for law library subscriptions and payments for the Virtual Assessment Center used by DEP as subscriptions and requiring DEP to use a specific object code, error made by the DEP personnel coding the invoices, and errors made to the coding when the invoices were entered into WVFIMS.

Effect: Misclassification of transactions results in inaccurate reporting for financial purposes as well as DEP’s noncompliance with expenditure schedule instructions.

Recommendation: We recommend the DEP strengthen internal controls over classification of expenditures to ensure transactions are made in accordance with the State of West Virginia Expenditure Schedule Instructions.

Spending Unit’s
Response: *DEP agrees with this finding. In some instances the object code used was based on prior activity with that vendor. It should be noted that although the object code used may have differed, all of the expenditures were captured and proper funding sources were used.*

Finding 7**Misclassified Deposits**

Condition:

1. Miscellaneous Revenues

We tested 22 transactions of the 268 transactions for DWWM Miscellaneous Revenues during Fiscal Year 2006 & 2007 and found 12 transactions were misclassified:

<u>#</u>	<u>Agency Code</u>	<u>Audited Code</u>	<u>FIMS ID #</u>	<u>FY</u>	<u>Invoice Amount</u>	<u>Description</u>
1	399	014	D001225445	2006	\$ 7,703.09	Refund of overpayment of Worker's Compensation
2	399	564	D001150394	2006	1,727.62	Refund of Unused Funds – Stream Partners Grants - Main Island Creek Partners
3	399	564	D001331776	2007	899.17	Refund of Unused Funds- Stream Partners Grants - Big Coal River WSA
4	399	670	D001176559	2006	5.44	Donation to DEP from Great Kanawha River Cleanup – Interest & Balance in Account
5	399	670	D001170683	2006	4,378.34	Donation to DEP from Great Kanawha River Cleanup
6	399	670	D001239826	2006	1,000.00	Grant from PEIA/BeBetter network – used for purchasing exercise equipment for fitness center
7	399	697	E000653772	2006	214,227.57	UST/Court Order of Payments of Funds for Disputed Claims – Transfer funds from General Revenue to Special Revenue
8	399	697	E000596271	2006	246,787.79	UST/Court Order of Payments of Funds for Disputed Claims – Transfer funds from General Revenue to Special Revenue
9	399	861	E000605655	2006	1,824.00	DOJ Equipment Grant applied for and received from WV Office of Emergency Services
10	399	861	E000648962	2006	27,505.30	DOJ Equipment Grant applied for and received from WV Office of Emergency Services
11	399	861	D001233761	2006	1,995.00	E00605097 Transferred to Wrong Fund - (Originally - DOJ Equipment Grant applied for and received from WV Office of

						Emergency Services)
12	671	861	E000631367	2006	<u>135,142.00</u>	E000617058 Change Revenue Source - (Originally - DOJ Equipment Grant applied for and received from WV Office of Emergency Services)
Total					<u>\$643,195.32</u>	

2. RCRA Permits

During our audit of the Resource Conservation and Recovery Act (RCRA) Permits, we noted that fees were deposited into the incorrect revenue source code. RCRA Permits are required for most facilities that treat, store or dispose of hazardous waste. DEP deposited \$26,000.00 and \$9,555.55 during Fiscal Years 2006 & 2007, respectively, for RCRA Permits. These fee's were deposited using internal object codes 252 (Fees) and 253 (Permits) which roll up into Revenue Source 696 – Other Collections, Fees, Licenses and Income. However, we believe that RCRA Permit Fees should have been deposited into Revenue Source 655 - Hazardous Waste Permits.

Criteria:

The West Virginia Department of Administration Finance Division WVFIMS Training Materials - Revenue Transactions Deposits Revenue & Refund Add Deposit states in part:

“Refund Deposit Used to record deposits, which are refunds to the State. This type of deposit results in a decrease in your fund’s expenditure disbursement control balance and an increase in your fund’s cash balance. An example would be a vendor refund for overpayment, when the original transaction was processed as an Invoice.”

The West Virginia State Expenditure Schedule Instructions states in part:

“014 – Worker’s Compensation: Worker’s Compensation premiums or assessments paid from July 1, 2007, to June 30, 2008, predicated on the rate established by BrickStreet for each agency. . .”

“564 - *Prior Year Expiring Funds*: Refunds to an appropriated Federal or Special Revenue account in the current fiscal year when the expenditure was made in a prior fiscal year. . .”

“655 – Hazardous Waste Permits – Permits to dispose of hazardous waste.”

“670 – Gifts and Donations: Used to record private, state and local gifts and donations. . .”

“671 – Non-Federal Grants: Funds received from nonfederal sources for various grants and contracts. . .”

“696 - *Other Collections, Fees, Licenses and Income*: Miscellaneous collections, fees, licenses, and income. (Not for collection of state imposed taxes - Use

Revenue Source 878.) Note: Do not use this revenue source if another revenue source is appropriate and defines the type of revenue collection you are recording.”

“697 – Operating Funds Transfer: Transfer of operating funds from one account to another. . .”

“861 – Inter-Agency Federal Payments: To be used to record revenue by an agency receiving funds from another state agency, when the receiving agency wants to track and identify the original source of the revenue as Federal Funds.”

Cause: 1. According to DEP, at the time the transactions occurred, it was determined that the funds did not fit into any other revenue source. DEP also stated that several of the transactions were considered to be a gift to be used for a specific purpose.

2. DEP was unaware of Revenue Source 655 and decided to deposit RCRA Permit fees into extended revenue sources 252 and 253. DEP established these extended revenue sources around 1998.

Effect: Misclassification of transactions results in inaccurate reporting for financial purposes as well as DEP’s noncompliance with expenditure schedule instructions. Also classifying reimbursements/refund as a revenue rather than a refund to an expenditure object code, results in both revenues and expenditures being overstated in the financial statements.

Recommendation: We recommend DEP comply with the West Virginia State Expenditure Schedule Instructions and the West Virginia Department of Administration Finance Division WVFIMS Training Materials .

Spending Unit’s Response: *DEP agrees with this finding. Several of the refunds reflected were not related to a current expenditure transaction so rather than using the original expenditure code, the deposits were put in revenue code 399. In the future, grant refunds that occur after the end of the fiscal year will be put in revenue code 564 and donations will be deposited into code 670.*

Finding 8 Inaccurate Square Footage Cost Allocations

Condition: The DEP allocates payments for general expenses such as rent, utilities, copier supplies, etc., based on the square footage of building space used by a particular DEP division with such payments being made from the funds used by such division. For the fiscal year 2009 building allocation formula, we selected 33 of approximately 535 rooms and physically measured the rooms. Our test revealed one room’s square footage space recorded in the formula was incorrect because the space was not properly allocated between the divisions’ that share the space. Based on the results of our test, we selected an additional eight rooms that were noted as “shared space” on DEP allocation records; we found the square footage calculations for seven of the eight additional rooms were also incorrect.

Criteria: West Virginia Code Chapter five A, Article 8, Section 9 of said code states in part:

“The head of each agency shall:
 . . .(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities. . . .”

Cause: According to the DEP, the discrepancies noted in the audited square footage and the recorded square footage resulted from recording errors and incorrect updating of records.

Effect: Fiscal Services uses the building allocations to prepare the worksheet that allocates costs to each division. If the room square footage is incorrect, some divisions are paying more or less for their portion of the invoice amounts. The initial results of our test indicated 1 of 33 rooms (3%) where the square footage was incorrect. The final results of our test, including the eight additional rooms selected for testing, are as follows:

<u>Fiscal Year</u>	<u>Division/ Office</u>	<u>Room #</u>	<u>Agency Square Footage</u>	<u>Audited Square Footage</u>	<u>Difference</u>
2009	SMB/AQB/EQB	1065	164	128	36
2009	DWWM/RCRA	1144	711	769	58
2009	DLR/PPOD	1193	50	105	55
2009	BULK STORAGE	1208	1,948	2,023	75
2009	O&G	2033	352	177	175

Fiscal Year	Division/ Office	Room #	Agency Square Footage	Audited Square Footage	Difference
2009	MISC. ROOM	3012	138	69	69
2009	OLS	3026	237	68	169
2009	DMR	3129	2,703	2,736	<u>33</u>
Total					<u>521</u>

The building's total square footage is 180,667; therefore, the errors noted above would have an immaterial change on the percentages used in the total allocation. However, the weaknesses in controls over the formula calculation may have a more significant impact in future allocations. We were unable to test previous years' allocations because DEP overwrites information in the computerized allocation files.

Recommendation: We recommend the West Virginia DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code, as amended and strengthen internal controls over the building allocation formula by implementing a system of controls to ensure room space, as well as any changes of use by the divisions, be properly accounted for and supporting documentation for the formula be retained. Finally, we believe the DEP should periodically reconcile recorded individual office square footage reported in the formulas to actual square footage as well as maintain accounting procedures for the formula.

Spending Unit's Response:

DEP agrees with the information contained in this finding. The discrepancies were measured and have been corrected. Procedures for this process are in the process of being documented.

Finding 9 Personnel Services Funding Source Unauthorized

Condition: On the June 15, 2008 payroll, the DEP paid one of the 27 employees tested from funding not supported by the employee’s WV-11 Personnel Action Form. According to documentation available in the employee’s personnel file, fifty percent (50%) of employee’s salary was to be paid out of Fund 0273 and the remaining fifty percent (50%) was to be paid out of Fund 3333. The schedule shows the funding used to pay the employee’s June 15th payroll:

<u>Fund</u>	<u>Amount</u>	<u>Percent of Salary</u>	<u>Fund Appropriated By Legislature</u>
3490	\$ 71.06	2%	Yes
3323	106.59	3%	Yes
3328	71.06	2%	No
3327	568.48	16%	No
8708	2,487.10	70%	Yes – unrestricted
3342	106.59	3%	No
3317	106.59	3%	No
3487	35.53	1%	Yes
Total	<u>\$3,553.00</u>		

Criteria: West Virginia Code Chapter five A, Article 8, Section 9 of said code states in part:

“The head of each agency shall:
. . . (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities. . . .”

West Virginia Budget Bill Section 4 for Fiscal Years 2008 (HB 2007) states in part:

“Method of expenditure – money appropriated by this bill, unless specifically directed, shall be appropriated and expended according to the provisions of article three, chapter twelve of the code or according to any law detailing a procedure specifically limiting that article.”

Cause: According to DEP, this employee was paid from funds other than those authorized on the WV-11 because when the employee’s appointment to the current position occurred, there was not a central support funded position budgeted for Deputy Cabinet Secretary. DEP did not have the appropriate information when they completed the original WV-11 for the funding sources to use. Once the Fiscal Services Manager directed HR to split fund the position in

multiple ways, they did so as indicated on the subsequent WV-11 and used that split for all payrolls since.

Effect: The DEP was not paying their personnel services according to the budget.

Recommendation: We recommend the DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code, as amended and the West Virginia Budget Bill for Fiscal Year 2008 and maintain adequate documentation to support payroll funding.

Spending Unit's

Response: *DEP agrees with this finding and as stated in the finding, a subsequent WV-11 was processed to correct funding.*

Finding 10

Missing Payroll Deduction & Classification Forms

Condition:

The DEP was unable to provide us with documentation to support some payroll deductions and an FLSA Classification for one employee's overtime status.

The DEP was unable to provide adequate documentation to support payroll deductions totaling \$2,662.60 of the \$18,725.35 tested. We tested one pay period's deductions for each of the 27 employees in our sample. Of the 27 employees tested, the personnel files for eight of the employees lacked the Federal W-4 Tax withholding form and/or the WV IT-104 State Tax withholding form to support \$2,523.14 of federal and state withholdings. We also noted the DEP was unable to support the amount of federal and state taxes withheld for one additional employee. Using the W-4 form located in the employee's personnel file, it appears the DEP did not withhold enough federal and state taxes. Based on our calculations, we determined the DEP under withheld Federal and State Taxes in the amount \$113.51 and \$15.95, respectively.

During our test we also reviewed personnel files for the Exempt/Non-Exempt White-Collar Exemption Sheet which the DEP uses to classify an employee's overtime status. We were unable to locate the form for one of the 27 employees tested. We noted the employee did not receive any overtime payments for fiscal years 2006-2008 and, based on a review of the time sheets, did not exceed 40 hours worked per week.

Criteria:

Part 516, Subpart A, Section 2 of the Fair Labor Standards Act (FLSA) of 1938, as amended, states in part:

“ . . . (a) Items required. Every employer **shall maintain and preserve payroll or other records containing the following information** and data with respect to each employee to whom section 6 or both sections 6 and 7(a) of the Act apply:

(10) Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. **Also, in individual employee records, the dates, amounts, and nature of the items which make up the total additions and deductions.”**

Part 516, Subpart A, Section 12 of the Fair Labor Standards Act (FLSA) of 1938, as amended, states in part:

“With respect to each employee exempt from overtime pay requirements of the Act pursuant to provisions of section 13(b) . . . shall maintain and preserve payroll or other records, containing all the information and the data required by

§516.2(a) except paragraphs (a)(6) and (9) and, in addition, information and data regarding the basis on which wages are paid . . .”

West Virginia Code Chapter five A, Article 8, Section 9 of said code states in part:

“The head of each agency shall:

. . . (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities. . . .”

Cause: According to DEP, some of the reasons for the lack of documentation include some employees did not have a Federal W-4 and/or a State IT-104 Tax withholding form in their personnel folder because these employees came to DEP from the Division of Natural Resources (DNR) when several agencies and portions of agencies were combined to create the DEP. These employees had their withholdings rolled over without a new form. DEP did not receive the new form from the previous agency for these employees.

Effect: Without supporting documentation, we were unable to determine whether or not nine employees had proper deductions. We also believe exemption worksheets need to be maintained to support overtime status of employees.

Recommendation: We recommend the DEP comply with West Virginia Code Chapter five A, Article 8, Section 9 of said code, as amended and the Fair Labor Standards Act (FLSA) and maintain adequate documentation to support payroll transactions.

Spending Unit’s

Response: *DEP agrees with this finding. Some of the missing withholding forms were employees that came to the DEP when employees from several agencies were combined to create DEP. Withholdings were rolled over versus new withholding forms being secured. We do secure these from all new employees.*

We routinely review the overtime status of employees as we hire, promote and/or transfer them.

Finding 11

Non-Compliance with West Virginia Travel Regulations - DWWM

Condition:

We tested 81 transactions related to travel, totaling \$29,299.92. We noted eight transactions totaling \$3,041.51, or 9.88%, where the transactions did not comply with West Virginia Purchasing Division Travel Management Unit Travel Rule. The transactions had noncompliance in the following areas: 1) There was one transaction where the Out of State Travel Authorization was not signed by a supervisor; and 2) Seven of the transactions were not submitted to the Auditor's Office within 15 days of the last date of travel. The days overdue ranged from 1 to 26 with the average being 9 business days.

Criteria:

The West Virginia Department of Environmental Protection Travel Rules, Section 3, state in part:

"3.7...Out-of-State travel requires a completed Travel Authorization to be submitted to the DEP Travel Coordinator. The traveler must have all necessary approvals before departing on the trip." (Emphasis added)

The West Virginia Purchasing Division Travel Management Unit Travel Rule, Section 3, states in part:

"3.1.1...Approval to travel shall be secured in advance by the employee in accordance with these regulations and, if applicable, the administrative policies and procedures of the state agency. Under no circumstances should an employee travel without proper approval of the spending officer." (Emphasis added)

The West Virginia Purchasing Division Travel Management Unit Travel Rule, Section 2, states in part:

"2.5...The state agency shall audit and submit an accurate expense account settlement for reimbursement to the Auditor's Office within 15 days after completion of travel." (Emphasis Added)

Cause:

According to DEP, travel reimbursements were not submitted to the Auditor's Office within 15 days of the last day of travel because employees did not complete and/or turn in travel forms in a timely manner.

Effect:

Based on the results of our sample, we projected approximately 225 transactions were not in compliance with West Virginia Purchasing Division Travel Management Unit Travel Rules. Based on a statistical appraisal of the sample results we are 90% confident that the entire number of transactions not

in compliance with West Virginia Purchasing Division Travel Management Unit Travel Rules is between 116 and 387 of a total population of 2,283.

Without appropriate oversight of employee travel and compliance of the State and agency travel rules, there is a risk of unauthorized travel expenditures and reimbursements that could cost the State of WV unnecessary expense.

Recommendation: We recommend that the DEP comply with the West Virginia Purchasing Division Travel Management Unit Travel Rules and the DEP Travel Rules by ensuring that all out-of-state travel is properly authorized and that all reimbursements are submitted in a timely manner.

Spending Unit's
Response:

DEP agrees with this finding. All out of state travel is now authorized by the Cabinet Secretary or Deputy Cabinet Secretary of the DEP. The travel tested was paid within a reasonable period of time. We will attempt to educate travelers on the need for them to turn their travel in within the 15 day submission requirement.

Finding 12 **WVNPDES Permit Invoices Not Billed Timely**

Condition: During our process of documenting procedures, we noted DEP in some cases does not invoice facilities in a timely fashion for fees due.

Facilities which have a five-year West Virginia National Pollutant Discharge Elimination System Water Pollution Control Permit (WVNPDES) are required to pay an annual fee on the anniversary date of the permit. We noted DEP does not bill these facilities until the month that the fee is due. As a result, in most cases, the annual fees are not paid until after the anniversary date. The annual fees on these permits can be up to \$5,000.00, depending on the specific type of facility permitted.

Criteria: Legislative Rule Title 47 Series 26 Section 3.5 states:

“Collection of Annual Permit Fees. The annual permit fee must be submitted to the chief by no later than the anniversary of the date of permit issuance in each year of the term of the permit. . .A permit will become void if the annual permit fee has not been paid within ninety (90) days of the due date”

Cause: By the 5th of each month, DEP program office will print out a listing of all permit fees that are due in that month. The program office sends this list to Accounts Receivable and they process the invoice. Since this listing contains facilities that are due in that month, there is the possibility that a company would not receive the invoice until near their anniversary date or in some cases after their anniversary date.

Effect: This established procedure results in many facilities not being able to pay their annual fee until after the anniversary date of the permit. It also increases the risk of DEP voiding the permit for non-payment of the annual fees.

Recommendation: We recommend that the DEP comply with Legislative Rule Title 47 Series 26 Section 3.5 and collect all annual permit fees by the anniversary date.

Spending Unit

Response: *DEP agrees with this finding. Facilities are aware that their annual permit fees are due on the anniversary of their permit date. This billing is a reminder of that fee. DEP will change the current billing procedure to invoice these permit fees prior to their anniversary date to allow timely payment of the invoices.*

Finding 13

Overpayment of Separation Pay

Condition

The DEP miscalculated the pay for one of 15 employees tested. The employee received an overpayment of \$133.70. DEP paid the employee pro-rated increment for the period the employee was on suspension and the period the employee received severance pay in noncompliance with West Virginia Code Chapter 12, Article 3, Section 13 and the Division of Personnel Severance Pay Policy.

<u>Type of Pay</u>	<u>Actual</u>	<u>Audited</u>	<u>Difference</u>
Severance	\$1,849.91	\$1,802.09	\$ 47.82
Lump Sum Annual Leave	1,887.33	1,838.54	48.79
Pro-rated Increment	49.37	12.28	37.09
Total	<u>\$3,786.61</u>	<u>\$3,652.91</u>	<u>\$133.70</u>

Criteria:

West Virginia Code Chapter 12, Article 3, Section 13 of said code states:

“Salaries not to be paid until services rendered . . . No money shall be drawn from the Treasury to pay the salary of any officer or employee before his services have been rendered.”

West Virginia Division of Personnel Severance Pay Policy (DOP-P19) Section III.B.3.b revised September 16, 1999, states in part:

“. . .the employee shall be eligible to receive the pro rata share of the annual increment to which he or she is entitled; however, the employee **shall not be paid for holidays or accrue increment pay, annual leave, sick leave or tenure for the period of time for which severance pay is received.**” (Emphasis Added)

West Virginia Division of Personnel Annual Increment Policy Section II.B.2 revised July 17, 2008, states in part:

“Years of service excludes any period in which an employee is in a no-pay status such as unauthorized leave, leave of absence (personal, medical, or parental), or **suspension**, except periods of military service and leave without pay while receiving Workers’ Compensation temporary total disability (TTD) benefits, which shall be counted as tenure.” (Emphasis Added)

Cause:

According to DEP, “[the employee] was suspended pending an investigation effective July 1, 2007 at this time pay data for the across the board raises that took effect on July 1, 2007 were already loaded into the EPICS payroll system. When [the employee] was subsequently terminated on August 16, 2007, we paid out his terminal pay within 72 hours using the new salary amount. Because [the employee] did not work even a single hour in FY 2008, he was not eligible for the across the board raise and we should have backed out that raise prior to

calculating his terminal pay. In the rush to pay [the employee] within the 72 hour timeframe required, we failed to do so.”

The DEP also stated “[The employee] was overpaid for his pro-rated increment. Service time was added for time 7/1/2007 – 8/15/2007.”

Effect: The employee received pay for periods he provided no service.

Recommendation: We recommend the DEP comply with the West Virginia Code Chapter twelve, Article 3, Section 13 of said code as well as the Division of Personnel Policies for Severance Pay and Annual Increment.

Spending Unit

Response: *DEP agrees with this finding. This was an error due to across the board pay increases that automatically update salaries and this employee inadvertently received the increase.*

Finding 14 **Lack of Authority to Collect Fees**

Condition: We reviewed 22 DWWM Miscellaneous Revenue transactions and found four deposits for registration fees but located no statutory authority permitting the DEP to collect such monies. Our review consisted of 22 of 268 miscellaneous revenue transactions totaling \$514,857.82 and \$517,911.35, respectively. Of the 22 transactions tested, four transactions – totaling \$2,840 – were monies collected for “Rain Barrel Workshops” and a “Nonpoint Source Volunteer Monitoring Conference” registration fees. The DEP provided us with the WV Code 22-11-4 which authorizes education and promotion programs; however, no statutory authority was provided allowing the charging of \$35 and \$10-\$250 for each workshop and conference fee, respectively.

Criteria: Management is responsible for determining that fees charged are authorized.

Cause: According to the DEP, “. . . we are not charging a fee for the rain barrel, nonpoint source volunteer monitoring workshops. The amount that is being charged is to cover the rain barrel itself & the related plumbing. There is no fee for the workshops, just a charge to help cover the supplies provided.”

Effect: The DEP is collecting monies they have no authority to collect.

Recommendation: We recommend the DEP collect only those monies authorized by statute and the DEP should seek legislative approval to charge participants for the above educational programs.

Spending Unit’s
Response:

DEP acknowledges that the term “fee” was used for the registration of citizens to attend a “Rain Barrel Workshop” and a “Nonpoint Source Volunteer Monitoring Conference.” The monies collected for these two events were to cover the cost of the rain barrels and accessories and a meal provided to the volunteers at the nonpoint source conference. The amount charged was determined by the actual cost of the barrels and accessories and the cost of the meal. W. Va. Code § 22-1-6 (d) (5) gives the Secretary the authority to, inter alia, “acquire for the state in the name of the Department of Environmental Protection by . . . agreement . . . contributions . . . or devises of money. . . .” This section of the Code basically allows the Secretary to enter into contracts; one of the most fundamental considerations for entrance into a contract is the exchange of services or things for money. In essence, the DEP entered into contracts with these workshop and conference attendees whereby the DEP provided the conference, rain barrels, accessories, and a meal in exchange for what was then termed a “registration fee.” Therefore, we disagree with this finding.

**** NOTE:** As of this time, the issue noted in this finding is being researched by our legal staff and is subject to revision based on their conclusions.

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT**

**SUPPLEMENTAL INFORMATION
FUND LISTING**

GENERAL REVENUE FUND

0273 General Administration Fund

General revenue funds for DEP administration.

SPECIAL REVENUE FUNDS

3023 Hazardous Waste Management Fee Fund

Other collections, fees, licenses, income & investment earning to provide state funds for responding to hazardous waste emergencies.

3024 Air Pollution Education and Environment Fund

Fees, collections and other income to provide assurance of compliance with Air Pollution Control and Federal Clean Air Act

3206 Dam Safety Fund

Application and registration fees, interest or surcharge and civil penalties for reviews, inspections and remedial actions to enforce

3217 Leaking Underground Storage Tank Response Fund

Annual fees and interest to assure adequate response to leaking underground tanks

3220 Groundwater Protection Fund

Groundwater protection fees & interest to administer & enforce provision of groundwater protection act.

3222 Groundwater Remediation Fund

Groundwater remediation fees not to exceed \$250,000 in two year period, civil penalties & interest for clean-up and remedial action resulting from contamination of groundwater or related environment.

3255 Performance Bond Monongalia County Landfill Fund

Performance bond or letter of credit held to meet requirements of law in relation to landfill laws of the state

3301 Operating Permit Fees Fund

Sales and surface mining and prospecting permit fees for operating and inspection expenses

3303 Performance Bond Fund

Cash, collateral securities or certificates & interest received to insure faithful compliance with laws

3310 Nonpoint Source Program Fund

Federal funds for water quality planning and management

3312 Special Reclamation Water Quality Fund

Coal fees from fund 3321, land sale & gas royalties for water quality ground improvements not to exceed 25% for clean-up and remedial action resulting from contamination of groundwater or related environment

3314 Performance Bond Investments Clearing Fund

Cash or collateral securities received in lieu of corporate surety from well operators conditioned on full compliance with all laws & regulations

3317 Special Reclamation Administration Fund

Transfers from fund 3321 for reclamation administration not to exceed 10% of the total annual assets of fund 3321

3321 Special Reclamation Trust Fund

Bond forfeitures, fines, investment income & special reclamation tax from fund 7057 for reclamation of lands subjected to surface mining operations

3322 Oil and Gas Reclamation Trust Fund

Special reclamation fees, civil penalties bond forfeitures recovery costs from preventing waste of gas to be used to plug all abandoned or improperly plugged wells

3323 Oil and Gas Operating Permits Fund

Reclamation & UIC permit fees for processing applications in relation to drilling oil & gas wells for carrying out provisions of Chapter 22

3324 Mines and Minerals Operations Fund

2 cents per ton coal tax from fund 7057 & interest to carry out statutory duties relating to the enforcement of environmental regulatory programs for coal industry

3325 Underground Storage Tank Administrative Fund

Registration fee, penalties, forfeitures & interest to defray costs of administration

3326 Hazardous Waste Management HG 1479 Fund

Hazardous waste permit fees for hazardous waste management throughout the state

3327 Water Quality Management Fund

Water pollution control permit fees, donations, fines and penalties to review applications & activities

3328 Closure Cost Assistance Fund

Water disposal fees from 3332, sales & interest to provide assistance for the closure of landfills which are to cease operations by closure deadlines

3329 Water Pollution Control Revolving Fund

Federal and state funds & interest to administer fund & to make loans to local governments, to finance costs of pollution control projects

3331 Hazardous Waste Emergency & Response Fund

Assessment fees, penalties, interest & transfers from fund 3332 to provide for planning & response to hazardous waste emergencies.

3332 Solid Waste Reclamation & Environmental Response Fund

Waste disposal fees and penalties for reclamation, clean-up & remedial actions due to improper solid waste disposal

3333 Solid Waste Enforcement Fund

Solid waste assessment fee & transfers from Fund 3332 for expenses in dealing with solid waste enforcement.

3336 Air Pollution Control Fund

Permit fees and penalties for operating expenses of air quality control Commission.

3337 Gifts & Donations Fund

Gifts, donations and administrative penalties for the conservation, improvement & development of water resources in the state

3338 Operating Fund – Transportation/Aviation 3218 Underground Storage Tank Insurance Fund

Annual financial responsibility assessment, interest & transfer from fund 2364 to satisfy financial responsibility requirements

3340 Environmental Laboratory Certification Fund

Annual certification fees to monitor laboratories conducting waste & wastewater tests & analyses not to exceed an annual program aggregate of \$150,000.

3342 Water Pollution Revolving Fund – Administration Fee

Transfers from fund 7250 & interest to administer revolving fund

3347 Voluntary Remediation Administration Fund

Collections, fees and other income to administer and monitor the Voluntary Remediation Fund

3349 Stream Restoration Fund

Fees, collections, other income & investment earnings to ensure surface mine operations will not affect the state's waters or wetlands where wildlife habitat exists

3484 Highway Litter Control Program

Fees, collections & other income to provide funds for the WV Adopt-A-highway litter clean up

3486 Litter Control Fund

Fees, collections & other income to assist in costs of collecting roadside litter.

3487 Recycling Assistance Fund

Fees, collections & other income to administer grants to county and local governments to establish recycling programs

3490 Mountain Top Removal

Fees, collections, other income to enforce the blasting laws & protect the property & citizens of WV

3494 Quarry Inspection and Enforcement Fund

Other collections, fees, licenses & interest income to administer the Quarry Inspection & Enforcement Fund

FEDERAL FUNDS

8708 Consolidated Federal Funds General Administration Fund

Federal funds and interest income to administer and develop energy resources in West Virginia

8796 Acid Mine Drainage Abatement & Treatment Fund

Federal funds, investment earnings and interest for acid mine drainage abatement, treatment plans and for administrative and personnel expenses associated with the program

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 8th day of June 2010.



Stacy L. Sneed, CPA, CICA, Director

Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Department of Environmental Protection; Governor; Attorney General; and State Auditor.