

LEGISLATIVE SPECIAL REPORT

WEST VIRGINIA STATE UNIVERSITY
Research and Development Corporation Deposits

FOR THE PERIOD JULY 1, 2008 - JUNE 30, 2009

REPORT OVERVIEW

- Revenues Improperly Deposited
- Undocumented Agreement
- Lack of Internal Controls
- Failure to Provide Advance Notice of Meetings



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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 W. Va. Code, §4-2, as amended, we have conducted an audit of West Virginia State University – deposits into the Research and Development Corporation for the period of July 1, 2008 through June 30, 2009. Our audit is still ongoing and an additional report(s) will be released at a later date(s).

We have conducted our audit in accordance with Generally Accepted Government Auditing Standards except for the organizational independence impairment discussed in the Opinion section of the Independent Auditor's Report. Our audit disclosed certain findings, which are detailed in this report. West Virginia State University's management 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

SLS/cdo

**SPECIAL REPORT OF
WEST VIRGINIA STATE UNIVERSITY
RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 - June 30, 2009

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**SPECIAL REPORT OF
WEST VIRGINIA STATE UNIVERSITY
RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 - June 30, 2009

INDEPENDENT AUDITOR'S REPORT

Post Audit Subcommittee:

Compliance

We have audited West Virginia State University's (hereafter referred to as WVSU) deposits into the Research and Development Corporation (RDC) compliance with the laws, rules, and regulations applicable for fiscal year 2009. Compliance with the requirements referred to above is the responsibility of WVSU's management. Our responsibility is to express an opinion on the WVSU's compliance based on our audit.

Except for the organizational impairment described in the following paragraph, we conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. 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 WVSU. An audit includes examining, on a assessment basis, evidence about WVSU's compliance with those requirements and performing such other procedures, as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of WVSU's compliance with those requirements.

In accordance with W. Va. Code §4-2, the Post Audit Division is required to conduct post audits of the revenues and expenditures of the spending units of the State government. The Post Audit Division is organized under the Legislative Branch of the State and our audits are reported to the Legislative Post Audit Subcommittee. Therefore, the Division has historically been organizationally independent when audits are performed on an agency, board, or program of the Executive Branch of the State. However, this organizational independence was impaired when the President of the Senate became acting Governor of the State on November 15, 2010, in accordance with W.Va. Code §3-10-2. Audits completed after this date will not comply with Generally Accepted Governmental Auditing Standards sections 3.12 – 3.15. These sections of the auditing standards assert that the ability of an audit organization to perform work and report the results objectively can be affected by placement within the governmental organizational structure. Since the President of the Senate is acting Governor, the Executive Branch has the ability to influence the initiation, scope, timing, and completion of any audit. The Executive Branch could also obstruct audit reporting, including the findings and conclusions or the manner, means, or timing of the audit organization's reports.

In our opinion, except for noncompliance noted in the findings of this report, WVSU complied, in all material respects, with the compliance requirements referred to above that are applicable for fiscal year 2009.

Internal Control

Management of WVSU 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 WVSU'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 WVSU's internal control over compliance.

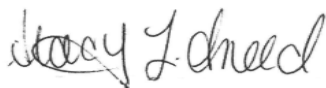
A deficiency in internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their functions, to prevent, or detect and correct, noncompliance on a timely basis. *A material weakness* in internal control over 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 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 the deficiencies in the University's internal control in Finding 3 to be a significant deficiency.

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, as defined above.

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, and management of WVSU. 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

June 23, 2011

**SPECIAL REPORT OF
WEST VIRGINIA STATE UNIVERSITY
RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 - June 30, 2009

EXECUTIVE SUMMARY

Finding 1: Revenues Improperly Deposited

West Virginia State University (WVSU) improperly deposited monies unrelated to research and development totaling at a minimum, \$534,429 into the West Virginia State University Research and Development Corporation (RDC), in non-compliance with the State statute.

Auditor's Recommendation

We recommend the WVSU comply with W.Va. Code §18B-12-2, §18B-10-11, §18B-10-12, §18B-10-13, §18B-10-15, and §18B-10-16, as amended, and their BOG Policy #15, Section 4.

Spending Unit's Response

We will comply with your recommendations. (See Pages 10 – 14)

Finding 2: Lack of Written Contract

We noted WVSU did not maintain a written agreement with their RDC.

Auditor's Recommendation

We recommend WVSU comply with W.Va. Code §18B-12-3, as amended.

Spending Unit's Response

We will comply with your recommendation. (See Pages 15 & 16)

Finding 3: Lack of Internal Controls

We noted there are insufficient internal controls related to the non-research and development monies deposited by WVSU into the RDC. This lack of internal controls includes the following:

- A lack of internal controls at the collection points of monies;

- Transactions not being entered into the State’s accounting system (WVFIMS) or WVSU’s Banner accounting system resulting in a lack of an audit trail;
- A lack of management oversight; and
- The possibility of circumvention of Higher Education Policy Commission (HEPC) policies.

Auditor’s Recommendation

We recommend WVSU comply with W.Va. Code §5A-8-9, as amended.

Spending Unit’s Response

We will comply with your recommendation. (See Pages 17 – 19)

Finding 4:

Advance Notice of Meetings Not Given

We noted that advance notice of WVSU RDC meetings were not given to the public and news media or filed with the Secretary of State for inclusion in the State Register, in non-compliance with State statute.

Auditor’s Recommendation

We recommend WVSU comply with W.Va. Code §6-9A-3, as amended.

Spending Unit’s Response

We will comply with your recommendation. (See Pages 20 & 21)

**SPECIAL REPORT OF
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RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 - June 30, 2009

INTRODUCTION

POST AUDIT AUTHORITY

This is the report on the audit of West State University (WVSU) and the deposits made into the Research and Development Corporation (RDC). This audit was conducted pursuant to Chapter 4, Article 2, as amended, 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

Founded in 1891, West Virginia State University is a public, land grant, historically black University, which has evolved into a fully accessible, racially integrated, and multi-generational institution. The University, “a living laboratory of human relations,” is a community of students, staff, and faculty committed to academic growth, service, and preservation of the racial and cultural diversity of the institution. The University’s mission is to meet higher education and economic development needs of the State and region through innovative teaching and applied research.

The undergraduate education at the University offers comprehensive and distinguished baccalaureate programs in business, liberal arts, professional studies, sciences, and social sciences. In addition, the University provides master’s degrees and other opportunities for graduate education.

West Virginia State University offers encouragement and education through flexible course offerings in traditional classrooms, in non-traditional education settings, and through distance learning technologies. With the goal of improving the quality of their students’ lives, as well as the quality of life for West Virginia’s citizens, the University forges mutually beneficial relationships with other educational institutions, businesses, cultural organizations, governmental agencies, and agricultural and extension partners.

**SPECIAL REPORT OF
WEST VIRGINIA STATE UNIVERSITY
RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 - June 30, 2009

SPENDING UNIT CONTACTS

Dr. Hazo W. Carter, Jr.....President

Dr. Gregory D. Epps Sr.....Executive Assistant to the President and Chief of Staff

Dr. R. Charles Byers.....Vice President of Academic Affairs

Dr. John Teeuwissen.....Assistant Vice President of Academic Affairs

Dr. Cassandra B. Whyte.....Vice President for Administrative Affairs

Mr. Robert Parker.....Vice President of Finance

Mr. Lawrence Smith.....Director of Fiscal Affairs

Dr. John L. Fuller.....Interim Vice President of Planning and Advancement

Mr. Bryce Casto.....Vice President of Student Affairs

**SPECIAL REPORT OF
WEST VIRGINIA STATE UNIVERSITY
RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 - June 30, 2009

REPORT SCOPE

We have performed an assessment of internal controls over West Virginia State University's (WVSU) deposits into the Research and Development Corporation (RDC). We interviewed appropriate personnel and documented the internal controls over assets or lack thereof. The audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States. This assessment was conducted as part of our post audit of West Virginia State University, in which additional report(s) will be released at a later date.

OBJECTIVES AND METHODOLOGIES

The objectives of our report were to assess WVSU's transactions; to report any misapplication of State funds by WVSU that we find; to ascertain facts, and to make recommendations to the Legislature concerning audit findings, the revenues of the State and of the organization, and functions of the State and its spending units. We were to determine whether revenue transactions were related to the WVSU RDC, were reasonable, and were recorded properly in the accounting systems. Additionally, we were to examine WVSU's records and internal control over transactions and to evaluate its compliance with applicable State laws, rules, and regulations.

In preparation for our assessment, we studied legislation, applicable WV Code sections, applicable rules and regulations, and policies of WVSU. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observations of WVSU's operations, and through inspections of documents and records. Additionally, we interviewed WVSU personnel to obtain an understanding of the programs and the internal controls respective to the scope of our report. In planning and conducting our audit, we focused on WVSU RDC financial-related areas of operations based on assessments of materiality and risk.

At the time of this report, we focused our efforts on WVSU RDC revenues only. WVSU RDC expenditures, as well as grants, were not reviewed extensively for compliance with applicable State laws, rules, and regulations. We did not audit the accounting system of the WVSU RDC. Any financial information in our report relating to the accounting system of the WVSU RDC was provided to us by WVSU, therefore, we place no assurances on the information.

WVSU's written responses to the significant deficiencies and material weaknesses identified in our audit have not been subject to the auditing procedures applied in the audit of the University and, accordingly, we express no opinion.

WVSU'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

We noted significant internal control weaknesses in WVSU RDC that warrant the immediate attention of the University's management. There is a possibility that error, theft, or fraud may be occurring and unnoticed by University management.

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 University'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.

EXIT CONFERENCE

We held an exit conference with management of the WVSU on June 30, 2011. All findings and recommendations were reviewed and discussed. Management's responses have been included at the end of each finding.

**SPECIAL REPORT OF
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RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 – June 30, 2009

**Significant Deficiencies in Internal Control and
Reportable Compliance and Other Matters Findings**

Finding 1

Revenues Improperly Deposited

Condition:

During our audit of West Virginia State University (WVSU), we noted that WVSU improperly deposited monies unrelated to research and development (i.e. monies not derived from research and development grants or the research and development efforts of the faculty, staff and students) totaling, at a minimum, \$534,429 into the West Virginia State University Research and Development Corporation (RDC), a 501(c) (3) not-for-profit corporation, in non-compliance with the State statute. State statute allows a not-for-profit corporation to act as the fiscal agent on behalf of a governing board to facilitate monies derived from research and development grants, however, WVSU has arranged for the on-campus RDC to administer and serve as the fiscal agent for funds that were derived from sources unrelated to research and development.

We noted that these monies were derived from sources such as, but not limited to, collections for activities of the athletic department, funds arising from activities of other various student organizations, and monies collected by the RDC on behalf of WVSU in relation to contracts for vending machines and copy machines. Typically, monies, other than those relating to contracts, were collected by the individual departments of the University. Once collected, these monies were taken and submitted to the RDC for deposit into the department's respective RDC accounts.

Revenues not related to research and development deposited into the RDC by WVSU were not entered into WVSU's accounting system (Banner) or the State's accounting system (WVFIMS) before being deposited with the RDC resulting in a lack of an audit trail that could be established using WVSU's financial records. Additionally, WVSU could not provide information from their accounting system, which would allow us to determine the total amount of revenues unrelated to research and development deposited in the RDC. However, based upon a report generated from the RDC accounting system, we noted WVSU deposited into RDC Accounts non-research and development revenues totaling \$534,429 for FY 09. We summarized this report and included it as an attachment to this report.

We did not audit the accounts of the RDC due to the RDC being a not-for-profit organization. Although the RDC has a close working relationship with WVSU,

the RDC itself is not a State entity. State entities are subject to the Freedom of Information Act (FOIA) laws that allow the public to have access to information regarding the affairs of government and the official acts of those who represent them as public officials and employees. However, since the RDC is not a “public body,” the RDC is not subject to FOIA laws. This is in accordance with a ruling by the Supreme Court of Appeals relating to a similar working relationship between WVU and the WVU Foundation. This ruling reaffirmed “...the Foundation is not a “public body” subject to the FOIA provisions of W.Va. Code, 29B-1-1 to 29B-1-6...”. Although not a State entity, the RDC may be subjecting itself to FOIA laws by accepting the non-research and development monies.

Criteria:

W.Va. Code § 18B-12-2, as amended, states in part:

“(b) The interest of the citizens of the state will be best met by agreements entered into and carried out by the governing boards and corporations **to provide research assistance for state institutions of higher education.** Therefore, **in order to facilitate research and development grants** and opportunities for state institutions of higher education, it is appropriate to authorize the governing boards to contract with private corporations organized for the purpose of providing such services to state institutions of higher education.”
(Emphasis Added)

W.Va. Code § 18B-10-11, as amended, states in part:

“The governing board may enter into contracts and spend and receive money under such contracts for the student athletic teams of the institutions to contest with other athletic teams inside or outside the State. **All money received from such fees and contracts shall be deposited in the auxiliary operating account of the institution...**” **(Emphasis Added)**

W.Va. Code § 18B-10-12, as amended, states:

“(a) The governing board of a state institution of higher education may make funds available from tuition and fees to support extracurricular activities of the students as considered necessary.

(b) Each institution shall maintain a level of support for extracurricular activities of the students comparable to that level supported by student activities fees previously authorized by this section.”

W.Va. Code § 18B-10-13, as amended, states:

“The appropriate governing board of each state institution of higher education shall fix the fees to be charged students and faculty members for rooms, board and meals at the dormitories, faculty homes, dining halls and cafeterias operated by such board at the institution. Such fees shall be commensurate with the complete cost of such services.

All fees collected for such services shall be used first to meet interest, principal and sinking fund requirements due on any outstanding revenue bonds for which the receipts may have been pledged as security and to pay the operating and maintenance costs of the dormitories, faculty homes, dining halls and cafeterias. Any such receipts not needed for these purposes may be expended by the appropriate governing board for any other auxiliary enterprise or educational and general instructional costs.”

W.Va. Code § 18B-10-15, as amended, states in part:

“(a) The governing board of each state institution of higher education may provide special services and special programs at such institutions and may fix and collect special fees or charges therefore...

(b) All fees or charges collected for any such special services or programs shall cover the total cost of the service or program.”

W.Va. Code § 18B-10-16, as amended, states in part:

“...funds in the State Treasury heretofore collected from any of the sources defined in the foregoing sections shall remain in the State Treasury for use by the institution where collected.” (Emphasis Added)

WVSU BOG Policy #15 Section 4, states in part:

“(4.1) ...facilities of the University to be made available for use by recognized campus units to conduct educational or cultural programs, including youth camps, for which fees are charged, and from which staff

members may be paid beyond their regular annual salary.”

“(4.1.2(c)) All revenues and expenditures shall be handled by the business office of the institution or the business office of the campus unit involved. **All revenues from these programs shall be deposited into the appropriate state special revenue account...**”

“(4.1.2(g)) All publicity must indicate that checks for payment of fees are to be made payable to the University and not to an individual or outside organization...” **(Emphasis Added)**

A legal opinion documented in a memo from Legislative Services, states in part:

Funds flowing from the use of vending machines, fees for using copy machines, moneys collected for activities of athletic department personnel and funds arising from activities of various student organizations do not arise from research and development efforts of the faculty, staff and students. **The corporation has no statutory authority to administer the funds unless they are grants for research and development accepted by the corporation on behalf of the institution. §18B-12-4(1)...** **(Emphasis Added)**

Cause: WVSU’s Vice President of Finance (former Athletic Director), stated that his understanding of WV Code §18B-12 was such that a wide variety of grants and contracts could be administered through the RDC, not just research projects.

Effect: WVSU funds totaling \$534,429 deposited into non-State accounts remove these monies from the State and WVSU’s accounting systems. This, in turn, may allow these monies to be used without following the rules, regulations, and policies set forth by the State and WVSU, therefore, increasing the risk the monies may be stolen or used improperly.

Recommendation: We recommend that all non-research and development monies deposited with the RDC, including monies deposited during the current fiscal year, as well as, any previous fiscal years, be reimbursed to the appropriate State special revenue account. Additionally, we recommend WVSU contract with independent auditors to conduct an audit of the RDC accounts to determine the full amount of non-research and development monies that have been deposited in the RDC, during the current fiscal year, as well as, any previous fiscal years, which should be reimbursed to the State accounts. We further recommend that WVSU comply with W.Va. Code §18B-12-2, as amended, by utilizing the RDC

only for research and development related fiscal responsibilities. Moreover, we recommend WVSU comply with W.Va. Code §18B-10-11, §18B-10-12, §18B-10-13, §18B-10-15, and §18B-10-16, as amended, and their BOG Policy #15, Section 4, and cease the deposit of revenues from athletic fees, contracts, extracurricular activities, residence life and services, special services and programs, and any other auxiliary revenues submitted by WVSU into the RDC and deposit them into the appropriate special revenue account with the State.

**Spending Unit's
Response:**

We will comply with your recommendations and follow W.V. Code §18B-12-2, §18-10-11 through §18B-10-16, and our Board of Governor's Policy #15, Section 4. Going forward, we will only deposit money specifically related to research and development into the WVSU Research and Development Corporation (ROC). Although some of the accounts listed in the attachment are no longer active, we are in the process of transferring all money not related to research and development into University accounts.

During FY 2009, the ROC was operated under the Planning & Advancement area of the University. The Vice President of Planning & Advancement was also the Executive Director of the ROC. This can explain why some of the contracts for the University were negotiated with the ROC; however, the Xerox contract was re-negotiated with WVSU on August 4, 2009 and all revenue related to this contract came back to the University at that time. The other contracts mentioned in the report will be re-negotiated with the University as soon as possible.

Athletic related funds were transferred to the University's accounting system on February 9, 2011. Finally, since FY 2009 the Community and Technical College has become a separate entity and while we currently have no authority over their assets, we can assure the Legislature that those funds will be transferred to the Kanawha Valley Community and Technical College as soon as possible.

Finding 2

Lack of Written Contract

Condition:

The West Virginia Code authorizes the governing boards of State institutions of higher education to enter into agreements with not-for-profit corporations for the specific purpose of facilitating research and development grants as well as fostering and supporting research at the respective state institution of higher education and providing evaluation, development, patenting, management and marketing services for inventions of the faculty, staff and students of such state institution of higher education. Although the W.Va. Code allows the governing boards to enter into agreements with not-for-profit corporations, WVSU did not document the agreement with the RDC with a written contract.

Criteria:

W.Va. Code § 18B-12-3, as amended, states in part:

“18B-12-3. Boards authorized to contract with corporations; characteristics of corporations.

Each governing board for a state institution of higher education **is hereby authorized to enter into agreements and any other contractual relationships** with one or more corporations...” **(Emphasis Added)**

W.Va. Code § 18B-12-2, as amended, states in part:

“(b) The interest of the citizens of the state will be best met by **agreements entered into** and carried out **by the governing boards and corporations** to provide research assistance for state institutions of higher education. Therefore, in order to facilitate research and development grants and opportunities for state institutions of higher education, it is appropriate **to authorize the governing boards to contract with private corporations** organized for the purpose of providing such services to state institutions of higher education.” **(Emphasis Added)**

W.Va. Code § 18B-12-4, as amended, states in part:

“(a) ...**each governing board is hereby authorized to enter into an agreement** with a private corporation, which agreement shall be for the benefit of the state institution of higher education...” **(Emphasis Added)**

Cause:

WVSU stated that a written contract was not entered into with the RDC.

Effect: Without a written contract, the RDC may not be aware of all of its responsibilities or the services expected to be provided. A written contract would clearly define the responsibilities of both parties, which, in turn, would reduce the risk of any uncertainties and ensure that the rights of the State are protected.

Recommendation: We recommend that WVSU comply with W.Va. Code §18B-12-3, as amended, and establish a written contract with the RDC.

Spending Unit's Response: *We will comply with your recommendation and follow W. V. Code § 18B-12-3. We are in the process of establishing a written contract with the ROC.*

Finding 3

Lack of Internal Controls

Condition:

We noted there are insufficient internal controls related to the non-research and development monies deposited by WVSU with the RDC. This lack of internal controls includes the following:

- A lack of internal controls at the collection points of monies;
- Transactions not being entered into WVFIMS or WVSU's Banner accounting system resulting in a lack of an audit trail;
- A lack of management oversight; and
- The possibility of circumvention of HEPC policies.

Lack of Internal Controls in Collection of Monies

We noted that there is a general lack of internal controls related to the collection of non-research and development monies. Typically, monies are collected at several departments at the University. Once collected, these monies are taken to the RDC for deposit. A specific example of the lack of internal controls of the collection of monies includes:

- 1) All revenues from the University's Copy Center copy machines were delivered to the RDC. We were informed that the employee responsible for emptying the machines and/or the employee responsible for the Copy Center did not perform any reconciliation; rather, monies were removed from the machines and delivered to the RDC uncounted and without a deposit ticket.

Transaction Not Entered Into Accounting Systems/Lack of Audit Trail

As mentioned previously, non-research and development revenues deposited into the RDC by WVSU were not entered into WVSU's accounting system (Banner) or the State's accounting system (WVFIMS) before being deposited with the RDC resulting in a lack of an audit trail.

At the time of this report, we focused our efforts on non-research and development *revenues* only. Non-research and development *expenditures* (as well as grants) were not reviewed extensively. However, based upon statements made by WVSU personnel and our own observations, disbursements of the non-research and development monies are not entered into WVFIMS.

Lack of Management Oversight

There is a lack of management oversight over the revenues deposited within the accounts held by the RDC on behalf of the University. WVSU could not provide any evidence that these monies are monitored. These monies include revenues collected by the individual departments of WVSU as well as revenue collected by the RDC from contracts administered on behalf of the University.

Concerning the revenues collected from the individual departments, management does not have the ability to independently verify the amount of monies being deposited due to the following:

- Monies were deposited into the RDC on a departmental basis; moreover, each department was responsible for their individual account.
- When monies are received, the monies are taken directly to the RDC by the personnel of the departments without being entered into WVFIMS, Banner, or any other accounting record. As a result, management does not have the ability to independently verify the amounts of revenues collected without relying on information provided by the RDC.
- While the RDC provided monthly reports to each department detailing account balances and bi-monthly reports to the Vice President of Student Affairs and Director of Fiscal Affairs detailing expenditures, reconciliations and other monitoring processes were not performed to ensure all monies were accounted for properly.

Also, we noted that the RDC held contracts on behalf of the University for Pepsi, AVI Foodsystems, and Xerox. Monies were collected from the vendors by the RDC and, once collected, were deposited with WVSU Cashier's Office with a memo stating the allocation between the different funds. However, these monies are derived from sources that are not related to research and development, therefore, WVSU should monitor their collection to ensure the vendors are complying with the respective contract terms related to WVSU payments. Currently, there is a lack of oversight on the part of WVSU since WVSU must rely on information provided by the RDC.

Criteria:

W.Va. Code § 5A-8-9, as amended, states:

“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:

WVSU's Vice President of Finance (former Athletic Director), stated that his understanding of WV Code 18B-12 was such that a wide variety of grants and contracts could be administered through the RDC and without being limited to research projects only.

Effect:

Because of the many internal control weaknesses discussed in the condition of this finding, the possibility exists that fraud and/or theft may occur and go unnoticed by University management or that monies may not be used for their intended purpose as required by the W.Va. Code and other governing policies. Further, were unable to assure ourselves all cash collections were properly deposited rather than being used for other purposes, including personal gain.

Expending these non-research and development monies without entering the transactions into WVFIMS increases the risk that the monies may not be spent in accordance with the State statute and other governing policies due to the lack of scrutiny by the State Auditor's Office which reviews and approves transactions. Further, there is an increased risk of misappropriation of the monies since the internal controls afforded by inclusion in WVFIMS would not be applied.

Recommendation:

We recommend that WVSU comply with W.Va. Code §5A-8-9, as amended.

**Spending Unit's
Response:**

We will comply with your recommendation and follow W.V. Code §5A-8-9. Once all of the non-research and development money is transferred into the University's accounts, those funds will be monitored under established internal controls from the University including, but not limited to, proper cash handling procedures, University management oversight, and entry into the University's accounting system.

We would like to note that all accounts managed by the ROC are traceable and that there is an audit trail through their accounting systems. At the end of each fiscal year, the ROC's financial statements are combined with the University's and audited by the same independent accounting firm. Also, the ROC undergoes an annual A-133 audit for compliance with OMB Circulars. This audit is also performed by an independent accounting firm.

Finding 4 **Advance Notice of Meetings Not Given**

Condition: In accordance with the W.Va. Code, the date, time, place and agenda of all meetings are required to be made available, in advance, to the public and news media. Additionally each governing body of the executive branch of the State is required to file a notice of any meeting with the Secretary of State for publication in the State Register. Upon reviewing the State Register for calendar year 2009, we noted no instances of RDC board meetings listed within the register. WVSU could not provide evidence that advance notice of RDC board meetings was given or that the date, time, place and agenda were submitted to the Secretary of State for inclusion in the State Register. The RDC Director stated that the meetings are open to the public; however, advance notice of the meetings is not given.

Criteria: W.Va. Code §18B-12-3, as amended, states in part:

“(3) The meetings of the corporate directors shall be subject to the provisions of section three [6-9A-3], article nine-a, chapter six of this code...” (Emphasis Added)

W.Va. Code §6-9A-3, as amended, states in part:

“...Each governing body shall promulgate rules by which **the date, time, place and agenda of all regularly scheduled meetings and the date, time, place and purpose of all special meetings are made available, in advance, to the public and news media,** except in the event of an emergency requiring immediate official action.

Each governing body of the executive branch of the state **shall file a notice of any meeting with the Secretary of State for publication in the state register.** Each notice shall state the date, time, place and purpose of the meeting. Each notice shall be filed in a manner to allow each notice to appear in the state register at least five days prior to the date of the meeting...” **(Emphasis Added)**

Cause: The RDC Director stated that she was not made aware that notice of the meetings was required to be given in advance.

Effect: Although, according to Agency personnel, the meetings are open to the public, the lack of advance notice diminishes the public’s ability to monitor the performance of the board officials to ensure that they are held accountable for their financial decisions.

Recommendation: We recommend that West Virginia State University comply with W.Va. Code §6-9A-3, as amended, and provide advance notice of the RDC meetings to the public, news media, and Secretary of State.

Spending Unit's Response: *We will comply with your recommendation and follow W.V. Code §6-9A-3.*

**SPECIAL REPORT OF
WEST VIRGINIA STATE UNIVERSITY
RESEARCH AND DEVELOPMENT CORPORATION DEPOSITS**

July 1, 2008 – June 30, 2009

ATTACHMENT A

RDC Non-Research and Development Revenues*

<u>Account Number</u>	<u>Account Description</u>	<u>Revenue</u>
	<u>ACADEMIC AFFAIRS</u>	
0170	Communication Publication	\$2,644.73
0189	Printing Services	\$103,893.27
0341	Shawnee Park Pool	\$13,950.11
0380	Communication Production	\$2,196.25
0401	NYSP FY 07 - Operating Fund	\$18,475.00
0435	Cultural Activities	\$1,200.00
0437	Band Support and Travel	\$0.00
0451	Shawnee Day in the Park	\$22,386.34
0456	International Studies	\$400.00
0476	Theta PSI Chapter	\$500.00
0479	Shawnee Park Shelter Revenue	\$7,759.35
0490	School of Natural Sciences and Mathematics	\$0.00
0500	Student Ambassadorship	\$0.00
0503	WVSU PRSSA	\$3,898.00
0505	Shawnee Park Clubhouse	\$6,065.00
0506	Shawnee Park Fields and Circle	\$930.00
0520	Shawnee Events	\$1,146.20
0569	Math Science Summer Camp	\$1,060.00
0544	History and Cultural Committee	\$100.00
0547	W-Club (Athletics)	\$3,600.00
0092	Booker T Washington - Donations	\$155.00
0190	Copier Services	\$7,159.15
0231	GKVF - Booker T. Washington Memorial Fund	\$2,383.00
0250	Library/Copier Income	\$1,553.66
0283	Booker T Washington Institute	\$0.00
0516	BTW - Cabin Creek Quits	\$4,535.74
0519	Paper Distribution	\$7,927.59
	<u>COMMUNITY & TECHNICAL COLLEGE</u>	
0370	Phi Theta Kappa	\$1,971.00
0405	Elderhostel	\$140,680.66

<u>Account Number</u>	<u>Account Description</u>	<u>Revenue</u>
0406	WVSCTC Student Nurses Association	\$11,790.80
0551	CAMC Nursing	\$30,329.25
	<u>PRESIDENT'S OFFICE</u>	
0115	Photography	\$2,773.00
0391	Tuskegee Airmen Chapter	\$150.00
0510	WVFAIR 09	\$107.99
	<u>STUDENT AFFAIRS</u>	
0004	Baseball	\$29,515.00
0213	The Wilson University Union	\$4,470.47
0395	Pinnacle	\$209.45
0396	Choices Peer Educators	\$252.00
0408	Athletic Director's Discretionary	\$23,850.00
0490	Athletic - Scholarships	\$130.00
0410	Athletic - Baseball	\$0.00
0413	Athletic - Men's Basketball	\$22,728.05
0414	Athletic - Women's Basketball	\$6,851.85
0415	Athletic - Football	\$2,850.00
0416	Athletic - Cheerleaders	\$500.00
0417	Athletic - Softball	\$16,997.75
0418	Athletic - Volleyball	\$5,375.00
0419	Athletic - Tennis	\$3,478.00
0420	Athletic - Men Golf	\$250.00
0421	Athletic - Track and Field	\$0.00
0422	Residence Life and Services	\$2,109.11
0431	Athletic - A.L Dawson - Grover Smiley Track	\$0.00
0445	WVSU Campus All-Star Challenge	\$0.00
0559	Athletic - Women's Golf	\$1,940.98
0560	Book Scholarship - GMAC	\$10,000.00
0566	Student Activities Advisory Committee	\$100.00
0550	Lakin Field Renovation Phase 1	<u>\$1,100.00</u>
	TOTAL FY 09	<u>\$534,428.75</u>

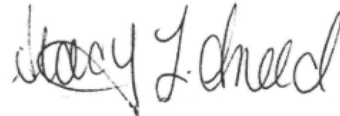
*Note: The information in this summary was obtained from a report generated from the RDC accounting system provided to us by the RDC. We did not audit the accounting system of the RDC and, therefore, place no assurances on the information.

STATE OF WEST VIRGINIA

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 W.Va. Code §4-2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 12th day of July 2011.



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 West Virginia Higher Education Policy Commission; West Virginia State University; Governor; Attorney General; and State Auditor.