

LEGISLATIVE POST AUDIT REPORT

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

For the Period: July 1, 2011 - December 31, 2012



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 W.Va. Code, §4-2, as amended, we conducted a post audit of the West Virginia Department of Agriculture (WVDA) for the period July 1, 2011 through December 31, 2012.

We have conducted our audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Our audit disclosed certain findings, which are detailed in this report. Findings deemed inconsequential to the financial operations of the agency were discussed with management. WVDA management has responded to the audit findings; we have included the responses at the end of the report.

Respectfully submitted,

A handwritten signature in blue ink that reads "Londa M. Sabatino".

Londa Sabatino, CPA, CICA, Audit Manager
Legislative Post Audit Division

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EXECUTIVE SUMMARY¹

OBJECTIVE 1:

Determine if the Rural Rehabilitation Loan Program was properly managed.

Sub-Objectives:

- i. Determine if loan funds were being used as described in the loan holder business plan.
- ii. Determine if deeds of trust or liens for collateral were received and maintained by WVDA personnel.
- iii. Determine if loan payments were being received by the WVDA according to the loan terms.
- iv. Determine if loan payments were applied to interest and principal according to the loan terms.
- v. Determine if loan payments were deposited in accordance with W.Va. Code §12-2-2.

Finding 1 Internal Control Deficiency over Loan Program

Condition: We were unable to obtain sufficient, appropriate evidence to determine whether or not the balances on all outstanding Rural Rehabilitation Loans were accurate in the loan tracking system.

Finding 2 Lack of Documentation over Loan Program

Condition: We noted numerous documentation issues with the loan program related to the issuance, collateral and collection of loan funds.

Finding 3 Loan Program Conflicts of Interest

Condition: It appears a potential conflict of interest could have existed between the loan holder and either the Rural Rehab Loan Committee or the former Commissioner of Agriculture for four of the 19 loans tested (21%).

Finding 4 Insufficient Collateral and/or Appraisal not Obtained

Condition: We determined five of the 19 loans² tested (26%) had insufficient collateral, lacked an official appraisal or the file did not contain a record of Uniform Commercial Code (UCC) equipment liens stipulated by the terms of the loan agreement.

Finding 5 Lack of Policy over Loan Program

Condition: The WVDA has not promulgated rules over the Rural Rehab Loan program nor does the internal policy statement or procedure have criterion for minimum

¹ See Appendix B for the agency's response to all findings included in the audit report.

eligibility and award requirements. While it appears the WVDA occasionally reviews credit history and sometimes obtains a credit score, there are no requirements that an applicant must have a certain credit score, history, proof of hazard and/or flood insurance or proof of ability to repay the loan before being eligible to receive a loan.

Finding 6 Agricultural Purpose not Met

Condition: Two of the 19 loans tested (11%) were not issued for an agricultural purpose. The loans were issued to pay off outstanding debt at banks.

Finding 7 No Lending Expertise on Loan Committee

Condition: WVDA does not have a lending expert on the Loan Committee who oversees the program. For two of the 19 loans tested (11%), it appears the Loan Committee did not take the advice of legal counsel into consideration.

Finding 8 Loan Write-Off Noncompliance with W.Va. Code

Condition: During our audit period, seven Rural Rehabilitation loans were written off by the WVDA Rural Rehabilitation Loan Committee without consulting the Attorney General prior to the write-off of the loans. The WVDA used their own attorney to assist in collection and write-off of Rural Rehabilitation loans.

Finding 9 Deposits not made within 24 Hours of Receipt

Condition: We noted instances where the WVDA did not deposit monies received within 24 hours. The total revenue received during our audit period was approximately \$23 million of which 4% was received in the form of cash and 96% was either received directly by the State Treasurer's Office or was a non-cash transfer.

Furthermore, WVDA's cash receipts were not adequately safeguarded from unauthorized use or disposition. The cash receipt functions were not properly segregated; only one employee opens the mail and enters the receipt into the Daily Receipt Log maintained by WVDA. A reconciliation between the monies received and deposited is completed by the employee making the deposit. An independent reconciliation is not performed after the deposit.

OBJECTIVE 2:

Determine if WVDA employees were in compliance with the WVDA Travel Policy.

Finding 1 Possible Fictitious Receipts over Travel Reimbursements

Condition: During our review of a possible abuse claim, we were informed the former Commissioner of Agriculture had submitted reimbursement requests for his campsite at the West Virginia State Fair which were significantly higher than the amounts requested by another WVDA employee. For the 2012 State Fair, the

employee requested reimbursement for a campsite, which was next to the former Commissioner's, at the rate of \$30.00 per night; however, the former Commissioner requested reimbursement at the rate of \$106.72 per night.

Upon contacting the Chief Executive Officer (CEO) over the State Fair of West Virginia, we found the former Commissioner was not charged for his campsite during the 2012 State Fair and that it was the policy of the State Fair to provide one free campsite to the Commissioner of the Department of Agriculture. Additionally, the CEO provided us with a copy of a page from the receipt book used by the State Fair and we determined the receipt accompanying the former Commissioner's travel form was not a receipt from the State Fair receipt book.

Finding 2 Extravagant Spending on Flight

Condition: During the audit of travel expenses we considered one transaction totaling \$3,150 to be "extravagant" because the purchase was not a necessary business expenditure for the WVDA. The \$3,150 was spent on a State chartered flight in order for the former Commissioner of Agriculture to attend a ceremony where a gazebo was being dedicated to him. The WVDA paid to fly the former Commissioner from Yeager Airport in Charleston, WV to Ravenswood, WV and then back to Ocean Isle, NC. The \$3,150 charge included the return trip to Yeager Airport from Ocean Isle, NC even though the flight was vacant.

Finding 3 Travel Expenses Paid for Former Commissioner's Spouse

Condition: During our testing of travel expenditure documents, we noted WVDA paid \$225 for a registration for the 2012 NASDA Annual Meeting for the former Commissioner of Agriculture's spouse.

Finding 4 Issues over Former Commissioner's Travel Reimbursements

Condition: In response to potential fraud and abuse related to the former Commissioner of Agriculture's travel expenses, we found it necessary to extend our audit and review all travel reimbursement requests submitted and processed for the former Commissioner during the period of February 1, 2008 through February 13, 2013

Finding 5 Mileage Amounts not in Compliance with Travel Policy

Condition: During our testing of travel expenditure documents, we noted 215 instances on 44 different travel reimbursement documents where employees claimed a mileage amount in excess of the recalculated distance for one or more trips. The largest mileage difference for one trip was 188 miles and the smallest was 11 miles. The total difference was approximately 8,000 miles and \$4,000.

Finding 6 Travel Expenses Paid for Non-Employees

Condition: During our testing of travel expenditure documents, we noted WVDA purchased an airline ticket and paid lodging expenses for a contractor when the Purchasing Agreement stated “Any anticipated travel must be incorporated into the vendor’s fee.” There were eight additional instances where the WVDA paid lodging expenses on the United Bank Ghost Account for people who were not employed with WVDA nor did they have a contract with WVDA.

Finding 7 Meal Amounts not in Compliance with Travel Policy

Condition: During our audit of travel expenditure documents, we noted three instances of noncompliance with the WVDA Travel Policy.

Finding 8: Lack of Documentation over Travel Expenditures

Condition: During our testing of travel expenditures, we noted multiple lack of documentation issues over travel expenditures.

Finding 9 Travels Not Processed Timely

Condition: During our testing of travel expenditure documents, we noted multiple instances where travel expenditures were not processed timely. These issues were either in noncompliance with the WVDA’s travel policy or the statewide contract for the Travel Ghost Account.

Finding 10 Misclassification of Expenses

Condition: During our testing of WVDA expenditures, we noted transactions in travel as well as in miscellaneous expenditures were misclassified in the incorrect fund or object code.

OBJECTIVE 3:

Determine if the WVDA General Counsel should be classified as an employee.

Sub-Objectives:

- i. Determine if the General Counsel should be eligible for PEIA insurance.
- ii. Determine if the General Counsel should be eligible for the Public Employees Retirement System.

Finding 1 Improperly Classified as an Employee

Condition: The WVDA improperly classified their General Counsel as a full-time employee for 21 years. Whether or not the individual was eligible to receive Public Employees Insurance Agency (PEIA) insurance benefits, Public Employees Retirement System (PERS), annual or sick leave and annual increment hinged on the individual’s classification as an employee.

OBJECTIVE 4:

Determine if hospitality purchases were conducted in accordance with the W.Va. Expenditure Instructions for object code 042 – Hospitality.

Finding 1 Hospitality Alcoholic Beverage Reimbursement

Condition: During our review of possible abuse claims, we discovered the WVDA improperly reimbursed a former Deputy Commissioner approximately \$404 for a hospitality charge related to a Fairs and Festivals meeting held at a hotel restaurant in Charleston, WV. The reimbursement was improper because the Employee Reimbursement Request form did not have an itemized invoice attached and Request for Hospitality Service form was not approved until after the purchases were made.

The audit team contacted the restaurant and obtained a copy of the original itemized receipt which showed several alcoholic beverages totaling approximately \$41 were purchased during the event in noncompliance with the Expenditure Schedule Instructions for object code 042 and the WVDA Policies and Procedures Manual. In addition, the unallowable alcoholic purchases increased the automatic 20% gratuity charge by approximately \$8.

Finding 2 Noncompliance with Hospitality Policy

Condition: We determined 90% of the hospitality transactions tested were in noncompliance with the WVDA Policies and Procedures Manual.

OBJECTIVE 5:

Determine if the Guthrie office and the Farmers Markets were in compliance with the W.Va. State Treasurer’s Office Cash Receipt Handbook.

Sub-Objective:

- i. Determine if registration/fee revenues for Pesticides, Feed, Fertilizer and Animal Health Labs were reasonable.

Finding 1 Scope Limitation over Pesticide Fees Received

Condition: We were unable to obtain sufficient, appropriate evidence to determine whether Pesticide fee revenues totaling approximately \$2,575,945 were received timely and for the proper amounts because WVDA does not have adequate internal controls in place to properly track and monitor monies due. This amount has been recorded in the State accounting system. However, we were not able to perform a test which would give us reasonable assurance that all fees that should have been collected were in fact, collected and deposited.

Finding 2 **Scope Limitations over Animal Health Lab Fees Received**

Condition: We were unable to obtain sufficient, appropriate evidence to determine the reasonableness of Animal Health Lab fee revenues totaling approximately \$268,553. These amounts have been recorded in the State accounting system, but because of the pervasive lack of internal controls over the collection process and recording of fees, as well as the inability of the WVDA fee tracking software to produce total number of tests paid within the scope of our audit period, we were not able to perform tests that would give us reasonable assurance that all fees that should have been collected were in fact, collected

Finding 3 **Lack of Internal Controls over Cash Receipts**

Condition: WVDA’s cash receipts were not adequately safeguarded from unauthorized use or disposition. The total revenue received during our audit period was approximately \$23 million of which 4% was received in the form of cash and 96% was either received directly by the State Treasurer’s Office or was a non-cash transfer.

OBJECTIVE 6:

Determine if farmers market leases are properly bid according to the W.Va. Code §19-12a-5.

Finding 1 **Property Leased without Sealed Bid Auction**

Condition: The WVDA is currently leasing two former farmers’ market buildings to private parties without performing a sealed bid auction. The WVDA lease agreements total \$3,000 and \$6,120 per year. Additionally, it should be noted one of the leasees was six months behind on their rent payments and also has a Rural Rehabilitation loan.

OBJECTIVE 7:

Determine if the WVDA is in compliance with the "Lodging on Your Business Premises" section for the cottage leases.

Sub-Objective:

- i. Determine if the utility charges should be reported as taxable income.

Finding 1 **Improper Reporting of Employee Income**

Condition: WVDA employees were provided lodging that was not considered a condition of their employment at an amount below fair market value and the difference was not included as taxable income. Five employees were renting cottages on WVDA property for amounts between \$300 and \$350 per month. Comparable rentals in the area were being rented for an average of around \$500 per month. The

taxable benefit to the five employees would then range from \$150 to \$200 a month.

OBJECTIVE 8:

Determine if the travel card ghost account is being used in accordance with W.Va. Statewide Contract TCARD06 Section 3.2.4A.

Finding 1 Noncompliance with Statewide Contract TCARD06

Condition: Although the statewide contract states ghost accounts do not require the issuance of plastic bankcards, the WVDA has eight plastic bankcards for their United Bank Ghost Account to use for travel purchases.

OBJECTIVE 9:

Determine if the WVDA has a written policy for when a loan holder may refinance.

See Finding 5: Lack of Policy over Loans in Objective 1.

OBJECTIVE 10:

Determine if the WVDA has a written policy for loan eligibility and award criteria.

See Finding 5: Lack of Policy over Loans in Objective 1.

OBJECTIVE 11:

Determine if the WVDA complied with the W.Va. Expenditure Schedule Instructions for Object Codes 051 – Miscellaneous Expenditures, 058 - Miscellaneous Equipment, and 696 - Other Collections, Fees, Licenses and Income.

See Finding 10: Misclassification of Expenses under Objective 2.

OBJECTIVE 12:

Determine if the Guthrie office and the Farmers Markets in were compliance with W.Va. Code §12-2-2 and if amounts deposited match the WVDA mail log/Farmers Markets' sales.

See Finding 9: Deposits not Made within 24 Hours of Receipt in Objective 1.

OBJECTIVE 13:

Determine if the Quarterly Inspection Cash Advances complied with Section 20.14.b of the WVDA Travel Policy.

See Finding 9: Deposits not Made within 24 Hours of Receipt in Objective 1.

OBJECTIVE 14:

Determine if the WVDA was in compliance with W.Va. Code §5A-3-11, Legislative Rule Series 148-1-6 and 148-1-7 and the W.Va. Purchasing Division Procedure Handbook.

Sub-Objective:

- i. Determine if the proper amount was paid and if correct object code and fund was used.

Although we noted several instances of noncompliance, they were determined to be insignificant within the context of the audit and we determined the WVDA was in compliance W.Va. Code §5A-3-11, Legislative Rules 148-1-6 and 148-1-7 and the West Virginia Purchasing Division Procedure Handbook. In addition, we determined the WVDA used the correct object code and fund for the test under this Objective. While the aforementioned issues were not significant enough to warrant inclusion in this report, they still required the attention of WVDA Management and, as such, were communicated in a separate letter to WVDA management.

OBJECTIVE 15:

Determine if the WVDA is in compliance with W.Va. Code §5A-3-36 and §5A-3-34 and the Purchasing Division's Inventory Management Manual sections 3.6, 3.11, 3.16, 3.17, and 3.18.

Although we noted several instances of noncompliance, they were determined to be insignificant within the context of the audit and we determined the WVDA complied with W.Va. Code §5A-3-36 and §5A-3-34 and the Purchasing Division's Inventory Management Manual sections 3.6, 3.11, 3.16, 3.17, and 3.18. While the aforementioned issues were not significant enough to warrant inclusion in this report, they still required the attention of WVDA Management and, as such, were communicated in a separate letter to WVDA management.

OBJECTIVE 16:

Determine if the WVDA was in compliance with the W.Va. Code §12-3-10 and §12-3-1b, Legislative Rule Series 155-7-4.1.b, 4.1.c, 4.1.t, W.Va. State Auditor's Office P-card policy 2.4, 2.5, 2.6, 3.0, 4.0, 6.1-6.4, 6.6-6.8, 7.1-7.4, and 8.1-8.4.

Sub-Objective:

Determine if the proper amount was paid and if the correct object code and fund was used.

Based on the testing of P-card transactions, we determined the WVDA was in compliance W.Va. Code, Legislative Rules and the W.Va. State Auditor's Office P-card policy.

OBJECTIVE 17:

Determine if the Logan and Inwood Farmers Markets followed best business practices by completing a bank reconciliation.

We determined employees were following best business practices in attempting to complete bank reconciliations at the Inwood and Logan Farmers Markets. The Inwood farmers market never properly completed bank reconciliations during our audit period. It seems there was a misunderstanding of what constitutes an outstanding check. Since the Farmers Markets no longer have outside bank accounts and the audit team was able to perform a proof of cash and no monies appeared to be missing, no finding was necessary.

OBJECTIVE 18:

Determine if the possible duplicate payments and possible stringing identified during the analytical review process.

Based on the review of possible duplicate and stringing of payments, we found no duplicate payments or stringing of transactions.

INTRODUCTION

POST AUDIT AUTHORITY

This is the report on the post audit of the West Virginia Department of Agriculture for the period of July 1, 2011 – December 31, 2012. Any deviations from the audit period can be found in the Audit Scope section. The audit was conducted pursuant to §4-2, as amended, of the W.Va. 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.”

BACKGROUND³

The Commissioner of Agriculture has the responsibility for implementing legislative enactments designed to advance the interest of agriculture, horticulture, and similar industries of West Virginia and to ensure that the state’s citizens are sold only wholesome, uncontaminated, and unadulterated agricultural commodities and products. This includes protections against fraud by ensuring that agricultural materials and supplies are genuine as labeled and protecting against the introduction of noxious insects, weeds, and plant and animal diseases that might adversely affect agriculture, and regulating pesticides in the public interest to protect consumers and the environment to assure a healthful supply of food and fiber. This includes maintaining analytical capabilities of determining food safety and environmental compliance of agricultural industries and Distributes U.S. Department of Agriculture (USDA) surplus foods to school, needy individuals, and disaster areas. Accessory duties include suppressing or eradicating already introduced or endemic pests that have become or threaten to become a problem; establishing grades on agricultural products; disseminating statistical data on soils, climate, natural resources, market opportunities and advantages of the state; publishing and distributing reports and bulletins concerning all phases of agriculture and forestry; and cooperating in these and similar disciplines with other state agencies. Other duties include serving on the Board of Public Works, the Air Quality Board, the Housing Development Fund, the West Virginia Conservation Committee, the State Forestry Commission, and numerous committees.

³ Background information was obtained from the 2012 West Virginia Blue Book.

WEST VIRGINIA DEPARTMENT OF AGRICULTURE
JULY 1, 2011 – DECEMBER 31, 2012

SPENDING UNIT CONTACTS

West Virginia Department of Agriculture

Walt Helmick..... Commissioner (January 2013 – Present)

Chris Ferro..... Chief of Staff (February 2013 – Present)

Robert “Bob” Tabb..... Senior Manager (January 2013 – Present)

Mike Teets..... Director of Eastern Operations (January 2013 – Present)

Sandra “Sandi” Gillispie..... Director of Administrative Services (November 2001 – Present)

Jewell Plumley, DVM, State Veterinarian Director of Animal Health (April 2011 – Present)

Butch Antolini Director of Communications (July 2013 – Present)

Jonathan “Jon” Adkins Acting Director of Information Technology (September 2013 – Present)

Jean “Jeanie” Smith..... Director of Marketing and Development (August 2001– Present)

Robert Pitts, DVM Director of Meat & Poultry Inspection (February 2008 – Present)

Eric Ewing Director of Plant Industries (November 2013 – Present)

Herma Johnson Director of Regulatory & Environmental Affairs (August 2002 – Present)

Gus Douglass..... Commissioner of Agriculture (January 1965 – 1988 & 1993 – January 2013)

Janet Fisher Deputy Commissioner (June 1996 – January 2013)

Robert “Bob” Tabb..... Deputy Commissioner (November 2009 – January 2013)

Steve Miller Assistant Commissioner (January 2010 – January 2013)

Christina Kelley-Dye Director of Communications (December 2003 – May 2013)

Sherri Hutchinson Director of Plant Industries (July 2011 – October 2013)

SCOPE

We audited the West Virginia Department of Agriculture (WVDA) for the period of July 1, 2011 – December 31, 2012. Our audit scope included a review of applicable internal control and compliance with the W.Va. Code, Purchasing Division’s Procedure Handbook, State Auditor’s Office P-card Policy, Expenditure Schedule Instructions, Legislative Rules, W.Va. State Treasurer’s Office Cash Receipt Handbook, Statewide Contracts, IRS Publications, best business practices, and WVDA internal policies and procedures applicable for the period of July 1, 2011 through December 31, 2012 necessary to answer the audit objectives. We conducted this audit, which is a performance audit, in accordance with the standards applicable to performance audits contained in Generally Accepted Government Auditing Standards (GAGAS).

As part of the audit, we investigated the instances of possible fraud and abuse items reported to us in the responses to the fraud inquiries we sent out to various WVDA employees and determined if they were in fact instances of possible fraud and/or abuse. GAGAS Section 7.21 states that when auditors conclude, based on sufficient, appropriate evidence, that fraud, noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse either has occurred or is likely to have occurred which is significant within the context of the audit objectives, they should report the matter as a finding. Additionally, W.Va. Code §4-2-4 and W.Va. Code §4-2-6 state it is the duty of the legislative auditor to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit.

Furthermore, GAGAS Section 6.32 indicates that in the event information comes to the auditors’ attention indicating fraud that is significant within the context of the audit objectives may have occurred, the auditors should extend the audit steps and procedures, as necessary, to (1) determine whether fraud has likely occurred and (2) if so, determine its effect on the audit findings. Additionally, GAGAS Section 6.34 indicates that in the event auditors become aware of abuse that could be quantitatively or qualitatively significant to the program under audit, they should apply audit procedures specifically directed to ascertain the potential effect on the program under audit within the context of the audit objectives. Therefore, we extended our review of the former Commissioner of Agriculture’s travel reimbursements based on the review of the potential fraud and abuse claims which resulted in findings. The expanded review included all travel reimbursements for the former Commissioner for the period of February 1, 2008 – November 18, 2013. The last travel reimbursement processed for the former Commissioner was in February 2013. Under GAGAS Section 7.21, when auditors conclude, based on sufficient, appropriate evidence, that fraud, noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse either has occurred or is likely to have occurred which is significant within the context of the audit objectives, they should report the matter as a finding.

WVDA’s management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance 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.

The scope over internal controls involved only assessing those controls that were significant to the objectives listed in this report. To conclude on the adequacy of internal controls regarding WVDA as a whole was not a specific objective of this audit. Any internal control weaknesses discovered have been reported in findings if they were significant to our audit objectives.

METHODOLOGIES⁴

To achieve our objectives, we reviewed applicable W.Va. Code sections, applicable rules and regulations, and policies of WVDA. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observations of WVDA'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 WVDA personnel to obtain an understanding of the programs and the internal controls respective to the scope of our audit. In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk.

To select transactions for testing, a variation of non-statistical and statistical sampling was used. Our samples of transactions were designed to provide conclusions about the validity of transactions, as well as internal control and compliance attributes. Some transactions for testing were selected randomly using RAT-STAT statistical software and other transactions were selected for testing using professional judgment. Projections are only applicable to those samples chosen statistically. Where projections would provide relevant information they have been included in this report.

We conducted our post audit, which is a performance audit, in accordance with the standards applicable to performance audits contained in GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. An audit includes examining, on a test basis, evidence about WVDA's compliance with those requirements referred to above and performing such other procedures, as we considered necessary in the circumstances. Our audit does not provide a legal determination of WVDA'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.

WVDA'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.

⁴ Detailed methodologies, relevant laws, policies and agreements for each objective are explained in Appendix A.

This communication is intended solely for the information and use of the Post Audits Subcommittee, the members of the W.Va. Legislature, and management of WVDA. However, once presented to the Post Audits Subcommittee, this report is a matter of public record and its distribution is not limited. Our reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving State operations.

CONCLUSIONS

WVDA had significant internal control weaknesses and noncompliance in areas of high risk for errors in both revenues and expenditures.

For the items tested, WVDA did not comply with parts of the following: W.Va. Code, Purchasing Division's Procedure Handbook, State Auditor's Office P-card Policy, Expenditure Schedule Instructions, Legislative Rules, W.Va. State Treasurer's Office Cash Receipt Handbook, Statewide Contracts, IRS Publications, best business practices, and WVDA internal policies and procedures applicable for the period of July 1, 2011 through December 31, 2012. Noncompliance with the aforementioned was related to Cash Handling, Cottage Leases, Improper Employee Classification, Farmer's Market Leases, Fixed Assets, Ghost Account Travel Card, Hospitality Expenditures, Inspector Cash Advances, Miscellaneous Expenditures, Miscellaneous Revenues, Purchasing Expenditures, Revenues, the Rural Rehabilitation Loan Program and Travel Expenditures.

WVDA failed to maintain an adequate system of internal controls over revenues; therefore, we were unable to determine if all revenues due WVDA were received and accounted for. The main reasons WVDA did not maintain adequate internal controls stemmed from system/database limitations combined with a lack of segregation of duties and lack of management oversight and monitoring.

Most of the issues identified in this report result from inadequate recordkeeping, poor or nonexistent internal controls, a lack of segregation of duties, appearance of an unethical tone of upper management and a lack of oversight and monitoring on the part of the WVDA. Overall, WVDA did not maintain adequate systems or have sufficient, reliable evidence to support certain significant information.

This report includes findings regarding significant instances of noncompliance with applicable law, rules and regulations as related to the objectives. Any instances of noncompliance that, while not significant enough to warrant inclusion in this report, still merited the attention of WVDA management was communicated in a letter to WVDA management.

All testimonial evidence obtained by the audit team was evaluated for objectivity, credibility, and reliability and was obtained under conditions in which the employee was able to speak freely without intimidation. Further, the employees had direct knowledge of their working area and there was no evidence that the employees were biased. Additionally, we assessed the sufficiency and appropriateness of computer-processed information regardless of whether the information was provided to us or we independently extracted by using an Internal Control Questionnaire, assessing the reliability and integrity of data, performing analytical reconciliations, and testing documentation provided to the supporting documentation. Furthermore, we find the audit presents sufficient, appropriate evidence to support the findings and conclusions in relation to the audit objectives based on the use of professional judgment, documenting procedures, reviewing copies of source documents, evaluation of internal controls, evaluation of risks, evaluation of data reliability and integrity, and the fact that all transactions tested were reviewed by the Auditor in Charge and Audit Manager.

Due to the seriousness of the numerous issues found over the WVDA Rural Rehabilitation Loan Program, the audit team presented the following codification recommendations to the Legislative Post Audits Subcommittee.

If the Legislature chooses to continue the loan program, the Legislature should consider expressing in statute:

- 1) Minimum qualification of loan committee membership, including requiring at least two members with five-years of business loan experience;
- 2) Establishing minimum financial requirements for receiving a loan;
- 3) Requiring loans to be used only for an agricultural purpose;
- 4) Requiring applicant to show proof of denial from a conventional lender (as required by the federal loan program);
- 5) Requiring collateral sufficient to fully secure the loan;
- 6) Requiring the Department of Agriculture to promulgate Legislative Rules detailing procedures over delinquencies, refinancing, collateral requirements, and other aspects of the loan program;
- 7) Requiring the Department to advertise the program at a minimum on the Department's web site and in the Department's Market Bulletin; and
- 8) The allowable interest rate, in relationship to the Federal Reserve System prime rate.
- 9) Require the WVDA to obtain their own property appraisals on collateral
- 10) Require the WVDA to maintain documentation of insurance for any buildings/equipment/land used as collateral
- 11) Require the WVDA to consult the Attorney General for any foreclosure proceedings

In addition, if the Legislature chooses to continue the Rural Rehabilitation Loan Program, the Legislature should consider transferring the servicing of such loans to the State Treasurer's Office. The Legislature should also consider requiring the Department to annually report the status of all outstanding Rural Rehabilitation loans to the Legislature.

EXIT CONFERENCE

We discussed this report with management of the WVDA on January 9, 2014. All findings and recommendations were reviewed and discussed as well as any items deemed inconsequential. Management's response has been included at the end of the report in Appendix B.

AUDIT RESULTS

OBJECTIVE 1:

Determine if the Rural Rehabilitation Loan Program was properly managed.

Sub-Objectives:

- i. Determine if loan funds were being used as described in the loan holder business plan.
- ii. Determine if deeds of trust or liens for collateral were received and maintained by WVDA personnel.
- iii. Determine if loan payments were being received by the WVDA according to the loan terms.
- iv. Determine if loan payments were applied to interest and principal according to the loan terms.
- v. Determine if loan payments were deposited in accordance with W.Va. Code §12-2-2.

CONCLUSION:

Based on the testing of the West Virginia Rural Rehabilitation Loan Program, we concluded the program was not performed in accordance with W.Va. Code, the WVDA's Procedure over the Rural Rehabilitation Loan Program, policy statement, cover letter and loan holder agreements. Additionally, we determined the WVDA is not adequately managing the program, maintaining/obtaining sufficient collateral, receiving loan payments according to the loan terms, posting principle and interest payments correctly or depositing payments in accordance with W.Va. Code 12-2-2. We also determined the WVDA's policy for the loan program is lacking significant details including when a loan holder is eligible to refinance and requirements over eligibility and awarding of Rural Rehabilitation Loans. See findings below.

We were unable to determine if the funds received by loan holders were used in accordance with loan holder business plans due to the lack of documentation issues noted in Finding 2 under this objective. In addition to the documentation issues, the WVDA never performed an on-site visit to ensure funds were being used as planned.

Finding 1

Internal Control Deficiency over Loan Program

Condition:

We were unable to obtain sufficient, appropriate evidence to determine whether or not the balances on all outstanding Rural Rehabilitation Loans were accurate in the Trakker system⁵. The Trakker system indicated a total outstanding balance on all loans of approximately \$4,065,370⁶ as of December 31, 2012; however, we were unable to perform a test which would allow us to accurately recalculate outstanding balance amounts.

⁵ Trakker is the computer system used to calculate loan amortization schedules, record loan payments, and monitor loan balances.

⁶ During our risk assessment, it was determined the loans given solely by the WVDA were a higher risk than loans given in conjunction with the United States Department of Agriculture (USDA). Our population of 35 loans included loans given solely by the WVDA. We chose a sample of 19 loans for testing.

The lack of internal controls is described in greater detail as follows:

- There are no procedures for entering information into the system or changing information in the system;
- There is not adequate internal control or oversight over the information going in and out of the system;
- Changes made in the system are not reviewed;
- Management is not notified when changes are made;
- Information can be manually entered and there are no edits/checks to ensure the data entry is accurate;
- A reconciliation of actual monies received and deposited to the system and the handwritten accounting ledgers is not performed; and
- The system could not provide an adequate aging report due to the fact that the system will show loan holders who only make a partial payment as current, when in fact the loan holder is delinquent. For example, if a loan holder made a payment of only \$10 when their total payment due was actually \$1,000, the system would show the loan holder as current even though the full payment amount was not received.

In addition to the internal control issues listed above, we were unable to accurately recalculate outstanding loan balances due to the following issues:

- We found six instances where the amount received by the WVDA did not match the amount entered into the Trakker system and/or the handwritten ledgers⁷
 - We noted four instances where the amounts recorded in the ledger were greater than the amount of monies deposited by a total of \$1,992;
 - We noted two instances where the amounts recorded in the ledger were less than the amount of monies deposited by a total of \$996; and
- We were unable to determine the method in which the WVDA applied principal and interest in handwritten ledgers for 15 of the loans tested (79%) prior to the implementation of the Trakker system. The remaining 4 loans were issued after Trakker had been implemented.

⁷ Only loan payments received during our audit period were checked from the system to the actual amount the WVDA received. Any loan amounts prior to our audit period were obtained from the Trakker system or the handwritten ledgers and could be incorrect.

The Trakker system automatically allocates principle and interest based on the payment date entered into Trakker.

In addition to the issues listed above, we noted the following issues during our testing of the loan payments:

- Six of the 19 loans⁸ tested (32%) had their loan payment amounts calculated incorrectly. We were unable to determine how the WVDA calculated the payments in the loan agreement;
- Two loan agreements (11%) stated payments would be a fixed amount to interest only during the beginning of the loans; however, based on the ledgers, the WVDA applied part of the payment amounts to principal;
- One loan tested (5%) began accruing interest on the date the last payment on the original loan (April 6, 2006) was received; however, interest should have accrued from the start date of the consolidation (April 28, 2006);
- One loan tested (5%) should have started accruing interest on February 4, 2010 according to the loan agreement; however, the loan did not begin accruing interest until the start date in the Trakker system which was March 1, 2010;
- One loan tested (5%) continued to accrue interest based on original loan term's interest rate of 5.5% after the loan holder was granted a refinance which changed the terms to an interest rate of 4%. In October 2011, the interest rate was properly changed to 2% per a new loan agreement;
- One loan tested (5%) had a loan payment totaling \$210 entered into the WVDA mail log on September 9, 2011 and deposited on September 16, 2011; however, it was not entered into the handwritten loan ledger until December 5, 2011; and
- One loan tested (5%) had two payments with different payment dates entered into Trakker and the handwritten ledgers.

Criteria:

W.Va. Code §5A-8-9 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.**

⁸ During our risk assessment, it was determined the loans given solely by the WVDA were a higher risk than loans given in conjunction with the USDA. Our population of 35 loans included loans given solely by the WVDA. We chose a sample of 19 loans for testing.

(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.**" (Emphasis Added)

Promissory Notes agreed to in the loan terms, state in part:

"The first xx payments shall be applied to interest only; the remaining payments shall be applied first to the interest due hereon and the balance, if any, to the principal." (Emphasis Added)

"For value received, the undersigned... promises to pay to the order of West Virginia..., the sum of..., **with interest from the date hereof** at the rate of..., on the unpaid principal balance until paid." (Emphasis Added)

Management is responsible for establishing and maintaining effective internal controls. A fundamental concept of internal control is adequate segregation of incompatible duties. For adequate segregation of duties, management should ensure responsibilities for authorizing transactions, recording transactions, maintaining custody of assets and reconciliations are assigned to different employees.

Cause: The issues with the Trakker and ledger systems noted above are due to the lack of policies and procedures over the Rural Rehabilitation Loan Program, lack of management oversight and review and lack of internal controls.

Effect: By not having a member of the Committee/staff knowledgeable about the proper allocation of principal and interest, the risk of over and/or under charging the amount of interest increases significantly. Additionally, loan balances will be incorrect throughout the duration of the loan because of the internal control issues with the system and payment issues noted above. Because of this, statements being sent to loan holders will not reflect an accurate loan balance. All issues will affect the total amount due to the WVDA from loan holders. Improper management of the loans could result in loss of funds further diminishing the financial status of the Rural Rehabilitation Loan Program.

Recommendation: We recommend the WVDA implement a policy that provides a more detailed process for handling collection and allocation of loan payments. Loans should be managed by qualified personnel who have an understanding of all requirements needed to effectively run the program. Additionally, we recommend the WVDA perform a reconciliation of actual monies received and deposited to the system and the handwritten accounting ledgers. Also, segregation of duties should be implemented so the loans will be entered and reviewed by two separate employees. Furthermore, we recommend the WVDA have an independent audit of the Rural Rehabilitation Loan Program.

**Spending Unit's
Response:**

See Appendix B

Finding 2

Lack of Documentation over Loan Program

Condition:

We tested nineteen loans⁹ that had outstanding balances during our audit period. The documentation issues found are noted below:

- None of the 19 loan files contained documentation to support any loan holder was denied a loan by a conventional lender as required by the Rural Rehabilitation Assets Use Agreement with the United States Department of Agriculture (USDA).
- Five of the loans tested (26%) did not provide a detailed business plan.
- One of the loans tested (5%) did not have a loan application located in the file.
- One of the loans tested (5%) did not provide documentation for changes made to the original loan terms.
- One of the loans tested (5%) had an original promissory note dated March 4, 2002 stating the loan holder could not add additional debt exceeding \$5,000 without the consent of the loan committee. It appears the loan holder violated those terms and received a \$100,000 loan from a bank because there was no documentation in the loan holder file indicating the Loan Committee was consulted. Although the Committee was made aware of the possible violation in a letter dated October 28, 2009 from their attorney, the Committee later approved additional funds of \$200,000 for the loan holder on December 2, 2009.
- Eight of the 19 loans⁹ tested (42%) did not have documentation of collection attempts. Rather than trying to collect on collateral through foreclosure or filing suit to collect on existing Uniform Commercial Code (UCC) equipment liens, the WVDA engaged primarily in refinances. Issues with collection attempts are detailed below:
 - We were unable to locate documentation in the loan holder file notifying a loan holder of delinquency. The loan terms specified monthly payments would begin June 1, 2012. We found only one payment was made during our audit period. Seven payments should have been received from June 1, 2012 to the end of our audit period, December 31, 2012. Also, we were unable to locate documentation of an attempt to collect the equipment secured by the UCC equipment liens. The WVDA has since accepted a modified repayment plan.

⁹ During our risk assessment, it was determined the loans given solely by the WVDA were a higher risk than loans given in conjunction with the USDA. Our population of 35 loans included loans given solely by the WVDA. We chose a sample of 19 loans for testing.

- We were unable to locate documentation in the loan holder file notifying a loan holder of delinquency when partial loan payments were received beginning in July 2011. Although full payments were made for four months from July 2011 through December 31, 2012, no payments of past due balances were received to bring the loan to current status.
- We were able to locate two delinquency notices sent on February 10, 2009 and January 22, 2010 for a loan that became delinquent in December 2007. The loan holder made eight partial payments through October 2008. The WVDA received a partial payment of the past due amount on February 26, 2009. However, no additional payments were received and there was no documentation in the loan holder file indicating the WVDA attempted to pursue collection of the collateral.
- The loan holder was not able to meet the loan terms and continually did not make his payments by the due date. Each time the loan holder received a delinquency notice, they sent the specified amount to become current. However, we were unable to locate a delinquency notice in November or December 2012 when a payment had not been received since November 2011.
- We were unable to locate any documentation notifying a loan holder of delinquency when they became delinquent in August 2012. The loan holder made two payments since becoming delinquent but those payments did not cover the past due amount. No payment was received after September 17, 2012. The WVDA has since accepted a modified repayment plan.
- We were unable to locate any documentation notifying a loan holder of delinquency when they became delinquent in December 2009. The loan holder made partial payments from December 2009 through December 2010. The loan holder then began making full payments but never paid the past due amount to become current on the loan. There was no documentation in the file regarding collection attempts of any type past 2011.
- The WVDA pursued collection on a loan issued in August 1994 through continued bankruptcy proceedings and negotiated a repayment plan in August 2009. However, after the repayment plan began the loan holder failed to make the required monthly payments. There was no documentation indicating the WVDA attempted to pursue foreclosure on the 1st deed of trust held as collateral.
- We were unable to locate documentation indicating alternative collection attempts were pursued on collateral after a loan holder became delinquent during our audit period.

It should also be noted there was no documentation in the loan files nor was the WVDA able to provide us with documentation showing the loan program was advertised to the public within the last ten years. A letter from a WVDA Loan Committee member states, "To the best of my knowledge, the committee never published any advertisements regarding this program... I truthfully believe the loan fund was promoted by 'word of mouth' and through our Federal Partner [USDA]." A brochure for the program was seen but no WVDA employees were able to tell us when the brochure was created or if it was ever distributed.

Criteria:

W.Va. Code §5A-8-9(b) states in part:

"The head of each agency shall...

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."

W.Va. Code §19-1-3a, as amended, states in part:

"The duties of the Marketing and Development Division are to establish marketing, promotional and development programs to advance West Virginia agriculture in the domestic and international markets..."

W.Va. Rural Rehabilitation Assets Use Agreement Section II, states in part:

"...Farmers or members of their families or other parties to whom loans or grants are made... must be unable to provide the financing needed for such purposes from their own resources or to obtain it from conventional sources in the area at rates and terms they can reasonably be expected to meet..."

WVDA Rural Rehabilitation Loan Fund Procedure, states in part:

"7.16 If loans are delinquent and letters of reminder from Administrative Services ignored, the Loan Program Coordinator sends information to Department Attorney to send notice of collection."

"7.17 Attorney notifies Loan Program Coordinator of response, if any. Loan Program Coordinator notifies Loan Committee of status. Loan Committee can pursue foreclosure, repossession or place additional liens. On occasion, Department investigator may work with attorney on repossessions, etc."

W.Va. Rural Rehabilitation Loan Fund Policy Statement, states in part:

"It is the purpose of the WV Rural Rehabilitation Loan Fund to consider participation... for loans to agricultural related enterprises **when applicant is denied loan by conventional lenders...**" (Emphasis Added)

Purchase-Money Promissory Note Dated March 4, 2002, states in part:

"...(m) The Borrower will not assume or incur any additional debt exceeding the principal amount of Five Thousand Dollars (\$5,000) without the prior written consent of the Fund..."

West Virginia Rural Rehabilitation Loan Cover Letter, states in part:

"Your first step is to complete the loan application..."

"...4. Include a Business Plan/Operating Plan for your proposed business or business expansion..."

Cause: The lack of documentation was due to insufficient internal controls and insufficient program oversight. The lack of pursuing alternative means of collection was due to the inexperience of the Loan Committee in dealing with collection issues. Advertising of the loan program consisted of word of mouth to individuals and companies closely related to those charged with governance of the program.

Effect: By not obtaining a detailed business plan, the WVDA could issue loans to applicants who do not have intentions to utilize the money received for agricultural related purposes¹⁰ or who are not eligible to receive a loan. Changes in the loan terms that are not being documented could result in litigation issues if the terms were ever questioned. Improper management of the loans could result in loss of funds further diminishing the financial status of the Rural Rehabilitation Loan Program.

Without notifying loan holders of delinquency and attempting to collect past due balances and/or collateral, the loan program could become insolvent and prevent the issuance of new loans. This could hinder the growth of West Virginia agricultural related industries.

By not advertising the program, the WVDA may have severely hindered the growth of new agriculture business in the State of West Virginia because potential investors were unaware of the program.

Recommendation: We recommend the WVDA implement a policy that provides a more detailed process for handling collection efforts and to maintain adequate records. Loans should be managed by qualified personnel who have an understanding of all documentation requirements needed to effectively run the program. We also recommend the WVDA follow the marketing and development division duties and establish marketing, promotional and developmental programs to advance West Virginia Agriculture in the domestic and international markets. An example of an advertising venue would be in the WVDA Market Bulletin. Furthermore, the WVDA should hire a third-party to perform the appraisal rather than

¹⁰ See Finding 6 – Agricultural Purpose Not Met.

allowing the applicant to supply the appraisal in order to reduce the risk of accepting a false and/or overvalued report.

**Spending Unit's
Response:**

See Appendix B

Finding 3

Loan Program Conflicts of Interest

Condition:

It appears a potential conflict of interest could have existed between the loan holder and either the Rural Rehab Loan Committee or the former Commissioner of Agriculture for four of the 19¹¹ loans tested (21%). The four loans are detailed below:

- An immediate relative of the former Commissioner of Agriculture received a loan of \$45,000 and a refinance where an additional \$18,500 was loaned. The WVDA did receive an Ethics Opinion stating the loan could be given if the former Commissioner simply approved a loan recommended by the committee. Although the former Commissioner was not a voting member of the Loan Committee, he did have influence over every member of the Committee because he appointed the members, they were all his employees and he had the ability to fire all members of the Committee. The former Commissioner also had the power to veto any loans the committee recommended and his signature was required for the loan to be approved for payment.
- A WVDA employee received a loan in the amount of \$6,500. According to the repayment plan, the employee was delinquent since October 2012. The WVDA has since accepted a modified repayment plan. Additionally, the WVDA employee was well known by all loan committee members and the former Commissioner of Agriculture.
- A second WVDA employee received a loan in the amount of \$146,000. The latter amount was extended to the former Secretary of the Loan Committee who did not possess voting rights, but did sit in on Committee meetings to take meeting minutes. The former Secretary also had access to the loan files and received loan applications. The former Secretary also corresponded with loan holders about the possibility of refinancing. The former Secretary also received a refinance which forgave interest, reduced the interest rate and gave a longer repayment period of 25 years. The repayment period was not in compliance with the WVDA Rural Rehabilitation Loan Fund Policy Statement. Additionally, the WVDA employee was well known by all Loan Committee members and the former Commissioner of Agriculture.
- A company leasing a WVDA building¹² was provided a loan of \$300,000 to purchase a new building for their business which is in produce wholesale. The company regularly works with the Director of Marketing & Development at the WVDA who is a voting member on the Loan Committee.

¹¹ During our risk assessment, it was determined the loans given solely by the WVDA were a higher risk than loans given in conjunction with the USDA. Our population of 35 loans included loans given solely by the WVDA. We chose a sample of 19 loans for testing.

¹² See Finding 1 – Property Leased without Sealed Bid Auction under Objective 6.

Criteria:

W.Va. Code §6B-1-2, as amended, states in part:

“(a) The Legislature hereby finds that the holding of a public office or public employment is a public trust. **Independence and impartiality** of public officials and public employees are essential for the maintenance of the confidence of our citizens in the operation of a democratic government...

(c)... when such conflict becomes personal to a particular public official or public employee, such person should seek to be **excused from voting**, recused from deciding, or otherwise **relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.**” (Emphasis Added)

W.Va. Code §6B-2-5, as amended, states in part:

“(b) **(1)**. A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office **for his or her own private gain or that of another person...**

(d) **(1)**... **no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated** may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or **over which he or she may have control...**” (Emphasis Added)

W.Va. Ethics Commission Ethics Opinion, states in part:

“...You further explain that any such loan **must first be considered by a three-person committee...** to determine whether the loan application meets the Fund’s guidelines... it is my opinion that, so long as Commissioner Douglass is not involved in the evaluation process, but as Trustee for the Fund, **simply approves a loan recommended by the committee**, consistent with procedures, terms and conditions applied to other similar loans, such approval would not violate any provision in the Ethics Act.” (Emphasis Added)

W.Va. Rural Rehabilitation Loan Fund Policy Statement, states in part:

“Loans should be of no more than 20 years duration.”

“The maximum amount which can be loaned to any one borrower (individual/corporation/partnership) is \$250,000, except in extraordinary agricultural development opportunities.”

“Committee members shall be appointed by the Commissioner of Agriculture and shall have no direct interest, nor shall any member of their immediate family have any interest, in the proposed enterprise.”

“Trustee has the right to change the terms or conditions of this policy at his discretion.”

Cause: The loan committee voted for loans with businesses/individuals when members had prior relationships without recusing themselves from voting on whether to give a loan. The appearance of an unethical tone set by the upper level of management led employees to believe they were unable to question the loans.

Effect: By not recusing themselves, there may be an appearance of a lack independence and/or impartiality of public officials and public employees in the view of West Virginia citizens. Loans may be awarded that do not meet the criteria of the Rural Rehabilitation Loan Program if conflicts of interest exist between the loan committee or Commissioner and loan applicants. While the former Commissioner did approve the loan for a family member upon the recommendation of the committee, the committee is appointed by the Commissioner and may lead to an appearance of favoritism.

Recommendation: We recommend the WVDA implement a policy for handling applications received from employees, family members, related parties etc. We recommend the WVDA reviews the United States Department of Agriculture Farm Service Agency’s policy regarding conflicts of interest and extending loans to employees. We also recommend loan committee members properly recuse themselves from voting when they have prior relationships with loan applicants.

Spending Unit’s Response: See Appendix B

Finding 4

Insufficient Collateral and/or Appraisal not Obtained

Condition:

We determined five of the 19 loans¹³ tested (26%) had insufficient collateral, lacked an official appraisal or the file did not contain a record of Uniform Commercial Code (UCC) equipment liens stipulated by the terms of the loan agreement.

- A loan for \$149,000 had an agreement stating the loan was secured by 2.5 acres of land, a 40'x25' building that was to be constructed with loan funds and UCC equipment liens. Upon review of the loan holder file, the only documentation located indicates the land was valued at \$15,750, the building had no value and the UCC equipment liens were never filed¹⁴. The WVDA was unable to provide an estimated value of the building prior to construction. Also, the file did not contain an official appraisal for the land or equipment.
- The WVDA loaned approximately \$144,000 and took a 2nd lien position on property to be held as collateral which appraised at \$325,000. However, at the same time of the WVDA loan, the loan holder entered into loans with BB&T, who had a 1st lien position of approximately \$345,000. Thus, the WVDA loan was not secured given the amounts owed to BB&T.
- A loan in the amount of \$15,000 had a truck and camper accepted as collateral with a purchase value of only \$6,200. The loan agreement stated UCC equipment liens would be maintained by the WVDA. However, the UCC liens were never filed.
- A loan in the amount of \$260,000 had security in the form of a 1st deed of trust listed in the loan agreement dated December 2, 2009. Although the deed of trust was filed, there was no record of an appraisal for the property. Therefore, it appears the WVDA extended the loan without verifying adequate collateral.
- The WVDA issued a loan in the amount of \$146,000 to the former Secretary of the Loan Committee and their spouse to purchase approximately 95 acres of land in May of 2005. However, the appraisal report in the loan file dated March 4, 2003 indicated the 95 acres only held a value of \$120,000, leaving the loan under collateralized by \$26,000.

¹³ During our risk assessment, it was determined the loans given solely by the WVDA were a higher risk than loans given in conjunction with the USDA. Our population of 35 loans included loans given solely by the WVDA. We chose a sample of 19 loans for testing.

¹⁴ We reviewed the W.Va. Secretary of State's Office website and used the Online UCC Filings & Searches to determine the UCCs were never filed.

Criteria:	<p>WVDA Rural Rehabilitation Loan Fund Policy Statement, states in part:</p> <p>“Loans to individuals may be secured by collateral as approved by WVRRLF Committee and/or personal guarantees... Additionally, loans may require ... Other collateral.”</p> <p>West Virginia Rural Rehabilitation Loan Fund Procedure Section 7.7, states in part:</p> <p>“... Approval could have a contingency statement; such as approved with acceptable appraisal.”</p> <p>In addition, best business practices dictate that loans should be collateralized by assets that would be sufficient to secure the loan and official appraisals should be obtained to support the lender’s decision to accept collateral as sufficient.</p>
Cause:	<p>The loan committee appeared to lack the necessary expertise required in the evaluation of loan applications. The general “tone at the top” within the organization appeared to be nonchalant with regard to making lending decisions. The policies and procedures in place lacked specifics with regard to what should be accepted as sufficient collateral and when appraisals are required.</p>
Effect:	<p>Loans that are not sufficiently collateralized and supported by official appraisals of property value presents additional risk with regard to being able to recoup loan funds in the event of loan holder defaults. This could lead to the fund becoming insolvent and could cost the State unnecessary expense.</p>
Recommendation:	<p>We recommend the WVDA implement policies and procedures similar to the USDA Farm Service Agency (FSA), which provides specific guidelines as to what type of collateral is acceptable and stipulates appraisals will be obtained as support for the value of property being considered to secure each loan. In addition, we recommend the WVDA require proof of hazard and/or flood insurance over the collateral naming the WVDA as beneficiary in the event the collateral is destroyed and/or lost as required by the USDA FSA. Furthermore, the WVDA should hire an outside party to perform the appraisal rather than allowing the applicant to supply the appraisal in order to reduce the risk of accepting a false and/or overvalued report.</p>
Spending Unit’s Response:	<p>See Appendix B</p>

Finding 5 **Lack of Policy over Loan Program**

Condition: The WVDA has not promulgated rules over the Rural Rehab Loan program nor does the internal policy statement or procedure have criterion for minimum eligibility and award requirements. While it appears the WVDA occasionally reviews credit history and sometimes obtains a credit score, there are no requirements that an applicant must have a certain credit score, history or proof of ability to repay the loan before being eligible to receive a loan.

The WVDA loan procedure and policy statement also addresses loans having collateral but it does not state the collateral must be sufficient to cover the amount of the loan. It only states the collateral must be approved by the loan committee. The award process is left to the discretion of the Loan Committee and the Trustee (Commissioner of Agriculture). Loan applications should be subject to specific criterion before being at the discretion of the Loan Committee and the Trustee.

The policy statement and procedure also lack information on the process to follow for collection attempts as well as when a loan holder is eligible for a refinance.

Criteria: **W.Va. Code §5A-8-9 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.” (Emphasis Added)**

In addition, best business practices dictates loans should be collateralized by assets sufficient to fully secure the loan and official appraisals should be obtained to support the lender’s decision to accept collateral as sufficient.

Cause: The WVDA has not established written policies over the eligibility, award criteria, collection process and refinance requirements for the Rural Rehabilitation Loan Program. Loan applicants are subject to the discretion of the loan committee and ultimately the Trustee.

Effect: Due to the lack of policy, it is possible loans could have been given to applicants who were not eligible for the program or who did not have the ability to pay back a loan. When loan holders were unable to repay the loan, the lack of policy allowed the Loan Committee to write-off loans without pursuing other collection attempts. Additionally, lack of procedures over the collection attempts allowed the Loan Committee to accept modified repayment plans/refinances instead of pursuing collection of collateral.

Recommendation: We recommend the WVDA implement policies and procedures which are more specific as to the eligibility, award criteria, collection process and refinance requirements. The loan application should first be reviewed to specific requirements prior to a vote by the Loan Committee. The policies and procedures should include underwriting criteria that includes repayment capacity, repayment structure and credit analysis.

In addition, we recommend the WVDA require proof of hazard and/or flood insurance over the collateral naming the WVDA as beneficiary in the event the collateral is destroyed and/or lost as required by the USDA FSA. Furthermore, we recommend the WVDA define eligible and non-eligible enterprises in a similar fashion as the USDA FSA in regards to the food service industry.

**Spending Unit's
Response:**

See Appendix B

Finding 6 **Agricultural Purpose not Met**

Condition: Two of the 19 loans¹⁵ tested (11%) were not issued for an agricultural purpose. The purposes of the loans were as follows:

- A loan in the amount of \$50,000 issued in November 2003 was used to pay off \$50,000 in outstanding debt owed to the Bank of Monroe.

- A loan in the amount of approximately \$200,000 issued in October 2008 was used to pay off an equal amount of debt owed to BB&T.

It should be noted the Rural Rehabilitation loan program is not used solely for farmers to purchase real estate, livestock, machinery or equipment. Eight of the 19 loans (42%) tested were issued to businesses in the food production, restaurant or wholesale industries.

Criteria: **WV Department of Agriculture Policy Statement, states in part:**

"It is the purpose of the WV Rural Rehabilitation Loan Fund... for loans to agricultural related enterprises **when applicant is denied loan by conventional lenders...** Loans may be made for real estate, livestock, machinery, equipment, supplies or materials necessary for the business, and special purpose structures **required for the production or processing of agricultural commodities and products,** or for the development of cottage industries" **(emphasis added)**

West Virginia Rural Rehabilitation Loan Cover Letter, states in part:

"...Please note that loan proceeds may not be used to; payoff existing debts..."

Cause: The Loan Committee disregarded their internal requirements for lending.

Effect: The WVDA could issue loans to applicants who do not have intentions to utilize the money received for agricultural related purposes or who are not eligible to receive a loan. This could prevent the issuance of new loans and could hinder the growth of West Virginia agricultural related industries.

Recommendation: We recommend the WVDA follow their guidelines and implement detailed policies and procedures to further the agricultural purpose of the loan program. Furthermore, we recommend the WVDA define eligible and non-eligible enterprises in a similar fashion as the USDA FSA in regards to the food service industry.

Spending Unit's
Response: See Appendix B

¹⁵ During our risk assessment, it was determined the loans given solely by the WVDA were a higher risk than loans given in conjunction with the USDA. Our population of 35 loans included loans given solely by the WVDA. We chose a sample of 19 loans for testing.

Finding 7

No Lending Expertise on Loan Committee

Condition:

The WVDA does not have a lending expert on the Loan Committee who oversees the program. For two of the 19 loans tested (11%), it appears the Loan Committee did not take the advice of legal counsel into consideration. The two loans are detailed below:

- One loan holder was extended a loan based on unaudited financial statements. Other financial information indicates a large portion of the company's assets are receivables from related parties. WVDA's legal counsel expressed concerns about assets used as collateral which may have had other creditors with better lien positions. It appears the loan holder could have received financing through other means.
- One loan had a letter dated July 9, 2009 from the WVDA legal counsel advising the Loan Committee the property would likely sell for less than the full loan amount in the event of foreclosure. Additionally, the legal counsel advised the Loan Committee the loan holder's credit history presented additional risk.

Criteria:

Letters from WVDA Legal Counsel, state in part:

"...I believe it is important that I point out some concerns that I have with this loan. Those concerns are as follows:

1. The balance sheets and other financial information we received from [APPLICANT] are not audited financial statements... I do not believe that they can be relied upon to form the basis to make a loan to these institutions...
2. A substantial portion of the assets of [APPLICANT] consist of notes receivable from stockholders and other related entities. I have no information to support whether these indebtednesses are collectible...
3. We do not have copies of all of the loan documents, UCCs and other related contractual documents relating to the borrowers' loans from other institutions. It is therefore possible, even if we obtain an appropriate UCC on the equipment, that we might not be a first lienholder because of prior contractual arrangements by the borrower with other lending institutions...
4. ... I question how the frozen dough line could be "valued at \$850,000" when it is going to be purchased with our \$200,000 loan. If the dough line is being purchased for \$200,000 it's actually going to have a sale value of less our loan amount, even if we have a first lien. In addition we have no independent appraisal of the machinery."

"...If we are required to foreclose on this property, and resell the property, I would not expect that we would be able to get back our loan amount... The credit profile shows that for the various reporting agencies, the [APPLICANT] had serious delinquencies and derogatory public records or collections had been filed against them. Additionally, they... have significant past due obligations. Your agency needs to take this into consideration if it proceeds with this loan."

Cause: The members of the Loan Committee do not have expertise in the lending industry. Additionally, the Commissioner of Agriculture is responsible for appointing Loan Committee members. The WVDA does not have any written policies over the eligibility and award criterion for the loans.¹⁶.

Effect: By not having a member of the committee/staff knowledgeable about assessing the risk of default, the risk of lending monies to borrowers who may be a high risk of defaulting increases.

Recommendation: We recommend the WVDA Commissioner appoint someone to the Loan Committee with the expertise in lending. Otherwise, the Committee should take the advice from legal counsel on approving loans. We also recommend the WVDA establish written policies on the eligibility and award criteria.

Spending Unit's Response: See Appendix B

¹⁶ See Finding 5 – Lack of Policy over Loan Program.

Finding 8

Loan Write-Off Noncompliance with W.Va. Code

Condition:

During our audit period, seven Rural Rehabilitation loans were written off by the WVDA Rural Rehabilitation Loan Committee without consulting the Attorney General prior to the write-off of the loans. The WVDA used their own attorney to assist in collection and write-off of Rural Rehabilitation loans. The remaining balances on these loans totaled approximately \$13,400.

Criteria:

W.Va. Code §14-1-18, as amended, states in part:

“The Commissioner of Finance and Administration, Auditor or other officer or official body having authority to collect the same may, **with the advice of the Attorney General, adjust and settle upon just and equitable principles without regard to strict legal rules any account or claim**, in favor of the State, which may at the time have been standing upon the books of his or its office more than five years; and, with the like advice, **may dismiss any proceedings instituted by him or it.**” (Emphasis Added)

Cause:

The WVDA loan committee was unaware of the W.Va. Code section requiring advice from the Attorney General prior to loans being written off. The WVDA makes attempts to receive payment for the loan when a loan holder becomes delinquent. However, there were times when the WVDA had collateral on the loan and there was no documentation showing if they attempted to collect the collateral before writing off the loan.

Effect:

By writing off loans without consulting with the Attorney General, the WVDA could have written off loans the Attorney General felt they were able to collect on. Also, the WVDA could have missed the opportunity to turn the loan over to a collection agency by not checking with the Attorney General to see if that was a viable option.

Recommendation:

We recommend the WVDA comply with W.Va. Code §14-1-18 and consult the Attorney General before the loan committee writes off any Rural Rehabilitation loans. We also recommend the WVDA consult with the Attorney General about whether or not they are capable of turning over delinquent/uncollectible loans to a debt collection agency instead of writing off loans.

Spending Unit's

Response:

See Appendix B

Finding 9

Deposits not made within 24 Hours of Receipt

Condition:

We noted instances where the WVDA did not deposit monies received within 24 hours. The total revenue received during our audit period was approximately \$23 million of which 4% was received in the form of cash¹⁷ and 96% was either received directly by the State Treasurer's Office or was a non-cash transfer.

Furthermore, WVDA's cash receipts were not adequately safeguarded from unauthorized use or disposition. The cash receipt functions were not properly segregated; only one employee opens the mail and enters the receipt into the Daily Receipt Log maintained by WVDA. A reconciliation between the monies received and deposited is completed by the employee making the deposit. An independent reconciliation is not performed after the deposit.

Rural Rehab

We tested nineteen loans¹⁸ that had outstanding balances during our audit period.

- Fourteen of the loans tested (74%) had one or more payments received during our audit period that were not deposited within twenty-four hours of receipt. There were a total of 169 payments received during our audit period and 88 were not deposited within 24 hours of receipt. These payments totaled approximately \$126,000. The payments were held for two to nine days with an average days until deposit of 2.9.
- One of the loans tested (5%) had two payments totaling \$15,000 received during our audit period we were unable to locate the payments in the mail log. Therefore, we are unable to determine if the deposit was in compliance with W.Va. Code §12-2-2.

Unused Inspector Advances

For 17 of 34¹⁹ transactions (50%), monies received by the WVDA were not deposited with the Treasury within 24 hours. The longest period for a check being held in our test was 4 business day, with an average of 2.9 business days from date of receipt to date deposited. The total amount of untimely deposits was approximately \$1,682.

¹⁷ Cash includes cash equivalents such as checks, money orders, etc.

¹⁸ During our risk assessment, it was determined the loans given solely by the WVDA were a higher risk than loans given in conjunction with the USDA. Our population of 35 loans included loans given solely by the WVDA. We chose a sample of 19 loans for testing.

¹⁹ We tested the entire population of 46 transactions. In 34 of the 46 transactions tested, the WVDA was owed money by an employee for reimbursement of cash advance amounts not used. Therefore, we based the number of instances of noncompliance on the 34 transactions where the WVDA received moneys.

General Receipts

WVDA did not deposit approximately \$167,949 out of \$502,401²⁰ (33%) reviewed within 24 hours of receipt. Additionally, WVDA did not maintain a daily itemized record of monies received during the 2011 or 2012 State Fair.

Criteria:

W.Va. Code §12-2-2, 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 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. The State Treasurer may grant an exception to the one business day rule when circumstances make compliance difficult or expensive.” **(Emphasis Added)**

W.Va. Code §5A-8-9 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.”

Management is responsible for establishing and maintaining effective internal controls. A fundamental concept of internal control is adequate segregation of incompatible duties. For adequate segregation of duties, management should ensure responsibilities for authorizing transactions, recording transactions, maintaining custody of assets and reconciling assets is assigned to different employees.

Cause:

Employees responsible for making deposits noted the inconvenience of making daily trips to the Treasurer’s Office because amounts received are small or infrequent in nature during certain parts of the year. As such, the WVDA chooses to make batch deposits once a significant amount has built up. WVDA utilizes a batch deposit system and deposits are only made three to four times a week. Additionally, there is a lack of effective internal control and oversight over the collection of monies to ensure all monies received are entered into a daily itemized record and subsequently deposited within 24 hours in accordance with statute.

Effect:

The risk of moneys being damaged, destroyed, lost, or stolen is increased when moneys are not promptly deposited. In addition, the lack of daily deposits results in lost interest earnings for the State.

²⁰ The population consists of 975 documents totaling approximately \$12,936,118.

Recommendation: We recommend the WVDA comply with W.Va. Code §12-2-2 and make deposits within the appropriate time period or obtain an exemption from the State Treasurer's Office. Based on the results of our test we feel a reasonable time period for the exemption would be no longer than 5 business days from date of receipt. We also recommend the WVDA maintain a record of daily receipts and reconcile the record to the actual cash deposited by an independent employee. Further, we recommend two employees be present when opening the mail to alleviate risk that the employee opening the mail at the WVDA office could misappropriate the monies received.

**Spending Unit's
Response:** See Appendix B

OBJECTIVE 2:

Determine if WVDA employees were in compliance with the WVDA Travel Policy.

CONCLUSION:

Based on the results of the travel reimbursements, direct billings, United Bank Ghost Account test, and the procedures documented from agency interviews, we have concluded travel reimbursements, direct billings and United Bank Ghost Account transactions for travel were not performed in accordance with WVDA's Travel Policy, WVDA's Policy and Procedure, W.Va. Code, the WV Expenditure Schedule Instructions and WV Statewide Contract TCARD06. Additionally, we determined WVDA is not adequately monitoring and tracking travel reimbursement requests, direct billings, or United Bank Ghost Account transactions. See findings below (except 1, 2 and 4). We noted other instances of noncompliance that, while not significant enough to warrant inclusion in this report, still required the attention of WVDA Management. These items were communicated in a letter to WVDA management.

Furthermore, based on the review of the potential fraud and abuse claims and the review of the former Commissioner's travel reimbursements for the period of February 1, 2008 – February 13, 2013, we concluded the former Commissioner potentially submitted fictitious receipts for reimbursement, had an extravagant purchase and had multiple travel related issues. See findings 1, 2 and 4 below.

Finding 1

Possible Fictitious Receipts over Travel Reimbursements

Condition:

During our review of a possible abuse claim, we were informed the former Commissioner of Agriculture had submitted reimbursement requests for his campsite at the West Virginia State Fair which were significantly higher than the amounts requested by another WVDA employee. For the 2012 State Fair the employee requested reimbursement for a campsite, which was next to the former Commissioner's, at the rate of \$30.00 per night; however, the former Commissioner requested reimbursement at the rate of \$106.72 per night.

Upon contacting the Chief Executive Officer (CEO) over the State Fair of West Virginia, we found the former Commissioner was not charged for his campsite during the 2012 State Fair and that it was the policy of the State Fair to provide one free campsite to the Commissioner of the Department of Agriculture. Additionally, the CEO provided us with a copy of a page from the receipt book used by the State Fair and we determined the receipt accompanying the former Commissioner's travel form submitted to the State Auditor for reimbursement was not a receipt from the State Fair receipt book.

After obtaining this information, we proceeded to review the former Commissioner's travel expense reimbursements for the 2008 - 2011 State Fairs and determined he submitted the following potential fictitious expenses which are summarized below:

Year	Receipt Amount
2012	\$747.04
2011	\$700.00
2010	\$880.00
2009	\$700.00
2008	\$960.00
Total	\$3,987.04²¹

Additionally, it appears the 2008 and 2009 receipts submitted for reimbursement were out of the same general receipt book because there are only two receipt numbers in between the ones submitted. It also appears the 2011 and 2012 receipts submitted for reimbursement were out of the same general receipt book because there are only 10 receipt numbers in between those submitted.

The 2010 receipt was the only receipt with a legible signature. We determined the name was of a prior employee of the State Fair. We inquired with the CEO of the State Fair and their email stated, "I do not believe the signature on the receipt to be that of [FORMER EMPLOYEE]... I also don't believe we have a receipt or had a receipt of that style sent via email."

This finding and the evidence obtained has been communicated and provided to the United States Attorney's Office.

Criteria:

W.Va. Code §6B-2-5(b)1, as amended, states in part:

"A public official or public employee may not **knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain** or that of another person..." (Emphasis Added)

W.Va. Code §5A-8-9 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." (Emphasis Added)

The West Virginia Department of Agriculture Travel Policy, states in part:

"...**20.1** ...An employee traveling on Department/Agency business pursuant to these policies and procedures is expected to **exercise the care and judgment of a prudent person** traveling for personal reasons. Travel on business must be

²¹ At the request of the Legislative Auditor/Manager, the audit team obtained the former Commissioner's travel reimbursements from 2003-2007 and noted similar reimbursements totaling \$3,785. On the 2004 travel reimbursement, the WVDA wrote "...camper rental fee in lieu of hotel costs."

conducted at a minimum cost for achieving success of the mission... (Emphasis Added)

“20.2 Compliance – It is the traveling individual’s primary responsibility to comply with these policies and procedures and the responsibility of the person signing the employee travel expense reimbursement form authorizing payment to ensure compliance with these procedures.”

“...20.6.a. Documentation - Original itemized receipts should, if at all possible, accompany the Travel Expense Account Settlement forms. Receipts are required for the following expenditures: lodging, air or rail transportation, rental car and event registration...” (Emphasis Added)

American Institute of Certified Public Accountants (AICPA), Association of Certified Fraud Examiners (ACFE) and Institute of Internal Auditors (IIA) define fraud as:

“Fraud is any intentional act or omission designed to deceive others and resulting in the victim suffering a loss and/or the perpetrator achieving a gain.” (Emphasis Added)

Association of Certified Fraud Examiners (ACFE) defines expense schemes as:

**“Expense schemes include:
...Fictitious expense schemes, which occur when an employee invents a purchase and seeks reimbursement for it...” (Emphasis Added)**

Cause: The appearance of an unethical tone set by the upper level of management led employees to believe they were unable to question the expenses. Employees felt nothing would be done about the expenses if they were questioned and there was fear among employees they would lose their job if upper management’s expenses were questioned.

Effect: An unethical tone by upper management could cause a trickle-down effect where other employees may be more prone to commit fraud because they feel ethical conduct is not a priority within the agency. All fraudulent transactions cost the State unnecessary expense. The perpetration of fraud can lead to loss of working time, reduced staff morale, loss of business confidence and increased costs.

Recommendation: We recommend the WVDA comply with W.Va. Code §6B-2-5(b)1 by not allowing the use of public office for private gain and we recommend the WVDA comply with sections 20.1, 20.2 and 20.6.a. of their Travel Policy. Additionally, we recommend the WVDA comply with W.Va. Code §5A-8-9 and properly maintain adequate documentation.

Spending Unit’s Response: See Appendix B

Finding 2 Extravagant Spending on Flight

Condition: During the audit of travel expenses we considered one transaction totaling \$3,150 to be “extravagant” because the purchase was not a necessary business expenditure for the WVDA. The \$3,150 was spent on a State chartered flight in order for the former Commissioner of Agriculture to attend a ceremony where a gazebo was being dedicated to him. The WVDA paid to fly the former Commissioner from Yeager Airport in Charleston, WV to Ravenswood, WV and then back to Ocean Isle, NC. The \$3,150 charge included the return trip to Yeager Airport from Ocean Isle, NC even though the flight was empty.

The WVDA paid only \$94 to have the former Commissioner flown from Ocean Isle, NC on a commercial plane to Yeager Airport earlier the same day. We were able to determine through conversations with WVDA employees that the former Commissioner could have flown back to NC for a rate close to the \$94 rate, he was not in Ocean Isle, NC on official state business, and he was aware of the gazebo dedication prior to his personal trip to North Carolina.

Criteria: **W.Va. Code §6B-2-5(b)1, as amended, states in part:**

“A public official or public employee may not **knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain** or that of another person...” (Emphasis Added)

The West Virginia Department of Agriculture Travel Policy states in part:

“**20.1** ...An employee traveling on Department/Agency business pursuant to these policies and procedures is expected to exercise the care and judgment of a prudent person traveling for personal reasons. **Travel on business must be conducted at a minimum cost for achieving success of the mission.** All travel expenditures shall be within budgetary allowance for the Division/Agency for which the trip is taken.” (Emphasis Added)

U.S. Government Accountability Office’s Generally Accepted Government Auditing Standards define abuse as:

“Abuse involves behavior that is **deficient or improper** when compared with behavior that a prudent person would consider **reasonable and necessary business practice** given the facts and circumstances...” (Emphasis added)

Cause: Extravagant purchases were due to the unethical tone set by the upper level of management. This led employees to believe they were unable to question the expenses. Employees felt nothing would be done about the expenses if they were questioned and there was fear among employees they would lose their job if upper management’s expenses were questioned.

Effect: Extravagant purchases cause unnecessary expenses to the State and potentially diminish the financial standing of the WVDA. The unethical tone of upper

management could cause a trickle-down effect where other employees may be more prone to perpetrate extravagant expenditures because they feel ethical conduct is not a priority within the agency.

Recommendation: We recommend the WVDA comply with W.Va. Code §6B-2-5(b)1 by not allowing the use of public office for private gain and we recommend the WVDA comply with section 20.1 of their Travel Policy. Additionally, we recommend the WVDA be cognizant of the amount of monies spent on travel and follow best business practices and not make purchases that a prudent person would not consider reasonable and necessary given the facts and circumstances.

**Spending Unit's
Response:** See Appendix B

Finding 3 **Travel Expenses Paid for Former Commissioner’s Spouse**

Condition: During our testing of travel expenditure documents²², we noted WVDA paid \$225 for a registration for the 2012 National Association of State Departments of Agriculture (NASDA) Annual Meeting for the former Commissioner of Agriculture’s spouse.

Criteria: **W.Va. Code §6B-2-5(b)1, as amended, states in part:**

“A public official or public employee may not **knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain** or that of another person...” (Emphasis Added)

The WVDA Travel Policy states in part:

“**20.1** Authority – Effective April 1, 2009, Revised December 1, 2009, costs incurred by **authorized employees of the West Virginia Department of Agriculture, Conservation Agency and contractors traveling on business** for and on behalf of the West Virginia Department of Agriculture or Conservation Agency shall be reimbursed in accordance with the following policies and procedures.” (Emphasis Added)

The WVDA Policy & Procedures Manual states in part:

“**2.3 “Employee” means a person who lawfully occupies a full-time position with the West Virginia Department of Agriculture...**” (Emphasis Added)

The West Virginia Expenditure Schedule Instructions state in part:

“**026 - Travel:** Payments for authorized in-state and out-of-state travel expenses in accordance with the State Travel Regulations as issued by the Travel Management Office, Division of Purchasing, Department of Administration and other approved travel plans. **This object code is applicable to state employees, board members, commission members, consultants, contractors, and students, patients, and inmates of state schools, hospitals and institutions...**” (Emphasis Added)

U.S. Government Accountability Office’s Generally Accepted Government Auditing Standards define abuse as:

Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider **reasonable and necessary business practice** given the facts and circumstances...” (Emphasis added)

²² The population consists of 2,797 travel expenditure documents totaling \$1,120,604. We selected a sample of 110 travel documents totaling \$291,139. (Amounts rounded to nearest dollar).

Cause: The appearance of an unethical tone by upper level of management led employees to believe they were unable to question the expenses. Employees felt nothing would be done about the expenses if they were questioned and there was fear among employees they would lose their job if upper management's expenses were questioned.

Effect: The risk of inappropriate purchases is increased with the appearance of an unethical tone of upper management. This could cause a trickle-down effect where other employees are more prone to perpetrate inappropriate expenditures because they feel ethical conduct is not a priority within the agency. This purchase caused unnecessary expense to the State.

Recommendation: We recommend the WVDA comply with section 20.1 of their Travel Policy, section 2.3 of the WVDA Policies & Procedures Manual and WV Expenditure Schedule Instructions for object code 026 and only pay travel expenses for authorized employees. Additionally, we recommend the WVDA comply with W.Va. Code §6B-2-5(b)1, as amended and ensure the Commissioner does not use his or her office for private gain or for the private gain of another person.

**Spending Unit's
Response:** See Appendix B

Finding 4

Issues over Former Commissioner's Travel Reimbursements

Condition:

In response to possible fraud and abuse related to the former Commissioner of Agriculture's travel expenses²³, we found it necessary to extend our audit and review all travel reimbursement requests submitted and processed for the former Commissioner during the period of February 1, 2008 through February 13, 2013²⁴. During our review, we noted the following:

- Twenty-one instances²⁵ on seven documents (15%) where he stayed overnight in Charleston, WV. His headquarters was officially Guthrie, WV; therefore, a stay in Charleston, WV did not qualify for overnight status. The WVDA paid for hotel expenses totaling approximately \$1,544 and meal expenses totaling approximately \$425. The WVDA was unable to provide a justified business reason for the expenses; therefore, the amounts should have been included in his taxable income;
- There were 34 instances on 20 documents (43%) where he claimed meal reimbursements totaling approximately \$648 when the trip did not qualify for overnight status and no lodging expenses were incurred. Meals should not have been reimbursed for day travel unless they were included in his taxable income. None of the meals were included in his taxable income;
- There were 69 instances on 32 documents (67%) where he claimed meal reimbursement in excess of amounts allowed per WVDA's Travel Policy and Procedure Section 20.7 Meal Allowance. Meal amounts claimed exceeds the amounts allowed by approximately \$639;
- Forty-nine instances on 22 documents (48%) (12 mileage reimbursements and 37 in a State vehicle which he receives additional taxable income based on miles spent commuting) where he claimed "Left from and/or returned to residence to save cost to state" on his Travel Expense Settlement form; however, mileage to/from home (Leon, WV) from/to destination exceeded mileage to/from his headquarters (Guthrie, WV) from/to destination;
- Seven instances on three documents (7%) where there was not a receipt or invoice to support "Other Expenses" totaling \$283. Itemized receipts are required by the WVDA Travel Policy;

²³ See Finding 1 - Possible Fictitious Receipts over Travel Reimbursements, Finding 2 - Extravagant Flight and Finding 3 – Travel Expenses Paid for Former Commissioner's Spouse.

²⁴ The population consists of 46 Doc IDs totaling approximately \$28,700.

²⁵ Multiple expenditures can be on each I-document tested; one travel expenditure document does not translate to one expense. Therefore, multiple instances can be on one document.

- Thirty-two instances on 16 documents (35%) where he was reimbursed approximately \$525 for personal services such as valet, use of a safe for valuables and hotel baggage handling tips which is unallowable per the WVDA Travel Policy. The WVDA was unable to provide written documentation approving the expenses;
- Three documents (7%) where the former Commissioner claimed a mileage amount in excess of the calculated distance for one or more trips²⁶. The three travel reimbursement documents contain a total of six trips which appear to have the mileage padded; the largest difference for one trip being 157 miles and the smallest being 17 miles;
- Five instances on one document (2%) where an original itemized invoice not provided for lodging totaling approximately \$720. A folio was received by fax; however, it lacks pertinent information (i.e. Hotel Name and Address) to properly be accepted; and
- One document (2%) where the total amount reimbursed (\$1,109.32) was not equal to the sum of the individual amounts claimed on Travel Expense Settlement Form (\$1,094.32); resulting in a \$15 difference.

It should also be noted a follow up audit will be conducted and will include a review of the former Commissioner’s travel expenses paid on the United Bank Ghost Account.

Criteria:

W.Va. Code §5A-8-9 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.” **(Emphasis Added)**

W.Va. Code §6B-2-5(b)1, as amended, states in part:

“A public official or public employee may not **knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain** or that of another person...” **(Emphasis Added)**

The West Virginia Department of Agriculture Travel Policy 2008 Revision states in part:

“20.1 ...An employee traveling on Department/Agency business pursuant to these policies and procedures is expected to exercise the care and judgment of

²⁶ In order to determine mileage reasonableness, we used the mileage calculated by Google Maps and gave a 10 mile allowance per trip.

a prudent person traveling for personal reasons. **Travel on business must be conducted at a minimum cost for achieving success of the mission.** All travel expenditures shall be within budgetary allowance for the Division/Agency for which the trip is taken.” (Emphasis Added)

“20.5 ...In no case will commuting between an employee’s residence and headquarters be allowed as a cause for reimbursement without specific written authorization from the Commissioner/Chairman or his designee. Specific exception to this will occur where the employee is required to return to headquarters from home after completing a normal day’s work schedule or is called out on what is normally a non-work day or holiday for that employee...” (Emphasis Added)

“...20.6.a. Documentation – **Original itemized receipts** should, if at all possible, accompany the Travel Expense Account Settlement forms. Receipts are required for the following expenditures: **lodging, air or rail transportation, rental car and event registration.** Receipts should be provided for the following if available: taxi/shuttle transportation, parking, tolls (excluding West Virginia Turnpike tolls) and baggage handling. If the required original documents are not available, a certified copy must be submitted...” (Emphasis Added)

“... 20.7.a. In-State Meal Allowance – **Reimbursement will be made for meals while absent from official headquarters on overnight status** with a maximum of thirty dollars (\$30) per day for travel within the State of West Virginia **where the distance from the official headquarters is greater than twenty-five miles.** Meals are allowed when lodging is listed as “gratis” or “no charge”.”

“20.7.b. In-State Allocation – The following allocations are to be used in determining the amount of reimbursement to employees traveling in-state on State business when the full meal allowance cannot be claimed.
1) **In-State travel: Breakfast - \$6.00, Lunch - \$9.00, and Dinner - \$15.00. (Daily total cannot exceed \$30.00)”**

“20.7.c. Out-of-State Meal Allowance – Reimbursement will be made for meals while absent from official headquarters on overnight status, with a maximum of sixty dollars (\$60) per day. Meals are allowed when lodging is “gratis” or “no charge
1) **Out-of-State Allocation – Breakfast - \$12.00; Lunch - \$18.00 and Dinner - \$30.00. (Daily total cannot exceed \$60.00)**

Time Frames for Meal Allowance - **On overnight trips, when an employee departs from official headquarters before their normal start time, they are entitled to a full meal allowance. When they depart before their normal lunch period, they are entitled to lunch and dinner allowances. When they depart before their normal ending time, they are entitled to a dinner allowance. On overnight trips, when an employee returns to their official headquarters before their normal lunch period, they are entitled to a breakfast meal allowance. When they arrive after their normal lunch period, they are entitled to a breakfast and lunch allowance. When they arrive after their normal**

ending time or have worked at least two hours in excess of a normal work day, they are entitled to a full meal allowance. Arrival and departure times of travel and the employee's work schedule must be stated on the Travel Expense Account Settlement form." **(Emphasis Added)**

"20.8.a Personal Services – **Reimbursement shall not be allowed for personal services such as laundry, valet, entertainment, refrigerator, use of a safe for valuables, etc.** Charges of this nature may be permitted by the Commissioner/Chairman or designee when circumstances require due to the nature of travel assignment, duration, medical necessity, etc. Permission to claim any of these charges for reimbursement must be given in writing by the Commissioner/Chairman or designee, and attached to the employee's receipts and travel reimbursement request." **(Emphasis Added)**

The West Virginia Department of Agriculture Travel Policy 2001 Revision Section 3.3 states in part:

"... 3.3.1 In-State Meal Allowance – **Reimbursement will be made for meals while absent from official headquarters on overnight status** with a maximum of twenty-five dollars (\$25) per day for travel within the State of West Virginia **where the distance from the official headquarters is over twenty-five miles.** Meals are allowed when lodging is listed as "gratis" or "no charge".

"3.3.2 Out-of-State Meal Allowance – **Reimbursement will be made for meals while absent from official headquarters on overnight status, with a maximum of fifty dollars (\$50) per day.** Meals are allowed when lodging is "gratis" or "no charge".

"3.3.3 Extended Hours - **On overnight trips, departure from official headquarters before 8:00 a.m. entitles a traveling employee to a full meal allowance. On overnight trips, departure before noon entitles the traveling employee to lunch and dinner, while departure before 6:00 p.m. entitles the traveling employee to dinner. On the return trip, arrival at the official headquarters before 8:00 a.m. entitles the employee to no meal allowance, arrival before noon entitle the employee to breakfast only; arrival after 12:00 entitle the employee to breakfast and lunch, while arrival after 6:00 p.m. entitles the traveling employee to a full meal allowance. Arrival and departure time must be stated on the travel expense account form. An exception to overnight status meal qualification, is when an employee who is away from headquarters has been required to be on duty at least two (2) hours in excess of the "normal work day". The definition of a "normal work day" is determined by the applicable division and is not limited to the standard business day, or 8:00 a.m. through 4:00 p.m. Employees claiming reimbursement for this meal allowance must denote on their expense account "WORKED 2 HOURS IN EXCESS OF NORMAL DAY" for each occurrence."**

“3.3.3(1) Meal Allowance Determination – The following meal allowances are to be used in determining the amount of reimbursement to employees traveling on state business when the full meal allowance cannot be claimed.

1) **In-state travel: Breakfast - \$7.00, Lunch - \$8.00, and Dinner - \$12.00. (Daily total cannot exceed \$25.00)**

2) In-state Travel-Extended Hours: Dinner- \$12.00

3) **Out-of-State travel – Breakfast - \$10.00, Lunch - \$15.00, and Dinner - \$25.00. (Daily total cannot exceed \$50.00)...” (Emphasis Added)**

U.S. Government Accountability Office’s Generally Accepted Government Auditing Standards define abuse as:

Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider **reasonable and necessary business practice** given the facts and circumstances...” (Emphasis added)

Cause: The appearance of an unethical tone set by the upper level of management led employees to believe they were unable to question the expenses. Employees felt nothing would be done about the expenses if they were questioned and there was fear among employees they would lose their job if expenses were questioned.

Effect: The risk of fraudulent and inappropriate purchases is increased when management accepts receipts that are not itemized and/or incomplete. Additionally, by failing to submit receipts and supporting documentation, the agency cannot ensure all purchases were made for official State business. Extravagant, fraudulent and/or unlawful purchases cause unnecessary expenses to the State and potentially diminish the financial standing of the WVDA. The unethical tone of upper management could cause a trickle-down effect where other employees may be more prone to perpetrate extravagant, fraudulent and/or unlawful expenditures because they feel ethical conduct is not a priority within the agency.

Recommendation: We recommend the WVDA require all employees, including upper management and the Commissioner of Agriculture, to follow their Travel Policy and comply with each section’s requirements. Additionally, we recommend WVDA comply with W.Va. Code §5A-8-9 and properly maintain adequate documentation. Additionally, we recommend WVDA be cognizant of the amount of monies spent on travel and follow best business practices and not make purchases that a prudent person would not consider reasonable and necessary given the facts and circumstances. Finally, we recommend the WVDA consult the IRS to determine whether or not they should file amended tax returns for the former Commissioner.

Spending Unit’s Response: See Appendix B

Finding 5

Mileage Amounts not in Compliance with Travel Policy

Condition:

During our testing of travel expenditure documents, we noted 215²⁷ instances on 44 different travel reimbursement documents where employees claimed a mileage amount in excess of the recalculated distance for one or more trips²⁸. The largest mileage difference for one trip was 188 miles and the smallest was 11 miles.

	Number of Miles	Total Reimbursed
Actual Mileage Claimed	32,581	\$ 16,616
Audited Mileage	24,620	\$ 12,552
Difference	7,961	\$ 4,064

(Amounts rounded to nearest dollar)

Additionally, there were seven instances on two travel reimbursement where some destinations were cut off on the form so we could not determine each place the employee went.

We also noted one travel reimbursement with 16 instances totaling approximately \$415 where an employee claimed to have left from and/or returned to their residence to save cost to the State; however, mileage from their residence to and/or from their destination exceeded mileage from the headquarters to their destination.

Criteria:

The West Virginia Department of Agriculture Travel Policy, states in part:

“20.1 ...An employee traveling on Department/Agency business pursuant to these policies and procedures is expected to exercise the care and judgment of a prudent person traveling for personal reasons. **Travel on business must be conducted at a minimum cost for achieving success of the mission.** All travel expenditures shall be within budgetary allowance for the Division/Agency for which the trip is taken.” **(Emphasis Added)**

“20.6.c ...It is the responsibility of the approving official to review and approve employee’s expense accounts...”

Cause:

The WVDA was not effectively reviewing and monitoring employee travel reimbursements.

Effect:

Since the WVDA did not verify the mileage claimed by employees or verify mileage distances between the official headquarters to the job site verses the

²⁷ The population consists of 2,797 travel expenditure documents totaling \$1,120,604. We selected a sample of 110 travel documents totaling \$291,139. Our sample included 79 travel reimbursements totaling \$50,802. (Amounts rounded to nearest dollar) Multiple expenditures can be on each I-document tested; one travel expenditure document does not translate to one expense. Therefore, multiple instances can be on one document.

²⁸ There were multiple instances where employees did not provide a specific location and professional judgment was used to determine the closest city. Also, in order to determine mileage reasonableness, we used the mileage calculated by Google Maps and gave a 10 mile allowance per trip.

employee's home to the job site, the WVDA paid out mileage claims in excess of the amounts actually necessary. We are 95% confident, if our sample holds true to the entire population, 963 to 1,505 travel reimbursement documents or 34% to 54% would have claimed mileage in excess of the recalculated amount. Also, since some employees are not itemizing each location visited and some locations were cut off when the forms were printed, the WVDA would be unable to determine if the mileage claim is reasonable.

If employees claimed mileage between their headquarters and their homes when the employee was on an official workday, the WVDA paid out mileage amounts in excess of the amounts actually necessary and potentially could have paid mileage that may be taxable to the employee. Also, the possibility for potential abuse by the employee increase with inefficient monitoring.

Recommendation: We recommend the WVDA comply with section 20.1, 20.6.c and 20.5 of their Travel Policy by requiring a daily location list which includes a stop-by-stop report from any individual with a mileage reimbursement claim. We also recommend the WVDA compare claimed distance to a calculated distance using mapping software such as Google Maps or MapQuest and verify all mileage claims for reasonableness before reimbursement is issued. The WVDA should also verify instances where an employee claims to have left from and/or returned to their residence to save costs to the State and verify employees claiming mileage amounts to travel from their headquarters to and/or from their home are actually eligible to do so.

Spending Unit's Response: See Appendix B

Finding 6**Travel Expenses Paid for Non-Employees****Condition:**

During our testing of travel expenditure documents²⁹, we noted the WVDA purchased an airline ticket and paid lodging expenses for a contractor when the purchasing agreement stated “Any anticipated travel must be incorporated into the vendor’s fee.” The agreement was for a training completed by the individual. Lodging and airfare were paid in addition to the contracted amount. Since those costs were anticipated costs, they should have been included in the purchasing agreement. The individual mentioned is Individual # 1 in the table below.

There were eight additional instances for seven individuals where the WVDA paid lodging expenses on the United Bank Ghost Account for people who were not employed with the WVDA nor did they have a contract with the WVDA. The charges are detailed below:

Individual #	Date	Purpose	Event	Amount
1	07/12/12	Lodging	Bee Incident Response Training	\$199
1	06/18/12	Airfare	Bee Incident Response Training	\$418
2	05/15/12	Lodging	Producer Education	\$77
3	02/29/12	Lodging	Small Farms/Winter Blues Conf	\$94
4	02/29/12	Lodging	Small Farms/Winter Blues Conf	\$105
4	03/01/12	Lodging	Small Farms/Winter Blues	\$105
5	03/13/12	Lodging	Training	\$80
6	12/03/11	Lodging	Exhibit - Inwood Farmer’s Market	\$186
7	12/04/11	Lodging	Exhibit - Inwood Farmer’s Market	\$279
8	11/9/12 & 11/10/12	Lodging	2012 Southern Christmas Show in North Carolina	\$138
Total (amount rounded to nearest dollar)				\$1,681

We were informed by the agency some of the expenses for individuals 2-8 in the table above may have been paid by mistake. Without a proper contract, we were unable to determine if the State received any benefit of services rendered by the individuals.

²⁹ The population consists of 2,797 travel expenditure documents totaling \$1,120,604. We selected a sample of 110 travel documents totaling \$291,139. (Amounts rounded to nearest dollar).

Criteria: **The State of West Virginia Purchasing Division Agreement, states in part:**

“...Any anticipated travel must be incorporated into the vendor’s fee. No travel will be reimbursed by the State and is the sole responsibility of the vendor...” (Emphasis Added)

The WVDA Travel Policy, states in part:

“2.3 “Employee” means a person who lawfully occupies a full-time position with the West Virginia Department of Agriculture...” (Emphasis Added)

“20.1 Authority – Effective April 1, 2009, Revised December 1, 2009, costs incurred by authorized employees of the West Virginia Department of Agriculture, Conservation Agency and contractors traveling on business for and on behalf of the West Virginia Department of Agriculture or Conservation Agency shall be reimbursed in accordance with the following policies and procedures.” (Emphasis Added)

The West Virginia Expenditure Schedule Instructions state in part:

“026 - Travel: Payments for authorized in-state and out-of-state travel expenses in accordance with the State Travel Regulations as issued by the Travel Management Office, Division of Purchasing, Department of Administration and other approved travel plans. This object code is applicable to state employees, board members, commission members, consultants, contractors, and students, patients, and inmates of state schools, hospitals and institutions...” (Emphasis Added)

Cause: Lack of management oversight and review of United Bank Ghost Account purchases caused the above issues.

Effect: The WVDA is in noncompliance with the West Virginia Purchasing Division agreement. Additionally, the risk of inappropriate purchases is increased when there is not proper oversight and review of purchases and WVDA is paying for expenses which are not necessary to conduct State business. This could diminish the financial standing of the WVDA.

Recommendation: We recommend the WVDA comply with section 20.1 of their Travel Policy, section 2.3 of the WVDA Policies & Procedures Manual and WV Expenditure Schedule Instructions for object code 026 and only pay travel expenses for authorized employees. Additionally, we recommend the WVDA obtain and follow contracts with anyone who is not employed by WVDA before work is performed or services are rendered.

Spending Unit’s Response: See Appendix B

Finding 7

Meal Amounts not in Compliance with Travel Policy

Condition:

During our audit of travel expenditure documents, we noted one³⁰ purchase made by one of the WVDA's former Deputy Commissioners on the United Bank Ghost Account did not have an itemized invoice available to support a charge of approximately \$58 for a meal expense.

Upon further inspection of the employee's travel reimbursement request, the employee also received the full allowance for meal reimbursement per the WVDA Travel Policy for the same day of travel. Therefore, the entire \$58 charged on the Ghost Account was in excess of the meal amounts allowed.

Additionally, we contacted the establishment and obtained a copy of the original itemized receipt which included several alcoholic beverage purchases totaling approximately \$35.

In addition to the item noted above, we noted one instance where an employee claimed a full \$30 meal allowance for a day they were on 8 hours annual leave. Also, we noted one instance where an employee claimed a meal allowance for lunch, \$9, and dinner, \$15; however, the employee was only allotted \$15 for dinner because they did not depart on the trip until after their normal lunch time.

Criteria:

W.Va. Code §5A-8-9 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." (Emphasis Added)

Legislative Rule §155-1-3.1, as amended, states in part:

"... **All invoices submitted to the Auditor for payment shall contain the following:**

3.1.a. **An itemized description** of the type of materials, supplies, or service provided..." (Emphasis Added)

The West Virginia Department of Agriculture Travel Policy 2008 Revision states in part:

"... 20.7.a. In-State Meal Allowance – **Reimbursement will be made for meals while absent from official headquarters on overnight status** with a maximum

³⁰ The population consists of 2,797 travel expenditure documents totaling \$1,120,604. We selected a sample of 110 travel documents totaling \$291,139. (Amounts rounded to nearest dollar) Multiple expenditures can be on each I-document tested; one travel expenditure document does not translate to one expense.

of thirty dollars (\$30) per day for travel within the State of West Virginia **where the distance from the official headquarters is greater than twenty-five miles.** Meals are allowed when lodging is listed as “gratis” or “no charge”.

“20.7.b. In-State Allocation – The following allocations are to be used in determining the amount of reimbursement to employees traveling in-state on State business when the full meal allowance cannot be claimed.

1) **In-State travel: Breakfast - \$6.00, Lunch - \$9.00, and Dinner - \$15.00. (Daily total cannot exceed \$30.00)”**

U.S. Government Accountability Office’s Generally Accepted Government Auditing Standards define abuse as:

“Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances...”

Cause: Lack of effective management oversight and review caused meal allowances which did not comply with WVDA policy to be reimbursed to employees.

Effect: Since WVDA did not verify the meal allowance claimed by employees, WVDA paid out meals in excess of the amounts actually necessary. All unnecessary purchases cause expenses to the State that could diminish the financial standing of WVDA. An unethical tone of upper management could cause a trickle-down effect where other employees may be more prone to perpetrate unallowable expenditures because they feel ethical conduct is not a priority within the agency.

Recommendation: We recommend the WVDA comply with Legislative Rule §155-1-3.1, as amended, the Expenditure Schedule Instructions for object codes 026 and 042 and Sections 20.7.a and 20.7.b of their Policy and Procedure Manual and verify employees are actually eligible for the amount of meal allowance claimed. Additionally, we recommend the WVDA not pay for any expenses without an itemized invoice.

Spending Unit’s Response: See Appendix B

Finding 8

Lack of Documentation over Travel Expenditures

Condition:

During our testing of travel expenditures, we tested employee travel reimbursements³¹, United Bank Ghost Account master statements and direct billings and noted the following:

- One of the 79³¹ employee travel reimbursements (1%) did not have an original itemized invoice available to support “other expenses” for one or more travel expenses. There were a total of two instances³² on the travel reimbursement. The total unsupported expenditures totaled approximately \$60;
- Five of the 25³¹ United Bank Ghost Account master statements (20%) and one of the direct billings (17%), while there was a receipt, did not have either an original itemized invoice available to support “lodging” or an itemized receipt. There were a total of 10 instances³² totaling approximately \$3,074;
- Eighteen of the 25³¹ United Bank Ghost Account master statements (72%) and one of the six direct billings (17%) for one or more travel expenses did not have a Folio number. Folio numbers are used by hotels on invoices to document the traveler actually stayed for the nights billed. We were also unable to locate any additional receipts on the related travel expense settlement forms or an actual receipt to support that the traveler actually used the “lodging”, for a total of 79 instances, totaling approximately \$9,800; and
- Eight of the 25³¹ United Bank Ghost Account master statements (32%) contained airline order confirmations for which we were unable to trace to a travel expense settlement form. Without tracing these to an expense settlement form we are unable to determine if the employees used the tickets. There were a total of 22 tickets totaling approximately \$7,000 that we were unable to trace back to a travel expense settlement form.

Criteria:

W.Va. Code §5A-8-9 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

³¹ The population consists of 2,797 travel expenditure documents totaling \$1,120,604. We selected a sample of 110 travel documents totaling \$291,139. Our sample included 79 travel reimbursements totaling \$50,802, 25 United Bank Ghost Account master statements totaling \$180,358 and six direct billings totaling \$59,979. (Amounts rounded to nearest dollar)

³² Multiple expenditures can be on each I-document tested; one travel expenditure document does not translate to one expense. Therefore, multiple instances can be on one document.

protect the legal and financial rights of the state and of persons directly affected by the agency's activities." (Emphasis Added)

The West Virginia Department of Agriculture Travel Policy, states in part:

"...20.6.a. Documentation – **Original itemized receipts should**, if at all possible, **accompany the Travel Expense Account Settlement forms**. Receipts are required for the following expenditures: **lodging, air or rail transportation, rental car and event registration**. Receipts should be provided for the following if available: **taxi/shuttle transportation, parking, tolls (excluding West Virginia Turnpike tolls) and baggage handling**. If the required original documents are not available, a certified copy must be submitted..." (Emphasis Added)

Cause: Lack of effective management oversight and review caused expenditures to be paid without the proper documentation.

Effect: The risk of fraudulent and inappropriate purchases is increased when management accepts as legitimate support receipts that are not itemized and/or incomplete. Additionally, by failing to submit receipts and supporting documentation, the agency cannot ensure all purchases were made for official State business.

Recommendation: We recommend WVDA comply with Section 3.3 (b), 3.3 (d), & 3.4 (a) of Title 61 Series 17 Procedural Rule as well as Section 20.6.a. of their Travel Policy and require all supporting documentation be available to support travel expenses. Additionally, we recommend WVDA comply with W.Va. Code §5A-8-9 and properly maintain adequate documentation.

Spending Unit's Response: See Appendix B

Finding 9**Travel not Processed Timely****Condition:**

During our testing of travel expenditure documents³³, we noted the following:

- Six of the 79 employee travel reimbursements (8%) totaling approximately \$6,262 were not dated by the employee when they were completed. Therefore, we were unable to determine if these reimbursements were processed timely.
- Four of the 79 employee travel reimbursements (5%) totaling approximately \$4,576 were not entered into WVFIMS within 3 business days of being approved;

Of the 73 dated reimbursements, we noted the following:

- Two of the 73 employee travel reimbursements (3%) totaling approximately \$4,332 were not submitted to their approving official at least once a month;
- One of the 73 employee travel reimbursements (1%) totaling approximately \$1,026 was not submitted to their approving official within 10 business days of the last day of travel when the last day of travel occurred in June;
- Twenty of the 73 employee travel reimbursements (27%) totaling approximately \$11,119 were not reviewed and approved by the approving official within 5 business days; and
- Four of the 73 employee travel reimbursements (5%) totaling approximately \$107 were minimal reimbursements of \$50.00 or less that were submitted prior to 30 days from the last date of travel.

In addition, we noted the following:

- Three of six³³ direct billings (50%) totaling approximately \$59,531 were not paid by the invoice due date; and
- Twenty-two of the 25³³ United Bank Ghost Account master statements (88%) totaling approximately \$155,625 were not paid by the master statement due date.

³³ The population consists of 2,797 travel expenditure documents totaling \$1,120,604. We selected a sample of 110 travel documents totaling \$291,139. Our sample included 79 travel reimbursements totaling \$50,802, 25 United Bank Ghost Account master statements totaling \$180,358 and six direct billings totaling \$59,979. (Amounts rounded to nearest dollar)

Criteria: **The West Virginia Department of Agriculture Travel Policy, states in part:**

“... 20.6.c. Timely Submission – **Employees shall submit all requests for reimbursement of travel expenses, including receipts, to their approving official, i.e. Division Director/Executive Director at least once a month.** The only exception to this is for reimbursement requests that total less than \$50.00. These minimal **reimbursements of \$50.00 or less should be submitted only after 30 days have elapsed since the last date of travel.** It is the responsibility of the approving official to **review and approve employee’s expense accounts within five (5) business days** of receipt and forward to the Administrative Services Division, which will **submit** the documents to the **appropriate executive agencies of State government within three (3) business days** to complete the process. Travel expenses incurred during the month of June must be submitted within ten (10) business days of the last date of travel...”
(Emphasis Added)

West Virginia Statewide Contract TCARD06 Section 3.2.4A, states in part:

“... The State of West Virginia shall be responsible for all Team Accounts and Ghost Accounts as authorized through the contract; **each agency using such account shall process and pay the properly prepared and submitted invoice by due date.**” **(Emphasis Added)**

Cause: A majority of the WVDA employees requesting travel reimbursements have their home designated as the official headquarters which limits the times the employee is able to physically turn in their travel reimbursement requests. Additionally, approving officials are assigned multiple job duties and their time to review and approve travel reimbursement requests is limited.

Effect: By not submitting, reviewing, approving and entering travel reimbursement requests into WVFIMS in a timely matter, WVFIMS will not accurately reflect WVDA’s financial state, resulting in inaccurate financial statements. Travel will be understated and cash will be overstated because of money owed. The WVDA could incur late penalty fees as a result of not paying invoices by the due date.

Additionally, the submission of travel requests after a long period of time from the last date of travel makes the monitoring of travel expenses more difficult. For example, when employees turn travel forms in sooner, the managers will be more likely to remember the employee traveled. Also, travel occurring near the end of the fiscal year could be paid in the incorrect year if it is turned in too late.

Recommendation: We recommend WVDA comply with section 20.6.c of the their Travel Policy and require all employees to submit all requests for reimbursement of travel expenses to their approving official at least once a month, even if it is by scanning and e-mailing or mailing; and only submitting reimbursement requests that total less than \$50 only after 30 days have elapsed since the last date of travel; require the approving official to review and approve employee’s expense accounts within five business days of receipt and submit the documents to the

appropriate executive agencies of State government within three business days. Additionally, we recommend WVDA comply with section 3.2.4A West Virginia Statewide Contract TCARD06 and pay the United Bankcard Travel Ghost Account invoice by due date.

**Spending Unit's
Response:**

See Appendix B

Finding 10**Misclassification of Expenses****Condition:**

We noted the following transactions were misclassified during our testing of WVDA Expenditures:

Travel Expenditures

During our testing of travel expenditure documents, we noted four instances³⁴ totaling approximately (\$169) were paid from a West Virginia Conservation fund.

#	Agency Fund	Audited Fund	Amount
1	0131	0132	\$77
2	0131	0132	\$70
3	0131	0132	\$280
4	0131	1411	(\$596)
Total			(\$169)

Additionally we noted four instances³⁴ totaling approximately \$1,091 were improperly classified as travel expenditures.

#	Description	Agency Code	Audited Code	Amount
1	Coffee and Service Fees	026	042	\$753
2	Rental Car Fees	026	029	\$170
3	Rental Car Fees	026	029	\$81
4	Rental Car Fees	026	029	\$87
Total				\$1,091

Miscellaneous Expenditures

We noted 10 transactions tested were improperly classified as either Miscellaneous Expenses or Miscellaneous Equipment Purchases³⁵. The items were determined to have been improperly classified as follows:

Description	Object Code Used	Audited Object Code	Amount
Easement	051- Miscellaneous	172 - Intangibles	\$390,000
Easement	051- Miscellaneous	172 - Intangibles	\$315,000
Easement	051- Miscellaneous	172 - Intangibles	\$266,000
Easement	051- Miscellaneous	172 - Intangibles	\$150,000
Easement	051- Miscellaneous	172 - Intangibles	\$138,000

³⁴ The population consists of 2,797 travel expenditure documents totaling \$1,120,604. We selected a sample of 110 travel documents totaling \$291,139. Our sample included 79 travel reimbursements totaling \$50,802, 25 United Bank Ghost Account master statements totaling \$180,358 and six direct billings totaling \$59,979. (Amounts rounded to nearest dollar)

³⁵ We selected a sample of 12 transactions totaling approximately \$1,394,405 from a population of 937 transactions totaling approximately \$1,782,610.

Description	Object Code Used	Audited Object Code	Amount
Easement	051- Miscellaneous	172 - Intangibles	\$68,500
Easement	051- Miscellaneous	172 - Intangibles	\$56,000
Coded tags to identify animals	051- Miscellaneous	045 - Farm Expenses	\$5,370
Battery cables	058 - Misc. Equipment Purchases	036 – Vehicle Operating Exp.	\$8
Total			\$1,388,878

The improperly classified items noted above totaling \$1,388,878 represent approximately 78% of the total dollar amount of all Miscellaneous Expenses and Miscellaneous Equipment Purchases.

Criteria:

West Virginia Expenditure Schedules Object Codes state in part:

“026 - Travel... Payments for authorized in-state and out-of-state travel expenses in accordance with the State Travel Regulations as issued by the Travel Management Office, Division of Purchasing, Department of Administration and other approved travel plans. This object code is applicable to state employees, board members, commission members, consultants, contractors...”

“029 - Vehicle Rental: Auto, aircraft (i.e., fixed wing and helicopter), farm equipment (off road) rental, earth moving, hauling and DOH emergencies for snow/flood.”

“036 - Vehicle Operating Expense: For vehicle operating expenses... Oil, grease, car washes, minor maintenance repairs such as headlight replacement, tire repair, wheel alignment, windshield wipers, etc.”

“042 - Hospitality: Hospitality expenses include food, nonalcoholic beverages, facility rental, entertainment and other expenses relating to conducting state business.”

“045 - Farm Expenses: Expenditures for operation of a farm...”

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

“058 - Miscellaneous Equipment Purchases: All purchases of equipment less than \$5,000. Does not include computer-related equipment...”

“172 - Intangibles: Any separately purchased... patents, trademarks or easements (not for highways). (Value greater than \$25,000 for each item.)”

Cause:

Human error and/or lack of adequate training as well as lack of effective management oversight and review caused the issues noted above.

Effect: Improperly classified expenses may cause the agency to have misleading financial records. This may lead the agency to produce budgets that do not reflect the true nature of operations.

Recommendation: We recommend the WVDA properly train employees who enter transaction data into the financial management system to more accurately reflect the object codes provided in the expenditure schedule instructions for each transaction. We further recommend WVDA strengthen internal controls to ensure expenditures comply with the West Virginia State Expenditure Schedule Instructions as stated above.

**Spending Unit's
Response:** See Appendix B

OBJECTIVE 3:

Determine if the WVDA General Counsel³⁶ should be classified as an employee.

Sub-Objectives:

- i. Determine if the General Counsel should be eligible for PEIA insurance.
- ii. Determine if the General Counsel should be eligible for the Public Employees Retirement System.

CONCLUSION:

Whether or not the individual was eligible to receive Public Employees Insurance Agency (PEIA) insurance benefits, Public Employees Retirement System (PERS), annual or sick leave and annual increment hinged on the individual's classification as a full-time employee. Based on the work performed, we determined the individual should not have been classified as a full-time employee. Due to the individual's improper classification, they improperly received the salary and benefits of a full-time State employee. See finding below.

Finding 1 Improperly Classified as an Employee

Condition: The WVDA improperly classified their General Counsel as a full-time employee for 21 years. Whether or not the individual was eligible to receive Public Employees Insurance Agency (PEIA) insurance benefits, Public Employees Retirement System (PERS), annual or sick leave and annual increment hinged on the individual's classification as an employee. Based on the information below, we determined the individual was improperly classified as an employee and was not eligible to receive the aforementioned benefits.

- In a phone interview with the audit team, the individual estimated between 200-250 hours per year were spent working on WVDA business. The classification of a State employee requires 20 hours per week or 1,040 hours per year;
- The General Counsel performed all duties for the WVDA off-site at a private law firm. The individual is a partner at the law firm;
- The General Counsel did not keep timesheets and stated in a phone interview there are some weeks where no time was spent on WVDA business;
- The General Counsel declined to receive either sick leave or annual leave which was appropriate since he was in fact not an employee.

³⁶ Prior to the audit period, from September 2005 until December 2008, the Legislative Manager/Legislative Auditor's wife was an associate lawyer with the law firm, Pauley, Curry, Sturgeon, and Vanderford. The WVDA's General Counsel was one of the firm's partners. We determined there were significant safeguards in place to mitigate any potential threat to the Legislative Manager/Legislative Auditor's independence.

However, the individual could have taken vacations from the law firm and continued to receive a State salary without having to go on leave without pay;

- Any communications to the WVDA were on law firm letterhead and no regular reports were required to be submitted to the WVDA;
- The WVDA did not issue any equipment to the individual; instead the resources of the law firm were used; and
- The WVDA had no control over whom, if anyone, the General Counsel assigned to help perform the requested duties or how the duties were performed.

As a result of the misclassification as an employee, the WVDA improperly paid the individual a salary, employer matching FICA and Medicare taxes, matching retirement contribution, employer PEIA premiums and annual increment. The WVDA paid a total of \$64,960 for the above items during our audit period of July 1, 2011 through December 31, 2012.

It should be noted the individual resigned from the WVDA effective June 1, 2013. This matter was referred to PERS and PEIA.

Criteria:

W.Va. Code §5-10-2(11), as amended, states in part:

“‘Employee’ means any person who serves regularly as an officer or employee, **full time**, on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of and whose compensation is payable, in whole or in part, by any political subdivision, or an officer or employee whose compensation is calculated on a daily basis and paid monthly or on completion of assignment...”

W.Va. Code §5-16-2(3), as amended, states in part:

“‘Employee’ means any person, including an elected officer, who works regularly **full time** in the service of the State of West Virginia...”

Legislative Rule Title 162-5-2.3, states in part:

“Full time employment – Employment of an employee by a participating public employer in a position which normally **requires twelve (12) months per year service and requires at least one thousand forty (1,040) hours per year service** in that position.”

Legislative Rule Title 162-5-2.4.1.1, states in part:

“A day of service shall mean a day in which an employee works or has worked four or more hours for the state or other participating public employer with pay...”

Legislative Rule Title 151-01, states in part:

“...As a public employee, you are eligible to be covered under the plans offered by your employer if you are: a **full time employee (working regularly at least 20 hours per week)**...”

Cause: WVDA management had a lack of oversight over the number of hours worked by the individual and was unaware full-time employees must work at least 20 hours per week to meet the classification as a full-time State employee.

Effect: The individual and their dependents received PEIA health insurance they were ineligible to receive. In addition, the individual received PERS benefits and annual increment they were also ineligible to receive.

Recommendation: The WVDA should determine whether they can have a contracted attorney and if so, if the contract should be bid. If the WVDA does contract an attorney, we recommend the WVDA treat the individual as a contractor rather than an employee. Additionally, we have informed PERS and PEIA of the situation.

Spending Unit's Response: See Appendix B

OBJECTIVE 4:

Determine if hospitality purchases were conducted in accordance with the W.Va. Expenditure Instructions for object code 042 – Hospitality.

CONCLUSION:

Based on the work performed during the hospitality test, we determined the WVDA was not in compliance with their internal Hospitality Policy. See Finding 2 below.

Furthermore, based on the review of a potential abuse claim about an improper hospitality purchase, we concluded the WVDA improperly reimbursed a former WVDA employee when the Employee Reimbursement Request form did not have an itemized invoice attached and the Request for Hospitality Service form was not approved until after the purchases were made. Additionally, the audit team obtained an itemized receipt from the restaurant and determined alcoholic beverages were purchased. Alcoholic beverages are an unallowable expense according to the W.Va. Expenditure Schedule Instructions. See Finding 1 below.

Finding 1 Hospitality Alcoholic Beverage Reimbursement

Condition: The WVDA improperly reimbursed a former Deputy Commissioner approximately \$404 for a hospitality charge related to a Fairs and Festivals meeting held at a hotel restaurant in Charleston, WV. The reimbursement was improper because the Employee Reimbursement Request form did not have an itemized invoice attached and Request for Hospitality Service form was not approved until after the purchases were made.

The audit team contacted the restaurant and obtained a copy of the original itemized receipt which showed several alcoholic beverages totaling \$40.50 were purchased during the event. In addition, the unallowable alcoholic purchases increased the automatic 20% gratuity charge by approximately \$8.10.

Criteria: **Legislative Rule §155-1-3.1, states in part:**

“... **All invoices submitted to the Auditor for payment shall contain the following:**

3.1.a. **An itemized description** of the type of materials, supplies, or service provided...” **(Emphasis Added)**

Expenditure Schedule Instructions for object code 042, states in part:

“042 - Hospitality: **Hospitality expenses include** food, **nonalcoholic beverages**, facility rental, entertainment and other expenses relating to conducting state business...” **(Emphasis Added)**

WVDA Policies and Procedures Manual Section 19.1, states in part:

“...Hospitality means food, non-alcoholic beverages, and related expenses for the reception of guest by the Department for a specific event or function...” (Emphasis Added)

WVDA Policies and Procedures Manual Section 19.2, states in part:

“Any hospitality or promotional expenditures require the prior written approval of the Division Director. Expenditures exceeding \$25 must also have the prior approval of the commissioner or his/her designee...” (Emphasis Added)

U.S. Government Accountability Office’s Generally Accepted Government Auditing Standards define abuse as:

Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances...” (Emphasis added)

Cause: We believe unallowable purchases were due to a potential unethical and hostile tone set by the upper level of management. This led employees, who process these transactions, to believe they were unable to question the expenses. Employees felt nothing would be done about the expenses if they were questioned and there was fear among employees they would lose their job if expenses were questioned.

Effect: All unallowable purchases cause unnecessary expenses to the State that could diminish the financial standing of WVDA. The unethical tone of upper management could cause a trickle-down effect where other employees are more prone to perpetrate unallowable expenditures because they feel ethical conduct is not a priority within the agency.

Recommendation: We recommend the WVDA comply with Legislative Rule §155-1-3.1, as amended, the Expenditure Schedule Instructions for object code 042 and Section 19 of their Policy and Procedure Manual. Additionally, we recommend WVDA not reimburse any expenses without an itemized invoice.

Spending Unit’s Response: See Appendix B

Finding 2 Noncompliance with Hospitality Policy

Condition: We determined 90% of the hospitality transactions tested³⁷, were in noncompliance with the WVDA Policies and Procedures Manual. The schedule below outlines the details of the noncompliance. (Amounts rounded to nearest dollar)

Noncompliance	Items Noted	# Items Tested	% of Items Tested	Amount
Received written approval after hospitality purchases made	15	49	31%	\$9,133
No signature approval was received	13	49	26%	\$2,058
Written approval was received after the fact and one or both of the required approvals was not obtained	14	49	28%	\$3,064
Unable to determine if written approval was received after event because forms were signed but not dated	2	49	4%	\$2,060
Total Amount	44	49	90%	\$16,315

Criteria: **WVDA Policies and Procedures Manual Section 19.2, states in part:**

“Any hospitality or promotional expenditures require the **prior written approval** of the Division Director. Expenditures exceeding \$25 must also have the **prior approval of the commissioner** or his/her designee...” **(Emphasis Added)**

Cause: Failure to obtain prior written approval was due to management misunderstanding the WVDA policy and being unaware the Commissioner needed to sign hospitality forms over \$25. Management also felt it was impossible to determine the amount of hospitality expense prior to the event and estimates were never used. Therefore, the majority of hospitality forms were completed after the event date when all hospitality purchases had already been made.

Effect: Without prior written approval, improper purchases were made causing an unnecessary expense to the WVDA³⁸. Based on a statistical projection of the results over the population of hospitality transactions, we are 95% confident, if our sample holds true to the entire population, the total hospitality transactions not in compliance with the WVDA Policy and Procedures Manual were between 90 and 105 transactions, or 81% to 95%.

³⁷ There was a population of 111 hospitality transactions, totaling \$31,085; we selected a sample of 49 transactions, totaling \$16,365 for testing. (Amounts rounded to nearest dollar)

³⁸ See Finding Hospitality Alcohol Purchase

Recommendation: We recommend WVDA management review the WVDA Policies and Procedures Handbook Section 19.2 and either follow or revise their policies and procedures.

**Spending Unit's
Response:** See Appendix B

OBJECTIVE 5:

Determine if the Guthrie office and the Farmers Markets were in compliance with the W.Va. State Treasurer's Office Cash Receipt Handbook.

Sub-Objective:

- i. Determine if registration/fee revenues for Pesticides, Feed, Fertilizer and Animal Health Labs were reasonable.

CONCLUSION:

Based on the review of the procedures performed by the agency and auditor observations, we believe employees did not comply with the West Virginia State Treasurer's Office Cash Receipt Handbook. We determined the Guthrie Office and Farmers Markets are not adequately segregating duties or properly safeguarding cash³⁹ received. See Finding 3 below. We noted other instances of noncompliance that, while not significant enough to warrant inclusion in this report, still required the attention of WVDA Management. These items were communicated in a letter to WVDA management.

In addition, based on the review of feed and fertilizer, we believe the WVDA registration/fee revenues for Feed and Fertilizer were reasonable. The audit team was unable to determine if Animal Health and Pesticide fees were reasonable due to scope limitations. See Findings 1 and 2 below.

Finding 1

Scope Limitation over Pesticide Fees Received

Condition:

We were unable to obtain sufficient, appropriate evidence to determine whether Pesticide fee revenues totaling approximately \$2,575,945 during our audit period were received timely and for the proper amounts because WVDA does not have adequate internal controls in place to properly track and monitor monies due. This amount has been recorded in the State accounting system. However, we were not able to perform a test which would give us reasonable assurance that all fees that should have been collected were in fact, collected and deposited. The lack of internal controls is described in greater detail as follows:

- **Lack of Segregation of Duties Combined with Lack of Management Oversight**

WVDA's cash receipts were not adequately safeguarded from unauthorized use or disposition. The cash receipt functions were not properly segregated; only one employee opens mail containing fee payments and enters information into the receipt log. The employee who deposits the money records the information into WVFIMS and also reconciles deposits to the receipt log.

³⁹ Cash includes cash equivalents such as checks, money orders, etc.

- **Weakness in Internal Controls over Registration Database**

We noted the following internal control weaknesses over WVDA's Pesticide registration database:

- There are no procedures for entering information into the registration database or changing information in the database;
- There is not adequate internal control or oversight over the information going in and out of the database;
- Changes made in the database are not reviewed;
- Management is not notified when changes are made;
- Information can be manually entered and there are no edits/checks to ensure the data entry is accurate;
- A reconciliation of registrations issued to the recorded fees collected is not performed; and
- The agency could not provide adequate reports from the database showing detail of the types of fees collected, registrations issued, etc.

Criteria:

W.Va. Code § 5A-8-9, 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..."

Management is responsible for establishing and maintaining effective internal controls. A fundamental concept of internal control is adequate segregation of incompatible duties. For adequate segregation of duties, management should ensure responsibilities for authorizing transactions, recording transactions and maintaining custody of assets is assigned to different employees.

Cause:

Lack of official procedures for entering the information into the database accompanied with lack of management oversight and review caused the aforementioned issues. Additionally, the system is limited in its ability to pull reports and does not produce exception reports for unusual data being generated, nor does management perform a review for unusual data. In addition, the WVDA switched systems during our audit period adding to the difficulties of obtaining accurate system reports. The WVDA also enters the

payment date as the date information is entered into the system, not necessarily the date the payment is actually received or deposited. At times when renewal for pesticide products are due, large quantities of registration information are received and it can take several days or weeks for all registration information to be entered into the system. Therefore, it is possible some registration fees received and deposited during our audit period would not be entered into the system until after the end of the audit period.

Effect: We are unable to determine if all Pesticide fees that should have been collected were, in fact, collected and deposited. It is possible registrations could have been issued without collection of the required fees. Furthermore, fees collected may be misappropriated and management would not be able to detect a misappropriation.

Recommendation: We recommend the WVDA institute adequate internal controls over the collection and processing of fee revenues and update the fee tracking software to be able to produce reliable data that will allow the WVDA to determine the reasonableness of amounts recorded in WVFIMS.

Spending Unit's Response: See Appendix B

Finding 2

Scope Limitation over Animal Health Lab Fees Received

Condition:

We were unable to obtain sufficient, appropriate evidence to determine the reasonableness of Animal Health Lab fee revenues totaling approximately \$268,553 during our audit period. These amounts have been recorded in the State accounting system, but because of the pervasive lack of internal controls over the collection process and recording of fees, as well as the inability of the WVDA fee tracking software to produce total number of tests paid within the scope of our audit period, we were not able to perform tests that would give us reasonable assurance that all fees that should have been collected were in fact, collected. Internal control weaknesses are as follows:

- **Lack of Segregation of Duties Combined with Lack of Management Oversight**

WVDA's cash receipts were not adequately safeguarded from unauthorized use or disposition. The cash receipt functions were not properly segregated; only one employee opens mail containing fee payments and enters information into the receipt log. The employee who deposits the money records the information into WVFIMS and also reconciles deposits to the receipt log.

- **Weakness in Internal Controls over Registration Database**

We noted the following internal control weaknesses over WVDA's Pesticide registration database:

- There are no procedures for entering information into the registration database or changing information in the database;
- There is not adequate internal control or oversight over the information going in and out of the database;
- Changes made in the database are not reviewed;
- Management is not notified when changes are made;
- Information can be manually entered and there are no edits/checks to ensure the data entry is accurate;
- A reconciliation of registrations issued to the recorded fees collected is not performed; and
- The agency could not provide adequate reports from the database showing detail of the types of fees collected, registrations issued, etc.

Criteria: W.Va. Code § 5A-8-9, 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...”

Management is responsible for establishing and maintaining effective internal controls. A fundamental concept of internal control is adequate segregation of incompatible duties. For adequate segregation of duties, management should ensure responsibilities for authorizing transactions, recording transactions, maintaining custody of assets and reconciliations are assigned to different employees.

Cause: Lack of official procedures for entering the information into the database accompanied with lack of management oversight and review caused the aforementioned issues. Additionally, the system is limited in its ability to pull reports and does not produce exception reports for unusual data being generated, nor does management perform a review for unusual data.

The audit team needed the total number of tests for Animal Health lab fees within the scope of our audit period. While all the information may be recorded into the system, the information cannot be retrieved from the system in order for the audit team to test. Lab tests are entered into the LIMS system even if there is no charge for the test and it is not indicated as “no charge” in the system. In addition, the large quantities of information in the system made it difficult for WVDA personnel to pull the reports we required from the system.

Effect: As a result of the significant internal control weaknesses listed above, and inadequate fee tracking software, we are unable to determine if all fees that should have been collected were, in fact, collected. Furthermore, fees collected may be misappropriated and management would not be able to detect a misappropriation.

Recommendation: We recommend the WVDA institute adequate internal controls over the collection and processing of fee revenues and update the fee tracking software to be able to produce reliable data that will allow the WVDA to determine the reasonableness of amounts recorded in WVFIMS.

Spending Unit’s Response: See Appendix B

Finding 3

Lack of Internal Controls over Cash Receipts

Condition:

WVDA's cash receipts were not adequately safeguarded from unauthorized use or disposition. The total revenue received during our audit period was approximately \$23 million of which approximately \$929,000 was received in the form of cash⁴⁰ and the remaining amount was either received directly by the State Treasurer's Office or was a non-cash transfer. We noted the following segregation of duties and safeguarding of assets issues with the Guthrie office, Inwood Farmers Market and Logan Farmers Market:

Guthrie (Approximately \$893,000 received)

- One employee opens mail alone in an unsecured location, which is open to the public, at the Guthrie office. At Guthrie, money is received in the mail for registration fees, penalties, etc; and
- The WVDA has not implemented any additional controls, such as video surveillance or having two people open the mail, to ensure the employee could not misappropriate State funds.

Inwood Farmers Market (Approximately \$32,000 received)

- Only one employee verifies deposit amounts because normally only one employee is working when cash is counted and taken to the night deposit box set up at the local bank;
- Cash is taken in an unsealed envelope from the Inwood market to the night deposit box at the bank by the same employee who closes the register and verifies the amount to be deposited;
- One employee opens mail alone at the Inwood Farmers Market. Although it is a rare occurrence, money may be received by mail for cold storage rentals; and
- There are no additional controls in place to ensure all monies received are logged and deposited. Also, the WVDA has not implemented any additional controls, such as video surveillance or having two people open the mail, to ensure the employee could not misappropriate State funds.

Logan Farmers Market (Approximately \$4,000 received)

- Cash is being counted at the cash register in view of the public and prior to the close of the market. This has resulted in sales occurring after the close out of the cash register. That money would then stay in the register and be included with the following day's receipts;

⁴⁰ Cash includes cash equivalents such as checks, money orders, etc.

- Employees are not verifying the amounts to be deposited with a signature. The same employee who deposits the money also checks the amount to be deposited to the cash register tapes and does not provide verification of the amount by either a signature or initials;
- Cash is taken to the bank for deposit in a zipped bank bag with no lock by the same employee who checks the amount to be deposited to the cash register tapes; and
- There are no additional controls in place to ensure all monies received are logged and deposited.

Criteria:

West Virginia State Treasurer’s Office Cash Receipts Handbook, states in part:

“2 ...All Cash should be counted out of sight of the general public.”

“3.2 ...an individual should not have the sole responsibility for more than one of the following Cash handling components: collecting, depositing, disbursement, reconciling”

“3.4 There should be dual signatures verifying any moneys transferred to the bank.”

“3.5 The bag holding such moneys should be sealed and/or locked before it leaves the Spending Unit’s location.”

“3.7 All mail should be opened with two people present...”

“5.5 An employee other than the staff member that made the bank deposit must perform a reconciliation of the supporting documentation (itemized record) to the bank validated deposit tickets daily. The employee must sign and date the reconciliation to reflect who performed the reconciliation and when...”

Cause:

The Guthrie office cash handling and deposit procedures do not properly segregate the duties of depositing, reconciling money or safeguarding assets by ensuring two employees are present when money is received and counted.

The Inwood and Logan Farmers Markets do not have enough employees to adequately segregate duties and safeguard assets.

Effect:

Due to the lack of internal controls and oversight of revenues, we cannot assure ourselves that all moneys due the State were actually collected by the Guthrie Office, Inwood Farmers Market and Logan Farmers Market employees and deposited as required. Additionally, there is an increased risk that the employees who process money at the Guthrie Office, Inwood Farmers Market and Logan Farmers Market offices could receive cash and misappropriate the cash without being detected.

Recommendation: We recommend the Guthrie Office, Inwood Farmers Market and Logan Farmers Market office strengthen internal controls and safeguarding of assets by implementing the controls and safeguards listed in Sections 2, 3.2, 3.4, 3.5, 3.7 and 5.5 of the West Virginia State Treasurer’s Office Cash Receipts Handbook.

**Spending Unit’s
Response:** See Appendix B

OBJECTIVE 6:

Determine if farmers market leases are properly bid according to the W.Va. Code §19-12a-5.

CONCLUSION:

Based on the work performed and the items noted above, the WVDA was not in compliance with W.Va. Code §19-12a-5d (1) for the Farmers Market leases. See finding below.

Finding 1

Property Leased without Sealed Bid Auction

Condition:

The WVDA is currently leasing two former farmers' market buildings to private parties without performing a sealed bid auction. The WVDA lease agreements total \$3,000 and \$6,120 per year. Additionally, it should be noted one of the leasees was six months behind on their rent payments and also has a Rural Rehabilitation loan.

Criteria:

W.Va. Code §19-12A-5(d)(1), as amended, states in part:

“Any lease for an annual consideration of one thousand dollars or more shall be by sealed bid auction and the commission shall give notice of such auction by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication is the county in which the property to be leased is located” (Emphasis Added)

Cause:

WVDA Management believes the procedure for entering into a lease agreement for these buildings do not require bidding because there is not much public interest. Therefore, only interested parties receive a lease.

Effect:

By not offering the buildings for lease via a sealed bid auction and public publication of the lease, the WVDA does not give the public a fair chance to bid on the property. The WVDA may also be losing revenues by not bidding the leases and choosing the highest bidder.

Recommendation:

We recommend the WVDA implement policies and procedures to comply with W.Va. Code §19-12a-5(d)(1), as amended, by holding a bid auction for the farmers market leases.

Spending Unit's

Response:

See Appendix B

OBJECTIVE 7:

Determine if the WVDA is in compliance with the "Lodging on Your Business Premises" section for the cottage leases.

Sub-Objective:

- i. Determine if the utility charges should be reported as taxable income.

CONCLUSION:

Based on the work performed, we determined the WVDA was not in compliance with the "Lodging on Your Business Premises" section of the Internal Revenue Service (IRS) Publication 15-B for the cottage leases. See finding below.

We determined the utility charges paid by the WVDA are not required to be included in the employees' taxable income because the rentals we used as fair market value had utilities paid by the landlord. Therefore, the utility amounts paid by the WVDA caused no additional difference between fair value and rent charged.

Finding 1

Improper Reporting of Employee Income

Condition:

WVDA employees were provided lodging that was not considered a condition of their employment at an amount below fair market value and the difference was not included as taxable income. Five employees were renting cottages on WVDA property for amounts between \$300 and \$350 per month. Comparable rentals in the area were being rented for an average of around \$500 per month. The taxable benefit to the five employees would then range from \$150 to \$200 a month.

Criteria:

IRS Publication 15-B "Lodging on Your Business Premises", states in part:

"An employer can exclude the value of lodging it furnishes to an employee from the employee's wages if it meets the following tests:

1. It is furnished on the employers business premises – for this exclusion, the business premises is generally the employee's place of work.
2. It is furnished for the employers' convenience – whether or not an employer furnishes lodging for its convenience depends on all the facts and circumstances. Moreover, the employer must have a substantial business reason other than to provide the employee with additional pay.
3. The employee must accept the lodging as a condition of employment – to meet this test, the employer must require the employees to accept the lodging because they need to live on the business premises to be able to properly perform their duties."

Cause:

Lack of knowledge by WVDA management of IRS rules and regulations regarding lodging provided to employees.

Effect: By not reporting the difference in the fair market value and rent charged as a taxable benefit, the employees lodging on the WVDA business premises may not have reported all taxable income to the IRS and those employees could have an unfair benefit over coworkers. The WVDA could also face IRS penalties for not reporting the taxable benefit on the employees' W-2 forms.

Recommendation: We recommend the WVDA implement policies and procedures that allow for employees receiving lodging arrangements to have any resulting income to be properly reported to the IRS as taxable income. We recommend the WVDA consult the IRS to determine whether or not they should file amended tax returns for any employees who ever resided in the cottages. As of July 1, 2013, the WVDA began including the difference in fair market value and rent charged as taxable income to the employees.

**Spending Unit's
Response:** See Appendix B

OBJECTIVE 8:

Determine if the travel card ghost account is being used in accordance with W.Va. Statewide Contract TCARD06 Section 3.2.4A.

CONCLUSION:

Based on the work performed, the WVDA was not in compliance with WV Statewide Contract TCARD06 Section 3.2.4A.

Finding 1

Noncompliance with Statewide Contract TCARD06

Condition:

Although the statewide contract states ghost accounts do not require the issuance of plastic bankcards, the WVDA has eight plastic bankcards for their United Bank Ghost Account to use for travel purchases. Monthly limits on the WVDA ghost account cards range from \$2,000 to \$20,000.

Criteria:

West Virginia Statewide Contract TCARD06 Section 3.2.4A, states in part:
“Ghosts Accounts are bankcard accounts used by various agencies of the state to facilitate issuance of airline tickets, conference registrations and other purposes that **do not require the issuance of a plastic bankcard and rely solely on a bankcard account number without the issuance of individual plastic cards... (Emphasis Added)**”

Cause:

The WVDA was unaware of Section 3.2.4A of statewide contract TCARD06.

Effect:

The issuance of individual plastic bankcards increases the risk of fraud or abuse of State funds either by a cardholder or if a cardholder loses the plastic bankcard and another individual uses the card.

Recommendation:

We recommend the WVDA cease use of the plastic bankcards and rely solely on a bankcard account number in order to comply with WV Statewide Contract TCARD06 Section 3.2.4A.

Spending Unit's Response:

See Appendix B

OBJECTIVE 9:

Determine if the WVDA has a written policy for when a loan holder may refinance.

CONCLUSION:

We determined the WVDA's policy for the loan program is lacking significant details including when a loan holder is eligible to refinance and requirements over eligibility and awarding of Rural Rehabilitation Loans. See Finding 5 in Objective 1.

SEE FINDING 5: LACK OF POLICY OVER LOANS IN OBJECTIVE 1.

OBJECTIVE 10:

Determine if the WVDA has a written policy for loan eligibility and award criteria.

CONCLUSION:

We determined the WVDA's policy for the loan program is lacking significant details including when a loan holder is eligible to refinance and requirements over eligibility and awarding of Rural Rehabilitation Loans. See Finding 5 in Objective 1.

SEE FINDING 5: LACK OF POLICY OVER LOANS IN OBJECTIVE 1.

OBJECTIVE 11:

Determine if the WVDA complied with the W.Va. Expenditure Schedule Instructions for Object Codes 051 – Miscellaneous Expenditures, 058 - Miscellaneous Equipment, and 696 - Other Collections, Fees, Licenses and Income.

CONCLUSION:

Based on the testing performed, we determined the WVDA was not in compliance with the State of W.Va. Expenditure Schedule Instructions for object codes 051 – Miscellaneous Expenditures and 058 – Miscellaneous Equipment. See Finding 10 under Objective 2.

Additionally, the WVDA complied with Expenditure Schedule Instructions for Object Code 696 - Other Collections, Fees, Licenses and Income. We noted other instances of noncompliance that, while not significant enough to warrant inclusion in this report, still required the attention of WVDA Management. These items were communicated in a letter to WVDA management.

SEE FINDING 10: MISCLASSIFICATION OF EXPENSES UNDER OBJECTIVE 2.

OBJECTIVE 12:

Determine if the Guthrie office and the Farmers Markets were in compliance with W.Va. Code §12-2-2 and if amounts deposited match the WVDA mail log/Farmers Markets' sales.

CONCLUSION:

Based on the testing of the deposit transactions, we determined the Guthrie office and the Farmers Markets were not in compliance with W.Va. Code §12-2-2 when cash or checks were received by the agency. However, we determined the amounts deposited matched the WVDA mail log/Farmers Markets' sales. See Finding 9 under Objective 1.

SEE FINDING 9: DEPOSITS NOT MADE WITHIN 24 HOURS OF RECEIPT IN OBJECTIVE 1.

OBJECTIVE 13:

Determine if the Quarterly Inspection Cash Advances complied with Section 20.14.b of the WVDA Travel Policy.

CONCLUSION:

Based on the results of the testing performed, the WVDA complied with section 20.14.b of the Travel Policy but did not comply with the timely deposit requirements set forth in W.Va. Code §12-2-2. See Finding 9 under Objective 1. We noted other instances of noncompliance that, while not significant enough to warrant inclusion in this report, still required the attention of WVDA Management. These items were communicated in a letter to WVDA management.

SEE FINDING 9: DEPOSITS NOT MADE WITHIN 24 HOURS OF RECEIPT IN OBJECTIVE 1.

OBJECTIVE 14:

Determine if the WVDA was in compliance with W.Va. Code §5A-3-11, Legislative Rule Series 148-1-6 and 148-1-7 and the W.Va. Purchasing Division Procedure Handbook.

Sub-Objective:

- i. Determine if the proper amount was paid and if the correct object code and fund was used.

CONCLUSION:

Based on the work performed, we determined the WVDA was in compliance W.Va. Code §5A-3-11, Legislative Rules 148-1-6 and 148-1-7 and the West Virginia Purchasing Division Procedure Handbook. Also, the WVDA used the correct object code and fund for the test under this Objective. We noted other instances of noncompliance that, while not significant enough to warrant inclusion in this report, still required the attention of WVDA Management. These items were communicated in a letter to WVDA management.

OBJECTIVE 15:

Determine if the WVDA is in compliance with W.Va. Code §5A-3-36 and §5A-3-34 and the Purchasing Division's Inventory Management Manual sections 3.6, 3.11, 3.16, 3.17, and 3.18.

CONCLUSION:

Based on the testing of fixed assets and auditor observations, we determined the WVDA complied with W.Va. Code §5A-3-36 and §5A-3-34 and the Purchasing Division's Inventory Management Manual sections 3.6, 3.11, 3.16, 3.17, and 3.18. We noted other instances of noncompliance that, while not significant enough to warrant inclusion in this report, still required the attention of WVDA Management. These items were communicated in a letter to WVDA management.

OBJECTIVE 16:

Determine if the WVDA was in compliance with the W.Va. Code §12-3-10 and §12-3-1b, Legislative Rule Series 155-7-4.1.b, 4.1.c, 4.1.t, W.Va. State Auditor's Office P-card policy 2.4, 2.5, 2.6, 3.0, 4.0, 6.1-6.4, 6.6-6.8, 7.1-7.4, and 8.1-8.4.

Sub-Objective:

- i. Determine if the proper amount was paid and if the correct object code and fund was used.

CONCLUSION:

Based on the testing of P-card transactions, we determined the WVDA was in compliance W.Va. Code, Legislative Rules and the W.Va. State Auditor's Office P-card policy.

OBJECTIVE 17:

Determine if the Logan and Inwood Farmers Markets followed best business practices by completing a bank reconciliation.

CONCLUSION:

We determined employees were following best business practices in attempting to complete bank reconciliations at the Inwood and Logan Farmers Markets. The Inwood farmers market never properly completed bank reconciliations during our audit period. It seems there was a misunderstanding of what constitutes an outstanding check. Since the Farmers Markets no longer have outside bank accounts and the audit team was able to perform a proof of cash and no monies appeared to be missing, no finding was necessary.

OBJECTIVE 18:

Determine if the possible duplicate payments and possible stringing identified during the analytical review process.

CONCLUSION:

Based on the review of possible duplicate and stringing of payments, we found no duplicate transactions or stringing of payments.

WEST VIRGINIA DEPARTMENT OF AGRICULTURE
JULY 1, 2011 – DECEMBER 31, 2012

SUPPLEMENTAL INFORMATION FUND LISTING

We have completed a post audit of the WVDA. The examination covers the period of July 1, 2011 through December 31, 2012.

GENERAL REVENUE ACCOUNTS

WVDA maintained the following accounts:

<u>Fund Number</u>	<u>Fund Name</u>
0131	Department of Agriculture Fund ⁴¹
0135	Meat Inspection Fund ⁴¹
0136	Agriculture Awards Fund ⁴¹
0607	WV Agriculture Land Protection Authority ⁴¹

SPECIAL REVENUE ACCOUNTS

WVDA maintained the following special revenue accounts. These accounts represent specific funds from specific activities as required by law or administrative regulations. These funds were deposited with the State Treasurer in the following special revenue accounts:

<u>Fund Number</u>	<u>Fund Name</u>
1401	Agriculture Fees Fund ⁴¹
1402	Indirect Cost Fund
1403	Farmer's Market Operating Fund
1404	Sale Lab/Office Building-Moorefield WV Fund
1405	Rural Resources Special Revenue Fund
1407	Gypsy Moth Suppression Fund
1408	West Virginia Rural Rehabilitation Program ⁴¹
1409	General John McCausland Memorial Fund ⁴¹
1412	Farm Operating Fund ⁴¹
1431	Raleigh County Aquaculture Project
1433	Agriculture Projects - Gov. Civil Cont. Fund
1438	Huttonsville - Insurance Claim
1446	Donated Food Fund ⁴¹
1459	Gifts Grants and Donations
1464	WV Farmland Protection Fund
1465	Integrated Predation Mgmt Fund ⁴¹
1471	Donated Foods Insurance Account

Agriculture Fees Fund

Fees for inspection of milk, fruit, vegetables, feed, seed, livestock and grading for operating expenses.

⁴¹ Appropriated Fund.

Indirect Cost Fund

Interest, gifts, grants, State & Federal funds for indirect costs of meat inspection program.

Farmer's Market Operating Fund

Farm sales and rental fees for operating the farmer's market.

Sale Lab/Office Building-Moorefield WV Fund

Land sale & office rentals fees for capital improvements at new Agriculture Center, Hardy County.

Rural Resources Special Revenue Fund

Grants, sales, rental fees & rent transferred from fund 0250 to promote production, quality, & marketing of agriculture products.

Gypsy Moth Suppression Fund

Landowners payments for Gypsy Moth Suppression Program.

West Virginia Rural Rehabilitation Program

State funds from 0131, farm student loan payments & interest to develop enterprises in agriculture commodities.

General John McCausland Memorial Fund

Farm sales, earned interest, and miscellaneous collections for farm operations, repairs, improvements and perpetual care of the memorial.

Farm Operating Fund

Transfers from fund 8615, rental fees, insurance refunds & farm sales to operate farm fund with all over \$1,500,000 to general revenue fund.

Raleigh County Aquaculture Project - Gov Cont Fund

Statutory transfers & miscellaneous collections for the Raleigh County Aquaculture Project.

Agriculture Projects - Gov. Civil Cont. Fund

Operating funds transfers & cost share from landowners to fund gypsy moth suppression & eradication program.

Huttonsville - Insurance Claim

Proceeds from insurance claim.

Donated Food Fund

Other collections, fees, licenses & income to offset operating expenses of the government foods program.

Gifts Grants and Donations

Grants, gifts, and donations for the general expenditures.

WV Farmland Protection Fund

Other collections and fees for the administration of WV Farmland Protection fund.

Integrated Predation Mgmt Fund

Other collections, fees, licenses and income to protect agriculture animals from wild predatory animals.

Donated Foods Insurance Account

Insurance proceeds from July 2007 warehouse claim.

FEDERAL ACCOUNTS

WVDA maintained the following account funded with Federal sources:

<u>Fund Number</u>	<u>Fund Name</u>
8736	Agriculture - Cons Fed Funds General Administration ⁴¹
8737	Consolidated Fed Funds Meat Inspection Fund ⁴¹
8896	Land Protection Authority Federal Fund ⁴¹

Agriculture - Cons Fed Funds General Administration

Federal funds for marketing and development of rural resources.

Consolidated Fed Funds Meat Inspection Fund

Federal funds for animal disease control, pesticide and meat inspection program.

Land Protection Authority Federal Fund

Federal funds to protect land and land resources.

APPENDIX A

METHODOLOGY AND RELEVANT LAWS, POLICIES, OR AGREEMENTS BY OBJECTIVE

OBJECTIVE 1:

Determine if the Rural Rehabilitation Loan Program was properly managed.

Sub-Objectives:

- i. Determine if loan funds were being used as described in the loan holder business plan.
- ii. Determine if deeds of trust or liens for collateral were received and maintained by WVDA personnel.
- iii. Determine if loan payments were being received by the WVDA according to the loan terms.
- iv. Determine if loan payments were applied to interest and principal according to the loan terms.
- v. Determine if loan payments were deposited in accordance with W.Va. Code §12-2-2.

METHODOLOGY:

To achieve the objectives, we took several steps, including obtaining a listing of all Rural Rehabilitation Loans the WVDA issued independently with no recommendation from the United States Department of Agriculture (USDA), reviewing the WVDA's Procedure over the Rural Rehabilitation Loan Program, policy statement, cover letter, application, reviewing loan holder files and making inquiries with various WVDA employees involved in the loan process.

In order to account for adequate documentation of program results and adequate accounting of revenues and expenditures, we designed and performed a test to determine if the Rural Rehabilitation Loan Program was properly managed, determined whether or not loan funds were being used as described in the loan holder business plan, determined if deeds of trust or liens for collateral were received and maintained by WVDA personnel, determined if loan payments were received by the WVDA according to the loan terms, determined if loan payments were applied to interest and principal according to the loan terms and determined if loan payments were deposited in accordance with W.Va. Code §12-2-2.

The listing of Rural Rehabilitation Loans the WVDA issued independently with no recommendation from the USDA had a total population of 42 loans. The WVDA had 13 'current' loans outstanding, 22 'delinquent' loans outstanding and seven loans that were written off. Using professional judgment and prior knowledge of agency relationships with loan holders, we selected seven 'current' loans and 12 'delinquent' loans for testing for a total of 19 loans to be tested in accordance with the test designed. We also determined if the Loan Committee complied with W.Va. Code §14-1-18 before writing off the seven loans.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §5A-8-9
- Best Business Practices
- W.Va. Code §14-1-18
- Applicable Loan Holder Files
- W.Va. Code §12-2-2
- WVDA Rural Rehabilitation Loan Program Procedure
- WVDA Rural Rehabilitation Loan Program Policy Statement
- WVDA Rural Rehabilitation Loan Application
- WVDA Rural Rehabilitation Loan Application Cover Letter

OBJECTIVE 2:

Determine if WVDA employees were in compliance with the WVDA Travel Policy.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal control and compliance with the W.Va. Code, Expenditure Schedule Instructions, Legislative Rules, IRS Publications, best business practices, and WVDA internal policies and procedures; reviewed the source documents; made inquiries with various department personnel; contacted outside agencies/businesses; and exercised professional judgment as necessary.

In order to account for adequate documentation of program results and adequate accounting of expenditures, we designed and performed a test to determine if travel expenditures were properly being documented and maintained by WVDA, funds were spent on allowable items, and travel reimbursement was being submitted timely in compliance with WVDA's Travel Policy and Procedure. The test consisted of all Object Code 026 (Travel) & Object Code 029 (Vehicle Rental) expenses. The population consists of 6,444 transactions totaling \$1,139,695.31, of which \$(40,007.52) was refunds. In order to select an entire document rather than individual transactions, we then created a Pivot Table to show each individual Document ID and S-document available for testing. When Doc IDs were subtotaled, there were 2,868 items. We then deleted out all E-docs (corrections), D-docs (reimbursements) because those items were found to be a low risk area in the risk assessment. There were 25 D-docs totaling \$(7,034.02) and 44 E-docs totaling \$23,772.14. Additionally, we removed the three documents identified in the agency responses to our fraud and abuse inquiries. With those items removed, the population consisted of 2,797 totaling \$1,120,604.75.

We then input the absolute values of the population into an excel workbook specifically designed to calculate the stratification boundaries statistically based upon the Cumulative Frequency of the Square Root to reduce the bias that could be introduced by choosing arbitrary boundaries for the stratum. We then input the strata information into RATSTAT's Variable Sample Size Determination "Stratified" function to determine the sample size for each stratum.

According to RATSTATs, at a confidence level of 95% and a precision level of 5% the sample size to be tested was 110 items. We used RATSTATs Single Stage Random Numbers function to generate 21, 22, 18, 26, and 23 random numbers for stratum 1, 2, 3, 4, and 5 respectively. We then used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 110 items totaling \$291,139.25. We then recalculated and reviewed the travel expenditures selected as our sample based on the supporting documentation present in accordance with the test designed.

We found it necessary to further investigate the instances of possible fraud and abuse items and determine if they were in fact instances of possible fraud and/or abuse. We then reviewed the three documents identified in the agency responses to our fraud and abuse inquiries to determine if those expenditures were properly documented and maintained by WVDA, funds were spent on allowable items and travel reimbursement was being submitted timely in compliance with WVDA's Travel Policy and Procedure.

We extended our review of the former Commissioner of Agriculture's travel reimbursements based on the review of the potential fraud and abuse claims which resulted in findings. The expanded review included all travel reimbursements for the former Commissioner for the period of February 1, 2008 – November 18, 2013; the review consisted of 46 items totaling \$28,667.56. The former Commissioner's last reimbursement request was processed in February 2013. We then reviewed all supporting documentation in accordance with the test designed.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- WVDA Travel Policy
- W.Va. Code §5A-8-9
- Legislative Rule §155-1-3.1
- Expenditure Schedule Instructions
- WVDA Policies and Procedures Manual
- Best Business Practices
- W.Va. Code §6B-2-5.b
- West Virginia Statewide Contract TCARD06 Section 3.2.4A
- W.Va. Code §6B-2-5(b)1

OBJECTIVE 3:

Determine if the WVDA General Counsel should be classified as an employee.

Sub-Objectives:

- i. Determine if the General Counsel should be eligible for PEIA insurance.
- ii. Determine if the General Counsel should be eligible for the Public Employees Retirement System.

METHODOLOGY:

To achieve the objectives, we reviewed the individual's job description, time spent working on WVDA assignments, interviewed the individual, requested time sheets and/or logs, obtained a legal opinion concerning the classification of the General Counsel's employment status, reviewed the eligibility requirement for the PERS, reviewed the eligibility requirements for the PEIA coverage, reviewed the individual's personnel file and determined the individual's years of service with the State. Additionally, we determined the total amount paid to the General Counsel for personnel services, including any employer paid benefits for the period of July 1, 2011 - December 31, 2012.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §5-10-2(11)
- Legislative Rule Title 162-5-2.3
- Legislative Rule Title 162-5-2.4.1.1
- W.Va. Code §5-16-2(3)
- Legislative Rule Title 151-01
- W.Va. Code §5A-8-9
- Best Business Practices

OBJECTIVE 4:

Determine if hospitality purchases were conducted in accordance with the W.Va. Expenditure Instructions for object code 042 – Hospitality.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal controls and compliance with the W.Va. Code, Expenditure Schedule Instructions, Legislative Rules, best business practices, and WVDA internal policies and procedures, reviewed the source documents, made inquiries with various department personnel, contacted outside agencies/businesses, and exercised professional judgment as necessary.

In order to account for adequate documentation of program results and adequate accounting of expenditures, we designed and performed a test to determine if hospitality expenditures were properly being documented and maintained by WVDA, funds were spent on allowable items, and hospitality expenditures were conducted in accordance with the W.Va. Expenditure Instructions for Object Code 042 (Hospitality). The test consisted of all Object Code 042 (Hospitality) expenses. The population consists of 125 transactions, including corrections and reimbursements, totaling \$28,432.61. In order to select an entire document rather than individual transactions, we then created a Pivot Table to show each individual Document ID and S-document available for testing. When Doc IDs were subtotaled, there were 115 items. We deleted out all E-docs (corrections), D-docs (reimbursements) because those items were found to be a low risk area in the risk assessment. There were two D-docs totaling (3,056.37) and one E-doc totaling \$0. Additionally, we removed the one document identified in the agency responses to our fraud and abuse inquiries. With those items removed, the population consisted of 111 transactions totaling \$31,085.18.

We used RATSTAT's Attribute Sampling Size Determination to determine the sample size. According to RATSTATs, at a confidence level of 95%, the sample size to be tested was 49 items. We then used RATSTATs Single Stage Random Numbers function to generate 49 random numbers and used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 49 items totaling \$16,365.28. We then recalculated and reviewed the expenditures selected in our sample for compliance with W.Va. Expenditure Schedule Instructions, W.Va. Code §5A-3-11, Legislative Rule Series 148-1-6 and 148-1-7, WVDA Policies and Procedures, and the West Virginia Purchasing Division Procedure Handbook in accordance with the test designed.

Next, we found it necessary to further investigate the instances of possible fraud and abuse items reported to us in our fraud inquiries sent out to various employees and determine if they were in fact instances of possible fraud and/or abuse. We then reviewed the document identified in the agency responses to our fraud and abuse inquiries to determine if those expenditures were properly documented and maintained by WVDA, funds were spent on allowable items and hospitality expenditures were being processed in accordance with the W.Va. Code, W.Va. Expenditure Instructions for object code 042 – Hospitality, WVDA's Policy and Procedures Manual and best business practices.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- Expenditure Schedule Instructions

- WVDA Policies and Procedures Manual
- Best Business Practices
- The Request for Hospitality Form
- W.Va. Code §5A-8-9

OBJECTIVE 5:

Determine if the Guthrie office and the Farmers Markets were in compliance with the W.Va. State Treasurer's Office Cash Receipt Handbook.

Sub-Objective:

- i. Determine if registration/fee revenues for Pesticides, Feed, Fertilizer and Animal Health Labs were reasonable.

METHODOLOGY:

To achieve our objectives, we obtained cash receipt procedures, conducted auditor observations, and reviewed applicable internal control in order to determine compliance with West Virginia State Treasurer's Office Cash Receipt Handbook.

In order to achieve our sub-objective and to account for adequate documentation of program results and adequate accounting of revenues, we designed and performed a test to determine if registration/fee revenues for Pesticides, Feed, Fertilizer and Animal Health Labs could be traced from WVDA's system to WVFIMS.

During the process, we requested a population of each type of Animal Health Lab fee paid during our audit period from the fee tracking software from the WVDA IT Programmer/Analyst. The WVDA IT Programmer/Analyst attempted to get the information from the database; however, the information could not be retrieved from the system in order for us to test because the amount of tables and the size of the files from the system made it impracticable to be able to use, lab tests are entered into the system even if there is no charge for some tests, and partial payments were accepted. Due to the fact we were unable to obtain a population, we were not able to perform a test which would give us reasonable assurance that all Animal Health Lab fees that should have been collected were in fact, collected and deposited.

We additionally requested a population of all Pesticide product registrations paid during our audit period from the product tracking system. Because we were unable to match the information from the product tracking system to WVFIMS, we made inquiries with the WVDA IT Programmer/Analyst, and were informed the 'payment date' listed in the system was not the actual date paid, but the date the information was entered into the system. Therefore, we were unable to determine which registrations were paid during our audit period. Additionally, we spoke with WVDA IT Programmer/Analyst who believed the system data would not be reliable for our purposes. Next, we attempted to review the paper files for the Pesticide product registrations; however, we discovered the paper files did not contain the entire population for our audit period. During the last several months of our audit period, a new employee began entering all product registration information and scanning the applications and daily revenue reports into the system; therefore, the paper files for Pesticide registrations did not contain a full population for our audit period and we were unable to obtain a population. Due to this, we were not able to perform a test which would give us

reasonable assurance that all Pesticide fees that should have been collected were in fact, collected and deposited.

In addition, we requested a population of all Fertilizer product registrations paid during our audit period from the product tracking system. Because we were unable to match the information from the product tracking system to WVFIMS, we spoke with the employees entering the information into the system and were informed fees received were not broken down by registrations but entered in total by manufacturer. Therefore, we were unable to determine which registrations were paid during our audit period. Additionally, we spoke with WVDA IT Programmer/Analyst who believed the system data would not be reliable for our purposes. However, we were able to use the paper files as a population and pulled every 15th manufacturer/distributor file from the paper files for fertilizer registrations and soil amendment registrations in order to obtain a sample. Our total sample for Fertilizer Revenues was 21 registration applications. We then traced the sample from the paper files to the Daily Revenue Report Maintained by WVDA to ensure the revenues were deposited into WVFIMS.

Additionally, we requested a population of all Feed product registrations paid during our audit period from the product tracking system. Because we were unable to match the information from the product tracking system to WVFIMS, we spoke with the employees entering the information into the system and were informed fees received were not broken down by registrations but entered in total by manufacturer. Therefore, we were unable to determine which registrations were paid during our audit period. Additionally, we spoke with WVDA IT Programmer/Analyst who believed the system data would not be reliable for our purposes. However, we were able to use the paper files as a population and pulled every 15th manufacturer/distributors file from the paper files for Small and Large Package Commercial Feed Registrations, Large Package Pet Food Registrations, and Specialty Pet Food. Our total sample for Feed Revenues was 52 product registration applications. We then traced the sample from the paper files to the Daily Revenue Report Maintained by WVDA to ensure the revenues were deposited into WVFIMS in accordance with the test designed.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §5A-8-9
- Best Business Practices

OBJECTIVE 6:

Determine if farmers' market leases are properly bid according to the W.Va. Code §19-12a-5.

METHODOLOGY:

To achieve our objectives, we took several steps, including reviewing W.Va. Code §19-12a-5d(1) and Legislative Rule Series 148-1-6, obtaining procedures over the process, requesting bid documentation, and using auditor observations and professional judgment to determine if the farmers market leases were properly bid according to W.Va. Code §19-12a-5d(1).

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §19-12a-5d(1).
- Legislative Rule Series 148-1-6.

OBJECTIVE 7:

Determine if the WVDA is in compliance with the "Lodging on Your Business Premises" section for the cottage leases.

Sub-Objective:

- i. Determine if the utility charges should be reported as taxable income.

METHODOLOGY:

To achieve our objectives, we reviewed "Lodging on Your Business Premises" section of IRS Publication 15-B, reviewed agency documentation, and used auditor observations and professional judgment to determine if the WVDA was in compliance with the "Lodging on Your Business Premises" section of IRS Publication 15-B for the cottage leases.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- IRS Publication 15-B "Lodging on Your Business Premises"

OBJECTIVE 8:

Determine if the travel card ghost account is being used in accordance with W.Va. Statewide Contract TCARD06 Section 3.2.4A.

METHODOLOGY:

To achieve our objectives, we took several steps, including reviewing the W.Va. Statewide Contract TCARD06 Section 3.2.4A, obtaining procedures over the process, and using auditor observations and professional judgment to determine if the travel card ghost account was being used in accordance with W.Va. Statewide Contract TCARD06 Section 3.2.4A.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Statewide Contract TCARD06 Section 3.2.4A

OBJECTIVE 9:

Determine if the WVDA has a written policy for when a loan holder may refinance.

METHODOLOGY:

To achieve the objective, we reviewed the WVDA's Procedure over the Rural Rehabilitation Loan Program, policy statement, cover letter, application and made inquires with various WVDA employees involved in the loan process.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §5A-8-9
- Best Business Practices
- WVDA Rural Rehabilitation Loan Program Procedure
- WVDA Rural Rehabilitation Loan Program Policy Statement
- WVDA Rural Rehabilitation Loan Application

- WVDA Rural Rehabilitation Loan Application Cover Letter

OBJECTIVE 10:

Determine if the WVDA has a written policy for loan eligibility and award criteria.

METHODOLOGY:

To achieve the objective, we reviewed the WVDA's Procedure over the Rural Rehabilitation Loan Program, policy statement, cover letter, application and made inquiries with various WVDA employees involved in the loan process.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §5A-8-9
- Best Business Practices
- WVDA Rural Rehabilitation Loan Program Procedure
- WVDA Rural Rehabilitation Loan Program Policy Statement
- WVDA Rural Rehabilitation Loan Application
- WVDA Rural Rehabilitation Loan Application Cover Letter

OBJECTIVE 11:

Determine if the WVDA complied with the Expenditure Schedule Instructions for Object Codes 051 – Miscellaneous Expenditures, 058 - Miscellaneous Equipment, and 696 - Other Collections, Fees, Licenses and Income.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal control and compliance with the W.Va. Code, Expenditure Schedule Instructions, and best business practices, and reviewed the source documents.

In order to account for adequate documentation of program results and adequate accounting of miscellaneous expenditures, we designed and performed a test to determine if miscellaneous expenditures were properly being documented and maintained by WVDA in accordance with the Expenditure Schedule Instructions. This test consisted of all Object Code 051 (Miscellaneous) and Object Code 058 (Miscellaneous Equipment Purchases) expenditures. The population consisted of 1,042 transactions, including corrections and reimbursements, totaling \$1,771,940.36. In order to select an entire document rather than individual transactions, we created a Pivot Table to show each individual Document ID and S-document available for testing. When Doc IDs were subtotaled, there were 971 items. Next, we deleted out all E-docs (corrections), D-docs (reimbursements) because those items were found to be a low risk area in the risk assessment. There were nine D-docs totaling (15,157.81) and 25 E-docs totaling \$4,488.21. With these items removed, the population consisted of 937 items totaling \$1,782,609.96.

We then input the absolute values of the population into an excel workbook specifically designed to calculate the stratification boundaries statistically based upon the Cumulative Frequency of the Square Root to reduce the bias that could be introduced by choosing arbitrary boundaries for the

stratum. We then input the strata information into RATSTAT's Variable Sample Size Determination "Stratified" function to determine the sample size for each stratum.

According to RATSTATs, at a confidence level of 99% and a precision level of 1% the sample size to be tested was 12 items. We used RATSTATs Single Stage Random Numbers function to generate 2, 1, 2, 2, and 5 random numbers for stratum 1, 2, 3, 4, and 5 respectively. Next, we used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 12 items totaling \$1,394,405.80. We then reviewed the expenditures selected as our sample based on the supporting documentation present.

Additionally, In order to account for adequate documentation of program results and adequate accounting of miscellaneous revenues, we designed and performed a test to determine if miscellaneous revenues were properly being documented and maintained by WVDA in accordance with the Expenditure Schedule Instructions. This test consisted of all Extended Object Code 250 (Miscellaneous) and Extended Object Code 310 (Miscellaneous Collections) transactions. The population consisted of 425 transactions, including corrections, totaling \$2,022,001.96. In order to select an entire document rather than individual transactions, we then created a Pivot Table to show each individual Document ID and S-document available for testing. When Doc IDs were subtotaled, there were 377 items.

We used RATSTAT's Attribute Sampling Size Determination to determine the sample size. According to RATSTATs, at a confidence level of 95% and a precision level of 5% the sample size to be tested was 64 items. We used RATSTATs Single Stage Random Numbers function to generate 64 random numbers and used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 64 items totaling \$252,529.71. We reviewed the revenues selected as our sample based on the supporting documentation present in accordance with the test designed.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- Expenditure Schedule Instructions
- W.Va. Code §5A-8-9
- Best Business Practices

OBJECTIVE 12:

Determine if the Guthrie office and the Farmers Markets in were compliance with W.Va. Code §12-2-2 and if amounts deposited match the WVDA mail log/Farmers Markets' sales.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal control and compliance with the W.Va. Code, best business practices, and WVDA internal policies and procedures and reviewed agency documentation.

In order to account for adequate documentation of program results, we designed and performed a test to determine if the Guthrie office and the Farmers Markets were in compliance with W.Va. Code §12-2-2 and if amounts deposited matched the WVDA mail log/Farmers Markets' sales. This test consisted of all revenue deposits excluding transactions from fund 1408 because they are being

reviewed in the Rural Rehabilitation Loans Test and transactions from funds 8736, 8737 and 8896 and object codes 201, 202, 221 and 222 because these funds were received through electronic transfers from the federal government by the State Treasurer's Office. The population of non-market sales consisted of 663 D-documents totaling \$12,619,121.28. We stratified the population into two categories: All revenue D-docs excluding Market Sales and Revenue deposits with object code 027 (Market Sales). The population for all revenue D-docs excluding Market Sales consisted of 663 D-docs totaling \$12,619,121.28 and the population for revenue deposits with Object Code 027 (Market Sales) consisted of 312 D-documents totaling \$316,996.90.

We used RATSTAT's Attribute Sampling Size Determination to determine the sample size. According to RATSTATs, at a confidence level of 95% and a precision rate of 10%, the sample size to be tested for all revenue D-docs excluding Market Sales was 34 items and for revenue deposits with object code 027 (Market Sales), the sample size to be tested was 33 items.

We then used RATSTATs Single Stage Random Numbers function to generate 34 random numbers for all revenue D-docs excluding Market Sales and then used the 34 random numbers generated to locate each number in the population. The 34 transactions chosen for testing totaled \$461,753.61. We used RATSTATs Single Stage Random Numbers function to generate 33 random numbers for revenue deposits with object code 027 (Market Sales) and used the 33 random numbers generated to locate each number in the population. The 33 transactions chosen for testing totaled \$40,647.44. Next, we reviewed the items selected in our sample for compliance with W.Va. Code §12-2-2 by looking at the information in WVFIMS, the Daily Revenue Reports, and the Mail Log maintained by WVDA.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §12-2-2
- W.Va. Code §5A-8-9
- Best Business Practices
- W.Va. State Treasurer's Office Cash Receipt Handbook

OBJECTIVE 13:

Determine if the Quarterly Inspection Cash Advances complied with Section 20.14.b of the WVDA Travel Policy.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal control and compliance with the W.Va. Code, best business practices, and WVDA internal policies and procedures and obtained and reviewed agency documentation.

In order to account for adequate documentation of program results and adequate accounting of expenditures, we designed and performed a test to determine if the Quarterly Inspection Cash Advances complied with Section 20.14.b of the WVDA Travel Policy. This test consisted of all Object Code 037 (Research, Educational and Medical Supplies) transactions. The population consisted of 56 transactions. Additionally, we obtained a list of employees who received Inspection Cash Advances during the period of July 1, 2011 to December 31, 2012 and reviewed Section 20.14.b of the WVDA Travel Policy. Because the population was so small, we did not pull a sample and decided to test the

entire population. We recalculated and reviewed the expenditures in accordance with the test designed.

It should be noted the audit program stated there were 56 transactions for testing; however, during testing, we determined 10 transactions were due to employees receiving additional payments from the WVDA when they had spent more than their cash advance amounts. These transactions were fully tested with the cash advance transactions. Therefore, only 46 transactions were tested. We also determined during testing that three transactions were not cash advances. They were reimbursements to employees for expenses but no cash advance had been given by the WVDA.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §12-2-2
- WVDA Travel Policy and Procedure
- Best Business Practices

OBJECTIVE 14:

Determine if the WVDA was in compliance with W.Va. Code §5A-3-11, Legislative Rule Series 148-1-6 and 148-1-7 and the W.Va. Purchasing Division Procedure Handbook.

Sub-Objective:

- i. Determine if the proper amount was paid and if correct object code and fund was used.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal control and compliance with the W.Va. Code, Expenditure Schedule Instructions, Legislative Rules, W.Va. Purchasing Division Procedure Handbook, best business practices, and WVDA internal policies and procedures and reviewed the source documents.

In order to account for adequate documentation of program results and adequate accounting of expenditures, we designed and performed a test to determine if purchases were properly being documented and maintained by WVDA, funds were spent on allowable items, purchases were being submitted to the Purchasing Division when required, bids were being received when required, the expenses were charged to the proper object code and find, the purchase was made in accordance with Purchasing Division Procedure Handbook, and the purchases were made in compliance with W.Va. Code §5A-3-11, Legislative Rule Series 148-1-6 and 148-1-7 and the W.Va. Purchasing Division Procedure Handbook. This test consisted of all transactions excluding all expenditures for the object codes related to employee related because they were low risk and object codes related to travel expenses because they were reviewed under Objective 1. These expenditures totaled \$17,339,457.96. The population was then stratified by the Expense Categories; Current Expenses, Repairs and Alterations, Assets, and Other Disbursements.

Current Expenses included all transactions for Object Codes defined as “Current Expenses” by the State of W.Va. Expenditure Instructions. These transactions total \$12,641,043.97. We created a Pivot Table to show each individual Document ID and S-document available for testing. When S-docs and Doc IDs are subtotaled, there are 13,067 items. We removed all \$0 E-docs (corrections) because these items were found in the risk assessment to be a low risk area. There were 128 \$0 E-docs. With those items removed, the population consisted of 12,939 items totaling \$12,641,043.97.

Because Current Expenses was so large, we input the absolute values of the population into an excel workbook specifically designed to calculate the stratification boundaries statistically based upon the Cumulative Frequency of the Square Root to reduce the bias that could be introduced by choosing arbitrary boundaries for the stratum. We input the strata information into RATSTAT's Variable Sample Size Determination "Stratified" function to determine the sample size for each stratum.

According to RATSTATs, at a confidence level of 95% and a precision level of 10% the sample size to be tested was 65 items. We used RATSTATs Single Stage Random Numbers function to generate 9, 8, 9, 9, 5, and 25 random numbers for strata 1, 2, 3, 4, 5, and 6 respectively. Next, we used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 65 items totaling \$2,805,118.58.

Repairs and Alterations included all transactions for Object Codes defined as "Repairs and Alterations" by the State of West Virginia Expenditure Instructions. These transactions totaled \$760,284.34. We then created a Pivot Table to show each individual Document ID and S-document available for testing. When S-docs and Doc IDs were subtotaled, there were 1,861 items totaling \$760,284.34. We then deleted out all \$0 E-docs (corrections) because these items were found in the risk assessment to be a low risk area. There were 17 \$0 E-docs. With those items removed, the population consisted of 1,844 items totaling \$760,284.34.

We used RATSTAT's Attribute Sampling Size Determination to determine the sample size. According to RATSTATs, at a confidence level of 95% and a precision level of 10%, the sample size to be tested was 35 items. We used RATSTATs Single Stage Random Numbers function to generate 35 random numbers and used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 35 items totaling \$16,679.13.

Assets included all transactions for Object Codes defined as "Assets" by the State of W.Va. Expenditure Instructions. These Asset transactions totaled \$2,406,812.94. We created a Pivot Table to show each individual Document ID and S-document available for testing. When S-docs and Doc IDs were subtotaled, there were 123 items totaling \$2,406,812.94. We deleted all \$0 E-docs (corrections) because these items were found in the risk assessment to be a low risk area. There were 9 \$0 E-docs. With those items removed, the population consisted of 114 items totaling \$2,406,812.94.

We used RATSTAT's Attribute Sampling Size Determination to determine the sample size. According to RATSTATs, at a confidence level of 95% and a precision level of 10%, the sample size to be tested was 29 items. We used RATSTATs Single Stage Random Numbers function to generate 29 random numbers and used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 29 items totaling \$714,272.80.

Other Disbursements included all transactions for Object Codes defined as "Other Disbursements" by the State of W.Va. Expenditure Instructions. These transactions totaled \$1,531,316.71. We created a Pivot Table to show each individual Document ID and S-document available for testing. When S-docs and Doc IDs were subtotaled, there were 441 items totaling \$1,531,316.71. We deleted all \$0 E-docs (corrections) because those items were found in the risk assessment to be a low risk area. There were 12 \$0 E-docs. With those items removed, the population consisted of 429 items totaling \$1,531,316.71.

We used RATSTAT's Attribute Sampling Size Determination to determine the sample size. According to RATSTATs, at a confidence level of 95% and a precision level of 10%, the sample size to be tested was 33 items. We used RATSTATs Single Stage Random Numbers function to generate 33 random numbers and used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 33 items totaling \$268,328.07.

Our total sample consisted of 162 items totaling \$3,804,398.58. We recalculated and reviewed the expenditures selected in our sample in accordance with the test designed.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §5A-3-11
- Legislative Rule Series 148-1-6
- Legislative Rule Series 148-1-7
- Legislative Rule Series 148-1-4
- W.Va. Purchasing Division Procedure Handbook
- Applicable Statewide Contracts
- Expenditure Schedule Instructions
- W.Va. Code §5A-8-9
- Best Business Practices

OBJECTIVE 15:

Determine if the WVDA is in compliance with W.Va. Code §5A-3-36 and §5A-3-34 and the Purchasing Division's Inventory Management Manual sections 3.6, 3.11, 3.16, 3.17, and 3.18.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal control and compliance with the W.Va. Code, Purchasing Division's Inventory Management Manual, Legislative Rules, best business practices, and WVDA internal policies and procedures and reviewed the source documents. Additionally, during our audit, we took several steps, including assessing the ability of WVDA's web based Inventory system to protect the integrity of the data and to determine the reliability of the data required to sufficiently answer the objectives of the audit.

Additionally, we obtained a WVFIMS listing which contained all the fixed assets held by WVDA and deleted out the duplicate entries and all fixed assets assigned to Funds 0132, 1410, 1411, 1447, 1458, 1478, and 8783 because they are West Virginia Conservation Agency (WVCA) funds and we were not auditing the WVCA. Next, we obtained the Excel spreadsheet listing of fixed assets listed in WVDA's web based Inventory System and deleted out all fixed assets assigned to Funds 0132, 1410, 1411, 1447, 1458, 1478, and 8783 because they are WVCA funds and we were not auditing the WVCA. We then combined the data obtained from WVFIMS and the agency's fixed asset system and deleted out duplicates with the same "Tag #", "Asset ID", and "Acquired Value" using the Excel function. The population consisted of 2,292 items totaling \$36,080,708.83, of which 723 items totaling \$17,366,194.44 have been retired. We copied all active (not retired) fixed assets to be used as our final population. The population consisted of 1,569 items totaling \$18,714,514.39.

We used RATSTAT's Attribute Sampling Size Determination to determine the sample size. According to RATSTATs, at a confidence level of 95 and a precision level of 5%, the sample size to be tested was 70. We used RATSTATs Single Stage Random Numbers function to generate 70 random numbers. We used the 70 random numbers generated and located each number in the Active Fixed Assets population. We traced the equipment inventory items selected in our sample from the inventory listing to their physical location and ensured the Tag Number, Serial #, Item Description, Location, and any other pertinent information was consistent with the information on the inventory listing, determined if the item is properly stored/safe guarded, determined whether an identification tag number was properly affixed to the equipment inventory item in accordance with the W.Va. Purchasing Division's Inventory Management Manual, determined if assets were tagged with an asset tag but not entered into the WVFIMS Fixed Asset system, and obtained a copy of the 'Inventory Management Certification Cover Sheet' and 'Inventory Management Coordinator Designation Form' for WVDA for Fiscal Year 2012 & 2013 and ensured these forms are properly completed.

Additionally, we chose 42 items to attempt to trace back to the WVFIMS Fixed Asset System and obtained a copy of the 'Inventory Management Certification Cover Sheet' and 'Inventory Management Coordinator Designation Form' for WVDA for fiscal year 2012 & 2013 and ensured these forms were properly completed.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §5A-3-36
- W.Va. Code §5A-3-34
- Purchasing Division's Inventory Management Manual
- W.Va. Code §5A-8-9
- Best Business Practices
- WVFIMS Fixed Asset Training Manual

OBJECTIVE 16:

Determine if the WVDA was in compliance with the W.Va. Code §12-3-10 and §12-3-1b, Legislative Rule Series 155-7-4.1.b, 4.1.c, 4.1.t, W.Va. State Auditor's Office P-card policy 2.4, 2.5, 2.6, 3.0, 4.0, 6.1-6.4, 6.6-6.8, 7.1-7.4, and 8.1-8.4.

Sub-Objective:

- i. Determine if the proper amount was paid and if the correct object code and fund was used.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal controls and compliance with the W.Va. Code, Expenditure Schedule Instructions, Legislative Rules, W.Va. State Auditor's Office P-card policy, best business practices, and WVDA internal policies and procedures and reviewed the source documents.

In order to account for adequate documentation of program results and adequate accounting of expenditures, we designed and performed a test to determine if P-card expenditures were properly being documented and maintained by WVDA, funds were spent on allowable items, purchases were made by authorized cardholders, purchases did not exceed transaction limits, expenditures were

being reconciled, and the expenses were charged to the proper object code and fund in compliance with W.Va. Code §12-3-10 and §12-3-1b, Legislative Rule Series 155-7-4.1.b, 4.1.c, 4.1.t, W.Va. State Auditor's Office P-card policy 2.4, 2.5, 2.6, 3.0, 4.0, 6.1-6.4, 6.6-6.8, 7.1-7.4, and 8.1-8.4. This test consisted of all S-Docs. The population consisted of 13,608 transactions totaling \$2,321,327.95. In order to select an entire document rather than individual transactions, we created a Pivot Table to show each individual Document ID and S-document available for testing. When Doc IDs were subtotaled, there were 10,068 items.

Next, we input the absolute values of the population into an excel workbook specifically designed to calculate the stratification boundaries statistically based upon the Cumulative Frequency of the Square Root to reduce the bias that could be introduced by choosing arbitrary boundaries for the stratum. We then input the strata information into RATSTAT's Variable Sample Size Determination "Stratified" function to determine the sample size for each stratum.

According to RATSTATs, at a confidence level of 95% and a precision level of 5% the sample size to be tested was 113 items. We used RATSTATs Single Stage Random Numbers function to generate 22, 21, 23, 24, and 23 random numbers for stratum 1, 2, 3, 4, and 5 respectively. We used the random numbers generated to identify the items selected for testing in the population. Our sample consisted of 113 items totaling \$71,377. Next, we recalculated and reviewed the P-card expenditures selected as our sample based on the supporting documentation present in accordance with the test designed.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Code §12-3-10
- W.Va. Code §12-3-1b
- Legislative Rule Series 155-7-4.1.b, 4.1.c, 4.1.t
- W.Va. State Auditor's Office P-card policy
- W.Va. Code §5A-8-9
- Best Business Practices

OBJECTIVE 17:

Determine if the Logan and Inwood Farmers Markets followed best business practices by completing a bank reconciliation.

METHODOLOGY:

To achieve our objectives, we requested transaction details from July 1, 2011 - December 31, 2012 from the Logan Farmer's Market and the Inwood Farmer's Market, all bank statements from the Logan Farmer's Market and the Inwood Farmer's Market for the period July 1, 2011 through December 31, 2012 for comparison, and copies of all reconciliation documentation from both the Logan Farmer's Market and the Inwood Farmer's Market. Next, we performed the proof of cash using the documentation received from the WVDA and farmers markets by performing a reconciliation.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- Best Business Practices

OBJECTIVE 18:

Determine if the possible duplicate payments and possible stringing identified during the analytical review process.

METHODOLOGY:

To achieve our objectives, we reviewed applicable internal control and compliance with the W.Va. Code, best business practices, W.Va. Purchasing Division Procedure Handbook and WVDA internal policies and procedures and reviewed agency documentation.

In order to account for adequate documentation of program results and adequate accounting of expenditures, we designed and performed a test to determine if the possible duplicate payments and possible stringing identified during the analytical review process evaluating each transaction by looking at the source documents. Based upon prior experience and professional judgment, we excluded several Object Codes where it was determined unlikely to have duplicate payments. We then chose a sample of 40 P-card transactions out of 122 which indicated further review was necessary in order to see if they were duplicate payments and reviewed all other transactions which indicated further review was necessary in order to see if they were duplicate payments by reviewing each source document.

RELEVANT LAWS, POLICIES, OR AGREEMENTS:

- W.Va. Purchasing Division Procedure Handbook
 - Best Business Practices
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APPENDIX B

WEST VIRGINIA DEPARTMENT OF AGRICULTURE'S RESPONSE TO AUDIT FINDINGS



West Virginia Department of Agriculture

1900 Kanawha Blvd. E., Charleston, WV 25305
304-558-3550

Walt Helmick
Commissioner

January 9, 2014

Ms. Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room W-329
State Capitol Complex
Charleston, WV 25305-0610

Dear Ms. Sneed:

In regards to the draft post audit report of the West Virginia Department of Agriculture (WVDA) for the period of July 1, 2011 through December 31, 2012, the Department of Agriculture offers the following responses:

OBJECTIVE 1

Finding 1: Internal Control Deficiency over Loan Program

Recommendation: We recommend the WVDA implement a policy that provides a more detailed process for handling collection and allocation of loan payments. Loans should be managed by qualified personnel who have an understanding of all requirements needed to effectively run the program. Additionally, we recommend the WVDA perform a reconciliation of actual monies received and deposited to the system and the handwritten accounting ledgers. Also, segregation of duties should be implemented so the loans will be entered and reviewed by two separate employees. Furthermore, we recommend the WVDA have an independent audit of the Rural Rehabilitation Loan Program.

Response: WVDA agrees with the recommendation of the Legislative Auditors and plans to implement corrective actions.

Finding 2: Lack of Documentation over Loan Program

Recommendation: We recommend the WVDA implement a policy that provides a more detailed process for handling collection efforts and to maintain adequate records. Loans should be managed by qualified personnel who have an understanding of all documentation requirements needed to effectively run the program. We also recommend the WVDA follow the marketing and development division duties and establish marketing, promotional and developmental programs to advance West Virginia Agriculture in the domestic and international markets. An example of an advertising venue would be in the WVDA Market Bulletin.

Response: WVDA agrees with the Legislative Auditors' recommendation and plans to implement corrective action.

West Virginia Department of Agriculture is an equal opportunity employer.

Finding 3: Loan Program Conflicts of Interest

Recommendation: We recommend the WVDA implement a policy for handling applications received from employees, family members, related parties etc. We recommend the WVDA reviews the United States Department of Agriculture Farm Service Agency's policy regarding conflicts of interest and extending loans to employees. We also recommend loan committee members properly recuse themselves from voting when they have prior relationships with loan applicants.

Response: WVDA agrees with the Legislative Auditors' recommendation and plans to implement corrective action.

Finding 4: Insufficient Collateral and/or Appraisal not Obtained

Recommendation: We recommend the WVDA implement policies and procedures similar to the United States Department of Agriculture Farm Service Agency, which provides specific guidelines as to what type of collateral is acceptable and stipulates appraisals will be obtained as support for the value of property being considered to secure each loan.

Response: WVDA agrees with the Legislative Auditors' recommendation and plans to implement corrective action.

Finding 5: Lack of Policy over Loan Program

Recommendation: We recommend the WVDA implement policies and procedures which are more specific as to the eligibility, award criteria, collection process and refinance requirements. The loan application should first be reviewed to specific requirements prior to a vote by the Loan Committee. The policies and procedures should include underwriting criteria that includes repayment capacity, repayment structure and credit analysis.

Response: WVDA agrees with the Legislative Auditors' recommendation and plans to implement corrective action.

Finding 6: Agricultural Purpose not Met

Recommendation: We recommend the WVDA follow their guidelines and implement detailed policies and procedures to further the agricultural purpose of the loan program.

Response: WVDA agrees with the Legislative Auditors' recommendation and plans to implement corrective action.

Finding 7: No Lending Expertise on Loan Committee

Recommendation: We recommend the WVDA Commissioner appoint someone to the Loan Committee with the expertise in lending. Otherwise, the Committee should take the advice from legal counsel on approving loans. We also recommend the WVDA establish written policies on the eligibility and award criteria.

Response: WVDA agrees with the Legislative Auditors' recommendation and plans to implement corrective action.

Finding 8: Loan Write-Off Noncompliance with W.Va. Code

Recommendation: We recommend the WVDA comply with W.Va. Code §14-1-18 and consult the Attorney General before the loan committee writes off any Rural Rehabilitation loans. We also recommend the WVDA consult with the Attorney General about

whether or not they are capable of turning over delinquent/uncollectible loans to a debt collection agency instead of writing off loans.

Response: WVDA has implemented this recommendation.

Finding 9: Deposits not made within 24 Hours of Receipt

Recommendation: We recommend the WVDA comply with W.Va. Code §12-2-2 and make deposits within the appropriate time period or obtain an exemption from the State Treasurer's Office. Based on the results of our test we feel a reasonable time period for the exemption would be no longer than 5 business days from date of receipt. We also recommend the WVDA maintain a record of daily receipts and reconcile the record to the actual cash deposited by an independent employee. Further, we recommend two employees be present when opening the mail to alleviate risk that the employee opening the mail at the WVDA office could misappropriate the monies received.

Response: State code was changed effective July 12, 2013 to allow for exceptions. WVDA has requested an exception to the 24-hour deposit requirement.

OBJECTIVE 2

Finding 1: Possible Fictitious Receipts over Travel Reimbursements

Recommendation: We recommend the WVDA comply with W.Va. Code §6B-2-5(b)1 by not allowing the use of public office for private gain and we recommend the WVDA comply with sections 20.1, 20.2 and 20.6a. of their Travel Policy. Additionally, we recommend the WVDA comply with W.Va. Code §5A-8-9 and properly maintain adequate documentation.

Response: WVDA agrees with the Legislative Auditors' recommendations.

Finding 2: Extravagant Spending on Flight

Recommendation: We recommend the WVDA comply with W.Va. Code §6B-2-5(b)1 by not allowing the use of public office for private gain and we recommend the WVDA comply with section 20.1 of their Travel Policy. Additionally, we recommend WVDA be cognizant of the amount of monies spent on travel and follow best business practices and not make purchases that a prudent person would not consider reasonable and necessary given the facts and circumstances.

Response: WVDA agrees with the Legislative Auditors' recommendations.

Finding 3: Travel Expenses Paid for Former Commissioner's Spouse

Recommendation: We recommend WVDA comply with section 20.1 of their Travel Policy, section 2.3 of the WVDA Policies & Procedures Manual and WV Expenditure Schedule Instructions for object code 026 and only pay travel expenses for authorized employees. Additionally, we recommend WVDA comply with W.Va. Code §6B-2- 5.b, as amended and ensure the Commissioner does not use his or her office for private gain or for the private gain of another person.

Response: WVDA agrees with the Legislative Auditors' recommendations.

Finding 4: Issues over Former Commissioner's Travel Reimbursements

Recommendation: We recommend WVDA require all employees, including upper management and the Commissioner of Agriculture, to follow their Travel Policy and comply with each section's requirements. Additionally, we recommend WVDA comply with W.Va.

Code §5A-8-9 and properly maintain adequate documentation. Additionally, we recommend WVDA be cognizant of the amount of monies spent on travel and follow best business practices and not make purchases that a prudent person would not consider reasonable and necessary given the facts and circumstances. Finally, we recommend the WVDA consult the IRS to determine whether or not they should file amended tax returns for the former Commissioner.

Response: WVDA agrees with the Legislative Auditors' recommendation.

Finding 5: Mileage Amounts not in Compliance with Travel Policy

Recommendation: We recommend WVDA comply with section 20.1, 20.6.c and 20.5 of their Travel Policy by requiring a daily location list which includes a stop-by-stop report from any individual with a mileage reimbursement claim. We also recommend WVDA compare claimed distance to a calculated distance using mapping software such as Google Maps or MapQuest and verify all mileage claims for reasonableness before reimbursement is issued. The WVDA should also verify instances where an employee claims to have left from and/or returned to their residence to save costs to the State and verify employees claiming mileage amounts to travel from their headquarters to and/or from their home are actually eligible to do so.

Response: WVDA agrees with the Legislative Auditors' recommendation and will implement corrective actions.

Finding 6: Travel Expenses Paid for Non-Employees

Recommendation: We recommend WVDA comply with section 20.1 of their Travel Policy, section 2.3 of the WVDA Policies & Procedures Manual and WV Expenditure Schedule Instructions for object code 026 and only pay travel expenses for authorized employees. Additionally, we recommend WVDA obtain and follow contracts with anyone who is not employed by WVDA before work is performed or services are rendered.

Response: WVDA agrees with the Legislative Auditors' recommendation.

Finding 7: Meal Amounts not in Compliance with Travel Policy

Recommendation: We recommend the WVDA comply with Legislative Rule §155-1-3.1, as amended, the Expenditure Schedule Instructions for object codes 026 and 042 and Section 19.1 of their Policy and Procedure Manual. Additionally, we recommend WVDA not pay for any expenses without an itemized invoice.

Response: WVDA agrees with the Legislative Auditors' recommendation.

Finding 8: Lack of Documentation over travel Expenditures

Recommendation: We recommend WVDA comply with Section 3.3 (b), 3.3 (d), & 3.4 (a) of Title 61 Series 17 Procedural Rule as well as Section 20.6.a. of their Travel Policy and require all supporting documentation be available to support travel expenses. Additionally, we recommend WVDA comply with W.Va. Code §5A-8-9 and properly maintain adequate documentation.

Response: WVDA agrees with the Legislative Auditors' recommendations and will take corrective actions.

Finding 9: Travel not Processed Timely

Recommendation: We recommend WVDA comply with section 20.6.c of the their Travel Policy and require all employees to submit all requests for reimbursement of travel expenses to their approving official at least once a month, even if it is by scanning and e-mailing or mailing; and only submitting reimbursement requests that total less than \$50 only after 30 days have elapsed since the last date of travel; require the approving official to review and approve employee's expense accounts within five business days of receipt and submit the documents to the appropriate executive agencies of State government within three business days. Additionally, we recommend WVDA comply with section 3.2.4A West Virginia Statewide Contract TCARD06 and pay the United Bankcard Travel Ghost Account invoice by due date.

Response: WVDA agrees with the Legislative Auditors' recommendation and will take corrective actions.

Finding 10: Misclassification of Expenses

Recommendation: Improperly classified expenses may cause the agency to have misleading financial records. This may lead the agency to produce budgets that do not reflect the true nature of operations.

Response: WVDA agrees with the Legislative Auditors' recommendation and will take corrective actions.

OBJECTIVE 3

Finding 1: Improperly Classified as an Employee

Recommendation: The WVDA should determine whether they can have a contracted attorney and if so, if the contract should be bid. If the WVDA does contract an attorney, we recommend the WVDA treat the individual as a contractor rather than an employee. Additionally, we have informed PERS and PEIA of the situation.

Response: WVDA agrees with the Legislative Auditors' recommendation.

OBJECTIVE 4

Finding 1: Hospitality Alcoholic Beverage Reimbursement

Recommendation: We recommend the WVDA comply with Legislative Rule §155-1-3.1, as amended, the Expenditure Schedule Instructions for object code 042 and Section 19 of their Policy and Procedure Manual. Additionally, we recommend WVDA not reimburse any expenses without an itemized invoice.

Response: WVDA agrees with the Legislative Auditors' recommendation.

Finding 2: Noncompliance with Hospitality Policy

Recommendation: We recommend WVDA management review the WVDA Policies and Procedures Handbook Section 19.2 and either follow or revise their policies and procedures.

Response: WVDA agrees with the Legislative Auditors' recommendation and will take correction actions.

OBJECTIVE 5

Finding 1: Scope Limitation over Pesticide Fees Received

Recommendation: We recommend the WVDA institute adequate internal controls over the collection and processing of fee revenues and update the fee tracking software to be able to produce reliable data that will allow the WVDA to determine the reasonableness of amounts recorded in WVFIMS.

Response: WVDA agrees with the Legislative Auditors' recommendation and will take corrective actions.

Finding 2: Scope Limitation over Animal Health Lab Fees Received

Recommendation: We recommend the WVDA institute adequate internal controls over the collection and processing of fee revenues and update the fee tracking software to be able to produce reliable data that will allow the WVDA to determine the reasonableness of amounts recorded in WVFIMS.

Response: WVDA agrees with the Legislative Auditors' recommendation and will take corrective actions.

Finding 3: Lack of Internal Controls over Cash Receipts

Recommendation: We recommend the Guthrie Office, Inwood Farmers Market and Logan Farmers Market office strengthen internal controls and safeguarding of assets by implementing the controls and safeguards listed in Sections 2, 3.2, 3.4, 3.5, 3.7 and 5.5 of the West Virginia State Treasurer's Office Cash Receipts Handbook.

Response: WVDA agrees with the Legislative Auditors' recommendations. Some corrective measures have already been implemented and others are in progress.

OBJECTIVE 6

Finding 1: Property Leased without Sealed Bid Auction

Recommendation: We recommend the WVDA implement policies and procedures to comply with W.Va. Code §19-12a-5(d)(1), as amended, by holding a bid auction for the farmers market leases.

Response: WVDA agrees with the Legislative Auditors' recommendations and will comply.

OBJECTIVE 7

Finding 1: Improper Reporting of Employee Income

Recommendation: We recommend the WVDA implement policies and procedures that allow for employees receiving lodging arrangements to have any resulting income to be properly reported to the IRS as taxable income. We recommend the WVDA consult the IRS to determine whether or not they should file amended tax returns for any employees who ever resided in the cottages. As of July 1, 2013, the WVDA began including the difference in fair market value and rent charged as taxable income to the employees.

Response: WVDA has taken corrective measures.

OBJECTIVE 8

Finding 1: Noncompliance with Statewide Contract TCARD06

Recommendation: We recommend the WVDA cease use of the plastic bankcards and rely solely on a bankcard account number in order to comply with WV Statewide Contract TCARD06 Section 3.2.4A.

Response: WVDA has complied and has destroyed the plastic cards.

Ms. Stacy L. Sneed
January 9, 2014
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OBJECTIVES 9-18

Objectives 9 through 18 refer to previous objectives and therefore do not have separate responses.

Thank you for your prompt attention to my request for an audit of the West Virginia Department of Agriculture. Your assistance in this matter is greatly appreciated.

Sincerely,



Walt Helmick
Commissioner

WH/alo

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Londa Sabatino, CPA, CICA, Audit Manager with 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 10th day of February 2014.



Londa Sabatino, CPA, CICA, Audit Manager
Legislative Post Audit Division

Notification of when the report was released and the location of the report on our website was sent to the Secretary of the Department of Administration to be filed as a public record. Report release notifications were also sent to the West Virginia Department of Agriculture; Governor; Attorney General; and State Auditor.