

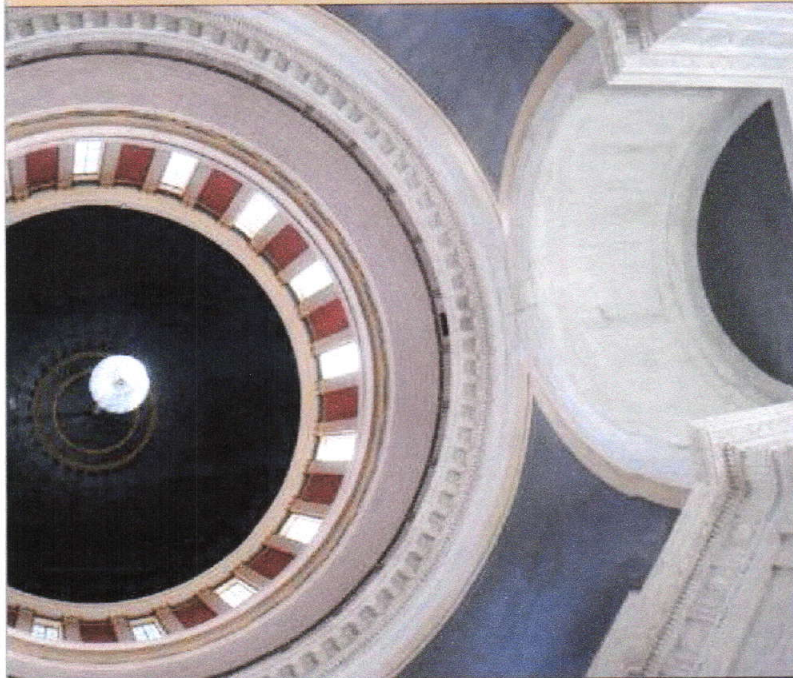
LEGISLATIVE FINANCIAL COMPLIANCE INSPECTION

UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT

FOR THE YEAR ENDING DECEMBER 31, 2011

REPORT OVERVIEW

- Commingled
- Unallowable



WEST VIRGINIA LEGISLATIVE AUDITOR
POST AUDIT DIVISION



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www.legis.state.wv.us/Joint/postaudit/postaudit.cfm

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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June 26, 2013

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 12, Article 4, Section 14 as amended, we conducted a compliance inspection and review of the financial transactions and records of the Upper West Fork Volunteer Fire Department's state funds for the calendar year ended December 31, 2011. We conducted our review and compliance inspection based on the criteria set forth by the Legislative Post Audit Division.

Respectfully submitted,

A handwritten signature in blue ink that reads "Stacy L. Sneed".

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

SLS/nmh

UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT
January 1, 2011 – December 31, 2011

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UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT
January 1, 2011 – December 31, 2011

EXECUTIVE SUMMARY

Due to the commingling of funds, we are unable to determine if all expenditures made from state funds were allowable and/or properly documented. However, based on the documentation provided we found:

FINDING 1 COMMINGLED:

The Upper West Fork Volunteer Fire Department commingled State funds with funds from other sources totaling \$35,724.54 by making a \$33,224.54 phone transfer identified from State funds to their non State account (General Fund) and by also depositing a \$2,500 grant (Grant #11-468) from the Calhoun County Sheriff's Office into their State account.

Recommendation:

We recommend the Upper West Fork VFD maintain all State funds in a separate account and not commingled with funds received from other sources.

FINDING 2 UNALLOWABLE:

Based on the documentation provided, the Upper West Fork Volunteer Fire Department made \$27.83 in expenditures identified from State funds that were not allowed by Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended.

Recommendation:

We recommend the Upper West Fork VFD cease paying consumer sales tax and reimburse their State account \$27.83.

Response:

The department agreed with all findings and recommendations.

UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT
January 1, 2011 – December 31, 2011

INTRODUCTION

POST AUDIT AUTHORITY

The procedures were conducted pursuant to Chapter 12, Article 4, Section 14 of the West Virginia Code, which allows the Legislative Auditor to “assign an employee or employees to perform audits or reviews at the direction of the Legislative Auditor of the disbursement of state grant funds to Volunteer Fire Departments.”

BACKGROUND

To provide additional revenue for the municipal firemen's pension and relief funds and for volunteer and part volunteer companies and departments, the West Virginia Legislature levied under Chapter 33, Article 3, Section 14d of the West Virginia Code, as amended in 2001, an additional premium tax equal to one percent of the taxable premiums collected for fire insurance and casualty insurance policies. Under this section of the Code, volunteer and part Volunteer Fire Departments that are certified by the State Fire Marshal prior to each quarterly allocation are to receive 25 percent of the revenues generated by this premium tax.

In 1999, to provide additional revenue for the municipal fireman's pension and relief funds and for volunteer and part volunteer companies and departments, the West Virginia Legislature levied under the provisions of Chapter 33, Article 12c, Section 9 of the West Virginia Code, as amended, a tax equal to four percent of the gross premiums and fees on excess line policies. These moneys are to be distributed in accordance with the provision of Chapter 33, Article 3, Section 14d, as amended.

The West Virginia Legislature again provided additional revenue for the volunteer and part Volunteer Fire Departments by authorizing, under Chapter 33, Article 3, Section 33 of the West Virginia Code, as amended in 2001, a policy surcharge equal to one percent of the taxable premiums paid by policyholders of any fire insurance policy or casualty insurance policy. Under this section of the Code, 50 percent of the moneys collected are to be distributed to those volunteer and part Volunteer Fire Departments and companies certified by the State Fire Marshal before each quarterly allocation.

Chapter 33, Article 3, Sections 14d and 33 provide that the Volunteer Fire Departments receive distributions on an equal share basis and part Volunteer Fire Departments receive a reduced amount based on the ratio of full-time paid firefighters who are members of the municipal firemen's pension system to the total number of the members of the Fire Department. The moneys are to be distributed quarterly on the first day of the months of January, April, July and October of each year.

To receive these funds, the volunteer and part Volunteer Fire Companies and Departments must comply with the provisions of Chapter 8, Article 15, Section 8a of the West Virginia Code, as amended:

The Legislature placed restrictions on the use of these additional revenues by the Volunteer Fire Departments under Chapter 8, Article 15, Section 8b of the West Virginia Code, as amended March 8, 2000, and again April 9, 2005.

Prior to the March 8, 2000 amendment, Chapter 8, Article 15, Section 8b did not allow Operating expenses as described in subsection (11) nor did the law prohibit the commingling of the funds with funds from other sources. Prior to the April 9, 2005 amendment, Chapter 8, Article 15, Section 8b did not allow Dues as described in subsection (12). On March 13, 2010, Chapter 8, Article 15, Section 8b was amended to include items (13) Workers' Compensation premiums, (14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighter; and (15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

Chapter 12, Article 4, Section 14 of the West Virginia Code, as amended, requires an audit at the cost of the grantee, by an independent certified public accountant, of any person who receives State funds or grants in the amount of \$25,000 or more. The audit must be filed within two years of the end of the year in which the disbursement of the funds or grants occurred. The Legislature amended this section of the Code effective June 9, 1995, and again effective July 1, 2005 providing an alternative to an audit for Volunteer Fire Departments. In lieu of an audit, Volunteer Fire Departments may file a sworn statement of annual expenditures to the Legislative Auditor's Office on or before July 1, of each year. If the sworn statement of annual expenditures is not filed by the first day of July, the Legislative Auditor shall notify the State Treasurer who shall withhold any payment that would otherwise be distributed to the Fire Department.

Chapter 12, Article 4, Section 14 as amended March 8, 2000, and again April 9, 2005 provides that the Legislative Auditor may perform random audits of the Volunteer Fire Departments. This section also requires that the Volunteer Fire Department shall cooperate with the Legislative Auditor's Office in performing their duties under this section. If the Legislative Auditor determines a Volunteer Fire Department is not cooperating, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the department until such time that the Legislative Auditor informs the Treasurer that the Fire Department has cooperated as required by this section.

UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT
January 1, 2011 – December 31, 2011

OFFICERS AND STAFF

Allen SwisherPresident
Kim Perkins..... Treasurer
Randy Perkins.....Fire Chief

UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT
January 1, 2011 – December 31, 2011

SCOPE

We conducted an evaluation of the revenue and expenditure transactions, and other records of the Upper West Fork Volunteer Fire Department's state accounts for the year ending December 31, 2011. Our scope included determining instances of noncompliance with Chapter 8, Article 15, Section 8b of the West Virginia code, and other applicable laws and regulations. The Compliance inspection was conducted in accordance with criteria set forth by the Legislative Post Audit Division.

OBJECTIVES AND METHODOLOGIES

The objective of our report was to review expenditures from the Department's state fund to ensure all expenditures were allowable and supported, and to report any unlawful expenditures that we find. Additionally, we were to examine the spending unit's financial transactions and records to evaluate its compliance with applicable State laws, rules and regulations.

Our sample of Departments to test was randomly selected by district, after determining a population of all Departments for which a report has not been issued.

Our reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving the operations of Volunteer Fire Departments.

CONCLUSIONS

Based on our review, we determined the department commingled state funds with funds from other sources totaling \$35,724.54 by making a \$33,224.54 phone transfer from their state account to their non state account and by depositing a \$2,500 grant from the Calhoun County Sheriff's Office into their State account. Due to the commingling of funds, we are unable to determine if all expenditures made from state funds were allowable and/or properly documented. However, based on the documentation provided, we determined the department made unallowable expenditures totaling \$27.83. We recommend the department cease commingling State funds with funds from other sources and maintain state funds in a separate account and reimburse their State account \$27.83 for items that were unallowable.

EXIT CONFERENCE

We discussed this report with the Treasurer of the Upper West Fork Volunteer Fire Department on 7/17/13. All findings and recommendations were reviewed and discussed. The department agreed with all findings and recommendations.

UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT
January 1, 2011 – December 31, 2011

FINDINGS

FINDING 1 COMMINGLED:

CONDITION:

The Upper West Fork Volunteer Fire Department commingled State funds with funds from other sources totaling \$35,724.54 by making a \$33,224.54 phone transfer from their State account to their non State account (General Fund) and by also depositing a \$2,500 grant (Grant #11-468) from the Calhoun County Sheriff's Office into their State account.

We noted the Fire Department made the following phone transfer identified from State funds to their non State account (General Fund) and the following non State deposit into their State account:

<u>CHECK NO.</u>	<u>CHECK DATE</u>	<u>PAYEE</u>	<u>Amount</u>
Phone Transfer	2/9/2011	Transfer from State account to General Fund	\$33,224.54
Deposit	4/4/2011	Deposit into State account	<u>2,500.00</u>
		Total	\$35,724.54

CRITERION:

Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended, states in part:

“Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, **may not be commingled with funds received from any other source.”** Emphasis added

CAUSE:

According to the department's Treasurer, the \$33,224.54 transferred was comprised of non State funds. When she assumed the role of Treasurer, the State account was commingled. Once she realized the funds needed to be separated, she used the prior year's audit information to ascertain the proper amount of funds to transfer out of the State account so that the account was solely State funds. On

December 31, 2010, the department had a balance of \$52,086.20 in their State account, and their 2010 State Audit gave the remaining State funds available on December 31 as \$18,861.66. Thus the balance of the remaining funds was the amount they transferred (\$33,224.54).

In addition, the department did not follow Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended, and deposited funds from other sources totaling \$2,500.00 with funds received pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code.

EFFECT:

Due to the commingling of funds, we are unable to determine if all expenditures made from state funds were allowable and/or properly documented.

RECOMMENDATION:

We recommend the Upper West Fork VFD maintain all state funds in a separate account and not commingled with funds received from other sources.

FINDING 2 UNALLOWABLE:

CONDITION:

Based on the documentation provided, the Upper West Fork Volunteer Fire Department made \$27.83 in expenditures identified from State funds that were not allowed by Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended.

Based on supporting documentation provided to us, we determined the following items were purchased with State money that were not allowable under the West Virginia Code:

<u>CHECK NO.</u>	<u>CHECK DATE</u>	<u>PAYEE</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
1184	1/26/2011	Coen, Inc.	\$7.06	Sales tax
1187	2/1/2011	Panther Primitives	13.20	Sales tax
1188	2/4/2011	Willard Starcher	5.89	Sales tax
1190	2/4/2011	Hardman's	<u>1.68</u>	Sales tax
		Total	\$27.83	

CRITERION:

Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended, states in part:

“Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, may not be commingled with funds received from any other source.”

Publication TSD-320 of the West Virginia Tax Department, states in part:

“Certain nonprofit organizations purchasing tangible personal property or taxable services to be used or consumed in the organization’s nonprofit activities are **exempt** from payment of the consumer sales tax or use tax on those purchases.”

CAUSE:

The department disregarded its tax exempt status under Publication TSD-320 of the West Virginia Tax Department and paid sales tax on purchases.

EFFECT:

Due to unallowable expenditures, the department may have less funding available for expenditures required for effective and efficient fire protection services.

RECOMMENDATION:

We recommend the Upper West Fork VFD cease paying consumer sales tax and reimburse their State account \$27.83.

UPPER WEST FORK VOLUNTEER FIRE DEPARTMENT
January 1, 2011 – December 31, 2011

SUPPLEMENTAL INFORMATION
STATEMENT OF EXPENDITURES YEAR ENDED DECEMBER 31, 2011

<u>Authorizing W.Va Code</u>	AUDIT	VFD	DIFFERENCES
Chapter 8, Article 15, Section 8b(1)	\$724.89	\$724.89	\$0.00
Chapter 8, Article 15, Section 8b(2)	3,227.67	0.00	3,227.67 b
Chapter 8, Article 15, Section 8b(3)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(4)	7,192.21	10,419.88	-3,227.67 c
Chapter 8, Article 15, Section 8b(5)	1,156.79	1,184.62	-27.83 d
Chapter 8, Article 15, Section 8b(6)	21,268.80	21,268.80	0.00
Chapter 8, Article 15, Section 8b(7)	859.24	859.24	0.00
Chapter 8, Article 15, Section 8b(8)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(9)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(10)	1,741.00	1,741.00	0.00
Chapter 8, Article 15, Section 8b(11)	516.69	516.69	0.00
Chapter 8, Article 15, Section 8b(12)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(13)	4,509.00	4,509.00	0.00
Chapter 8, Article 15, Section 8b(14)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(15)	0.00	0.00	0.00
Total Disbursements For Year Ended December 31, 2011	\$41,196.29	\$41,224.12	-\$27.83 a

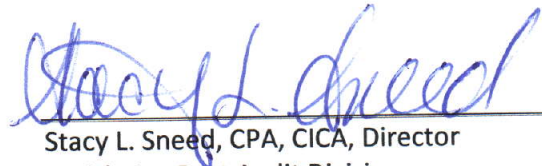
- | | |
|---|-------------|
| a = Total line items differences - unallowable items | -\$27.83 |
| b = Correct coding of line item | \$3,227.67 |
| c = Incorrect coding of line item | -\$3,227.67 |
| d = Line 5 line item differences - Unallowable items | -\$27.83 |

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the 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 17th day of July 2013.

A handwritten signature in blue ink, reading "Stacy L. Sneed", is written over a horizontal line.

Stacy L. Sneed, CPA, CICA, Director
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 Governor; Attorney General; State Auditor; and State Fire Marshal. Copies forwarded to the Upper West Fork Volunteer Fire Department; Prosecuting Attorney, Calhoun County; County Clerk, Calhoun County.