

Special Report

**State Agency Grant Award
Reporting Requirement**

**Most State Agencies Are Not in
Compliance with Reporting Requirements
Set Forth By 2005 Legislation**



**June 2007
PE 07-02-407**

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John Sylvia
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June 5, 2007

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable Jim Morgan
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Performance Review Act, we are transmitting a Special Report of the *State Agency Grant Award Reporting Requirement*, which will be presented to the Joint Committee on Government Operations and the Joint Committee on Government Organization on Tuesday, June 5, 2007. The issue covered herein is "*Most State Agencies Are Not in Compliance with Reporting Requirements Set Forth By 2005 Legislation.*"

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in blue ink.
John Sylvia

JS/tlc

Joint Committee on Government and Finance

Contents

Executive Summary	5
Review Objective, Scope and Methodology	7
Issue 1: Most State Agencies Are Not in Compliance with Reporting Requirements Set Forth By 2005 Legislation.....	9
List Of Appendices	
Appendix A: Email from Legislative Auditor.....	15

Executive Summary

Issue 1: Most State Agencies Are Not in Compliance with Reporting Requirements Set Forth By 2005 Legislation

The Legislature passed legislation that ultimately requires the recipients of state grants to be accountable to the Legislative Auditor through informational reporting.

It is not clear whether state agencies are fulfilling their oversight duties that verify attestation engagements and sworn statements because most agencies are not reporting the required information about grants that have been awarded.

Causation for broad non-compliance cannot be determined.

In 2005, the Legislature passed legislation that ultimately requires the recipients of state grants to be accountable to the Legislative Auditor through informational reporting. The Legislature first passed Senate Bill 348 during the 2005 Regular Session. Later, during the 2005 Fourth Extraordinary Session, the Legislature passed Senate Bill 4006, which superceded the earlier-passed Senate Bill 348. The legislation required that information about a grant and the use of the grant be supplied to the Legislative Auditor. It is the responsibility of any state agency that awards grants to ensure that the above described accountability measures are being taken and report the information in a manner that can be reviewed by the Legislative Auditor. If a grant recipient does not comply with the requirements, it can be debarred from future awards, either by recommendation of the state agency or by the Legislative Auditor. Unless the Legislative Auditor receives the pertinent data about awards, eligible grant recipients cannot be determined properly.

It is not clear whether state agencies are fulfilling their oversight duties that verify attestation engagements and sworn statements because most agencies are not reporting the required information about grants that have been awarded. The WVFIMS State Agency Grant Award (SAGA) commitment module has been operational since October of 2006, allowing state agencies to report information about awarded grants. Since that time, the Division of Natural Resources, the Division of Culture and History, the Department of Education and the Arts, the Public Service Commission, the WV Jobs Investment Trust Board, the Division of Highways, Rehabilitation Services, and the Division of Public Trust have been the only state agencies to report any information to the WVFIMS SAGA commitment module.

Causation for broad non-compliance cannot be determined. Individual state agency awareness of the reporting requirement and or mechanism to report the information is unclear. On April 9, 2007, the Legislative Auditor sent an e-mail communication to state agency heads informing them of the grant reporting requirement, and also the activation of the FIMS module. (Appendix A) Agency compliance with the information reporting requirement set forth by Senate Bill 4006 is necessary so that the Legislative Auditor may provide important information to state agencies about grant recipient's historical compliance and grant eligibility status.

Recommendation

The Legislative Auditor recommends that all grant-awarding state agencies comply with the informational reporting requirements set forth by section fourteen, article four, chapter twelve of the West Virginia Code.

Review Objective, Scope and Methodology

This Special Report on the State Agency Grant Award Reporting Requirement is authorized by §4-2-5 of the West Virginia Code, as amended.

Objective

The objective of this review is to provide information to the Legislature as to state agency compliance with legislation that was passed during the Fourth Extraordinary Session of 2005.

Scope

The scope of this report considers activity of the Legislature and state agencies from 2005 to 2007.

Methodology

Information used in this report was compiled from information provided by Department of Administration and the Legislative Auditor. Every aspect of this review was in compliance with the Generally Accepted Government Audit Standards (GAGAS).

Issue 1

Most State Agencies Are Not in Compliance with Reporting Requirements Set Forth By 2005 Legislation

In January 2004, the Legislative Auditor issued a Full Performance Evaluation on the Department of Health and Human Resources (DHHR). The report found that organizations receiving grants from DHHR were not in compliance with the Code, which at that time required all grant recipients of awards of \$15,000 or greater to have an audit conducted by an independent certified public accountant.

In addition to recommending that DHHR inform grant recipients of reporting requirements, the Legislative Auditor recommended that the Legislature require all grant-awarding state agencies to notify recipients of audit requirements.

In 2005, the Legislature passed legislation that ultimately requires the recipients of state grants to be accountable to the Legislative Auditor through informational reporting.

Background

In January 2004, the Legislative Auditor issued a Full Performance Evaluation on the Department of Health and Human Resources (DHHR). The report found that organizations receiving grants from DHHR were not in compliance with the Code, which at that time required all grant recipients of awards of \$15,000 or greater to have an audit conducted by an independent certified public accountant. The required audits were to be submitted to the Legislative Auditor. However, the Legislative Auditor found that DHHR was not informing grant recipients of their duty to report the independent audits to the Legislative Auditor. In addition to recommending that DHHR inform grant recipients of reporting requirements, the Legislative Auditor recommended that the Legislature require all grant-awarding state agencies to notify recipients of audit requirements. Penalties for non-compliance were also recommended for these grant recipients. Similar findings were issued in the December 2004 Full Performance Evaluation of the Tourism Functions Within the Development Office. Once again, a grant-awarding state agency was not informing grant recipients of audit requirements.

The Legislature Amended Requirements for Grant Recipient Reporting in 2005

In 2005, the Legislature passed legislation that ultimately requires the recipients of state grants to be accountable to the Legislative Auditor through informational reporting. The Legislature first passed Senate Bill 348 during the 2005 Regular Session. Later, during the 2005 Fourth Extraordinary Session, the Legislature passed Senate Bill 4006, which superceded the earlier-passed Senate Bill 348. The code, as amended, in §12-4-14(e)(1) states that:

Any state agency administering a state grant shall, in the manner designated by the Legislative Auditor, notify the Legislative Auditor of the maximum amount of funds to be disbursed, the identity of the person authorized to receive the funds, the person's fiscal year and federal employer

The legislation requires that recipients of grants in the amount of \$50,000 or greater are to have conducted an attestation engagement by an independent, certified public accountant. The scope of the attestation engagement is only broad enough to ascertain whether grant funds were spent as intended.

It is the responsibility of any state agency that awards grants to ensure that the above described accountability measures are being taken and report the information in a manner that can be reviewed by the Legislative Auditor.

The Department of Administration's Finance Division hosts a grant commitment module through the Financial Information Management System (WVFIMS).

identification number and the purpose and nature of the state grant within thirty days of making the state grant or authorizing the disbursement of the funds, whichever is later. If the state grant was awarded prior to the first day of October, two thousand five, the grantor shall provide the information required by this section by the first day of December, two thousand five.

Rather than requiring an audit to be filed, the legislation requires that information about a grant and the use of the grant be supplied to the Legislative Auditor. A state grant is considered such as long as it is awarded by any state spending unit, regardless of the original fund source. The legislation requires that recipients of **grants in the amount of \$50,000** or greater are to have conducted an *attestation engagement* by an independent, certified public accountant. The scope of the attestation engagement is only broad enough to ascertain whether grant funds were spent as intended. Recipients of grants less than \$50,000 are only required to file *sworn statements* of expenditure of the state grant. This reporting requirement applies to all grants disbursed after July 1, 2003. The cost of the audit is to be incurred by the recipient of the grant. Grant funds may only be used to cover the expense if specifically provided for by the grant agreement.

It is the responsibility of any state agency that awards grants to ensure that the above described accountability measures are being taken and report the information in a manner that can be reviewed by the Legislative Auditor. If a grant recipient does not comply with the requirements, it can be debarred from future awards, either by recommendation of the state agency or by the Legislative Auditor. Unless the Legislative Auditor receives the pertinent data about awards, eligible grant recipients cannot be determined properly.

WVFIMS and the Legislative Auditor Activate State Agency Grant Award Commitment Module in October 2006

To receive pertinent data, the Department of Administration's Finance Division hosts a grant commitment module through the Financial Information Management System (WVFIMS). Through the commitment module, state agencies are able to enter the data required by the legislation. From the data provided to the WVFIMS commitment module, the Finance Division transmits the data to the Legislative Auditor. From

With access to the list, state agencies should determine a grant applicant's eligibility based on its historical compliance with attestation engagements, sworn statements, and satisfactory findings of both.

It is not clear whether state agencies are fulfilling their oversight duties that verify attestation engagements and sworn statements because most agencies are not reporting the required information about grants that have been awarded.

As of May 18, 2007, the Division of Natural Resources, the Department of Health and Human Resources, the Division of Culture and History, the Department of Education and the Arts, the Public Service Commission, the WV Jobs Investment Trust Board, the Division of Highways, the Division of Rehabilitation Services, and the Division of Public Transit have been the only state agencies to report any information to the WVFIMS SAGA commitment module.

this information, the Legislative Auditor should be able to maintain a list of grant recipient eligibility. The Legislative Auditor's list is then to be accessible to the state agencies that award grants. With access to the list, state agencies should determine a grant applicant's eligibility based on its historical compliance with attestation engagements, sworn statements, and satisfactory findings of both. The Legislative Auditor's list will be accessible to the public through the Legislature's website.

Not All State Agencies are Utilizing the Commitment Module

It is not clear whether state agencies are fulfilling their oversight duties that verify attestation engagements and sworn statements because most agencies are not reporting the required information about grants that have been awarded. The WVFIMS State Agency Grant Award (SAGA) commitment module has been operational since October of 2006, allowing state agencies to report information about awarded grants. Since that time, the Division of Natural Resources, the Department of Health and Human Resources, the Division of Culture and History, the Department of Education and the Arts, the Public Service Commission, the WV Jobs Investment Trust Board, the Division of Highways, the Division of Rehabilitation Services, and the Division of Public Transit have been the only state agencies to report any information to the WVFIMS SAGA commitment module. This list of state agency participation is complete as of May 18, 2007. The implications of this are that possibly dozens of grant awarding state agencies are not providing historical information that is intended to safeguard the intended use of state-awarded grants. However, Department of Administration Finance Division staff did report that some 13,000 "GRNT" designations do exist outside of the SAGA module. This could imply that state agencies are preparing for compliance. The Legislative Auditor commends the participating agencies.

Causation for broad non-compliance cannot be determined.

Individual state agency awareness of the reporting requirement and or mechanism to report the information is unclear. During a State Auditor's conference in September 2006, WVFIMS-related session attendants were informed about the SAGA commitment module and encouraged to visit the Finance Division's website for more information. However, it is possible that agencies and/or fiscal officers are still unaware of the requirement and the operation of the SAGA module. Other than the notification at the State Auditor's workshop, there has been no other official communication to state agencies by the Finance Division informing them of the activation

of the SAGA module. On April 9, 2007, the Legislative Auditor sent an e-mail communication to state agency heads informing them of the grant reporting requirement, and also the activation of the FIMS module. (Appendix A)

Conclusion

Full agency compliance with the information reporting requirement set forth by Senate Bill 4006 is necessary so that the Legislative Auditor may provide important information to state agencies about grant recipient's historical compliance and grant eligibility status. **Therefore, the Legislative Auditor recommends that state agencies report necessary information to the WVFIMS commitment module as soon as possible.** Finally, it should be noted that the Department of Administration has filed Legislative Rules pursuant to §12-4-14 of the Code. According to the general scope section, the rules establish standards and procedures for recipients of state funds and grants to account for the manner in which those funds are spent. They are effective May 1, 2007.

Full agency compliance with the information reporting requirement set forth by Senate Bill 4006 is necessary so that the Legislative Auditor may provide important information to state agencies about grant recipient's historical compliance and grant eligibility status.

Recommendation

The Legislative Auditor recommends that all grant-awarding state agencies comply with the informational reporting requirements set forth by section fourteen, article four, chapter twelve of the West Virginia Code.

Appendix A: Email from Legislative Auditor

Reporting of State Grants

Subject: Reporting of State Grants
From: "Aaron Allred" <allred@wvnet.edu>
Date: Mon, 9 Apr 2007 14:31:57 -0400

Dear State Agency Personnel:

In 2005, the Legislature passed legislation that ultimately requires the recipients of state grants to be accountable to the Legislative Auditor through informational reporting. The Legislature first passed Senate Bill 348 during the 2005 Regular Session. Later, during the 2005 Fourth Extraordinary Session, the Legislature passed Senate Bill 4006, which super ceded the earlier-passed Senate Bill 348. The code, as amended, in §12-4-14(e)(1) states that:

Any state agency administering a state grant shall, in the manner designated by the Legislative Auditor, notify the Legislative Auditor of the maximum amount of funds to be disbursed, the identity of the person authorized to receive the funds, the person's fiscal year and federal employer identification number and the purpose and nature of the state grant within thirty days of making the state grant or authorizing the disbursement of the funds, whichever is later. If the state grant was awarded prior to the first day of October, two thousand five, the grantor shall provide the information required by this section by the first day of December, two thousand five.

Rather than requiring an audit to be filed, the legislation requires that information about a grant and the use of the grant be supplied to the Legislative Auditor. A state grant is considered such as long as it is awarded by any state spending unit, regardless of the original fund source. The legislation requires that recipients of **grants in the amount of \$50,000** or greater are to have conducted an *attestation engagement* by an independent, certified public accountant. The scope of the attestation engagement is only broad enough to ascertain whether grant funds were spent as intended. Recipients of grants less than \$50,000 are only required to file *sworn statements* of expenditure of the state grant. This reporting requirement applies to all grants disbursed after July 1, 2003. The cost of the audit is to be incurred by the recipient of the grant. Grant funds may only be used to cover the expense if specifically provided for by the grant agreement.

It is the responsibility of any state agency that awards grants to ensure that the above described accountability measures are being taken and report the information in a manner that can be reviewed by the Legislative Auditor. If a grant recipient does not comply with the requirements, it can be debarred from future awards, either by recommendation of the state agency or by the Legislative Auditor. Unless the Legislative Auditor receives the pertinent data about awards, eligible grant recipients cannot be determined properly.

To receive pertinent data, the Department of Administrations' Finance Division hosts a grant commitment module through the Financial Information Management System (WVFIMS). Through the commitment module, state agencies are able to enter the data required by the legislation. From the data provided to the WVFIMS commitment module, the Finance Division transmits the data to the Legislative

Auditor. From this information, the Legislative Auditor should be able to maintain a list of grant recipient eligibility. The Legislative Auditor's list is then to be accessible to the state agencies that award grants. With access to the list, state agencies should determine a grant applicant's eligibility based on its historical compliance with attestation engagements, sworn statements, and satisfactory findings of both. The Legislative Auditor's list is accessible to the public through the Legislature's website.

It is not clear whether state agencies are fulfilling their oversight duties that verify attestation engagements and sworn statements because most agencies are not reporting the required information about grants that have been awarded. The WVFIMS State Agency Grant Award (SAGA) commitment module has been operational since October of 2006, allowing state agencies to report information about awarded grants. Since that time, the Division of Culture and History has been the only state agency to report any information to the WVFIMS SAGA commitment module.

Individual state agency awareness of the reporting requirement and or mechanism to report the information is unclear. During a State Auditor's conference in September 2006, WVFIMS-related session attendants were informed about the SAGA commitment module and encouraged to visit the Finance Division's website for more information. However, it is possible that agencies are still unaware of the requirement and the operation of the SAGA module.

Thus, I encourage you to contact your fiscal officer and ensure that they are beginning to enter the appropriate grant audit data in the FIM system. If your staff has any questions concerning the FIMS grant module, please encourage them to call the Department of Administration Finance Division staff at 558-6181.

Sincerely,
Aaron Allred
Legislative Auditor