

STATE OF WEST VIRGINIA

AUDIT REPORT

OF

WEST VIRGINIA DEPARTMENT
OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

FOR THE PERIOD

JULY 1, 2001 - JUNE 30, 2003



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

FOR THE PERIOD

JULY 1, 2001 - JUNE 30, 2003

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd., E.



Area Code (304)
Phone: 347-4880
Fax: 347-4889


CHARLESTON, WEST VIRGINIA 25305-0610

To the Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 5A, Article 3, Sections through, as amended, we have examined the accounts of the West Virginia Department of Administration's Purchasing Division Surplus Property.

Our examination covers the period July 1, 2001 through June 30, 2003. The results of the examination are set forth on the following pages of this report.

Respectfully submitted,


Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division

TLS/jdb

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

TABLE OF CONTENTS

Exit Conference	1
Introduction	2
Administrative Officers and Staff	4
Summary of Findings, Recommendations and Responses	5
General Remarks	17
Independent Auditors' Opinion	59
Statement of Cash Receipts, Disbursements and Changes in Cash Balances	61
Notes to Financial Statement	62
Supplemental Information	63
Certificate of Director, Legislative Post Audit Division	66

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

EXIT CONFERENCE

We held an exit conference on July 15, 2004 with the West Virginia Department of Administration Cabinet Secretary, the Purchasing Division Director and the Surplus Property Manager. All findings and recommendations were reviewed and discussed. The Acting Cabinet Secretary's responses are included in bold and italics in the Summary of Findings, Recommendations and Responses and after our findings in the General Remarks sections of this report.

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

INTRODUCTION

The Purchasing Division, consisting of an Acquisition and Contract Administration Section and an Administrative Services Section, is responsible for providing purchasing, travel, inventory, and records management services to all State agencies to assure ethical and cost-consciousness, expenditure of public funds, while providing quality, efficient, and effective service.

The Acquisition and Contract Administration Section is responsible for administering the formal competitive bid process for acquisition of all goods and services over \$10,000.00 for State agencies in an efficient and ethical manner that will reduce cost, maximize competition, and good customer and vendor relations.

The Administrative Services Section is responsible for providing professional services and training to the Purchasing Division staff, agencies, and vendors. In addition, the Administrative Services Section is responsible for various programs and services including: the automated purchasing system (TEAM), fleet management, State Capitol parking, inventory management, records management, Surplus Property Program, travel management, vendor registration, and purchase order encumbrance.

Surplus Property

Surplus Property coordinates two separate programs: Federal Surplus Property and State Surplus Property. The Federal Surplus Property Program locates federal property and acquires

it for donation to state agencies, political subdivisions, other public agencies, and certain nonprofit organizations deemed eligible by the Code of Federal Regulations 101-44.1 and Chapter 5A, Article 3, Section 44 of the West Virginia Code. They warehouse property not allocated to eligible organizations and inspect the use of property for compliance with federal regulations.

The State Surplus Property Program receives property from state agencies which has become obsolete or unneeded and oversees the sale of retired state property to state agencies, eligible organizations and the general public. Sales are made to the general public through auctions and sealed bids. They warehouse property not sold and approve the disposal of retired state-owned property.

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

ADMINISTRATIVE OFFICERS AND STAFF

AS OF JUNE 30, 2003

Tom Susman Acting Secretary of the Department of Administration
(5/13/03 - Present)

Greg A. Burton Secretary of the Department of Administration
(1/15/01 - 4/4/03)

David Tincher Purchasing Division Director

Ken Frye Surplus Property Manager

Danny Layton Federal Surplus Property Supervisor

Andrew Fizer Deputy Director of the Finance Division

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES

Lack of Effective System of Internal Controls

1. During the course of our post audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code and other rules and regulations which governed Surplus Property, Surplus did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations. We believe an effective system of internal controls would have alerted management to these violations at an earlier date and allowed more timely corrective action.

Auditors' Recommendation

We recommend the Surplus Property comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended and establish a system of internal controls.

Agency's Response

No response by Surplus Property. (See pages 17-20.)

Federal Property Converted to Secondary Utilization

2. Surplus Property did not provide written justification for conversion of federal surplus property items to secondary utilization nor did they have the General Services Administration's (GSA) written approval for the conversion. We noted 41 of the 437 items donated were designated as being for "secondary utilization". The total acquisition cost to the

federal government for these items was \$1,316,729.14 and Surplus Property charged the volunteer fire department a total surcharge of \$9,510.00. Items with an acquisition cost of \$5,000 or more that have been converted to secondary utilization without the GSA's approval are not being restricted and compliance audits are not being performed. Also, the GSA may not have allocated equipment to Surplus Property if they had known their intention was to convert the item to secondary utilization.

Auditors' Recommendation

We recommend Surplus Property comply with the General Services Administration Federal Management Regulation.

Agency's Response

We agree with and accept the recommendation. (See pages 20-25.)

No Inventory of State Surplus Property

3. As previously noted in a post audit of Surplus Property for the period October 1, 1977 through June 30, 1980, Surplus Property does not maintain an inventory of State surplus property available for sale. State surplus property sales are made either by negotiated sales with state agencies and eligible organizations or by sales to the public through sealed bids or public auctions. We were unable to audit sales of state property, excluding public auctions, because we could not determine what items were available for sale during our audit period. During our audit period, we were able to determine through WVFIMS \$1,540,699.85 and \$1,256,288.60 was deposited into the Sale of State Surplus Property Fund for state property sales, excluding public auctions, for the years ended June 30, 2003 and June 30, 2002, respectively. However, we could not determine whether all money received by Surplus

Property for the sale of state property, excluding public auctions, was deposited into the Sale of State Surplus Property Fund.

Auditors' Recommendation

We recommend Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation. (See pages 25 and 26.)

Sales on Credit Not Authorized by the West Virginia Code

4. We noted Surplus Property is selling property to state agencies and eligible organizations on credit; however, we can find no authority in the West Virginia Code or Surplus Property's Legislative Rule permitting credit sales. As of June 30, 2003, the aged accounts receivable ledger for Surplus Property indicates a grand total accounts receivable balance of \$190,730.93. In addition, the aged accounts receivable report includes negative accounts receivable balances totaling \$43,224.81. These negative amounts are actually accounts payables due to state agencies and eligible organizations for their overpayments of accounts receivable or for their respective pro rata share from the sale of an item by Surplus Property for the agency/organization. Accounts receivable records are understated by \$43,224.81 because accounts payables are shown as negative accounts receivables in the aged accounts receivable ledger. Also, Surplus property cannot pay their obligations as a result of having accounts receivable sales. As of September 4, 2003, Surplus Property owes the Travel Management Office (TMO) a balance of \$848,066.00 for vehicles sold by Surplus Property on their behalf.

Auditors' Recommendation

We recommend Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code and the General Services Administration Federal Management Regulation.

Agency's Response

We agree with and accept the recommendation. (See pages 27-29.)

Unable to Determine Reimbursements to State Agencies Were Correct

5. We were unable to determine whether 11 of the 14 reimbursements tested totaling \$274,526.83 were made to the correct fund because the documentation provided to us did not indicate from which fund the purchase had originated. Also, we noted the documentation for five of the aforementioned 11 reimbursements to one state agency totaling \$226,285.62 indicated the purchase had originated from general revenue funds, but they did not indicate the particular fund numbers. We further noted Surplus Property, at the state agency's request, reimbursed a special revenue fund the \$226,285.62 instead of a general revenue fund(s). Without documentation indicating which fund the purchase originated from, the possibility exists that Surplus Property is reimbursing an incorrect fund(s) for sales of state property. In addition, we noted the sum of the supporting documents attached to three state agency invoices totaling \$482,203.76, did not equal the total amount invoiced. We could not determine if the correct amount was reimbursed to the state agencies in these three instances noted.

Auditors' Recommendation

We recommend Surplus Property reimburse agencies' general revenue funds in instances where general revenue funds were used to make the original purchase and Surplus Property

foot state agency reimbursement invoices before submitting them for payment to ensure the correct amount is reimbursed in compliance with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation. (See pages 29-31.)

Sale of Non-State Agencies' Property

6. Surplus Property is not authorized by the West Virginia Code nor Legislative Rule to sell property for non-state agencies. During the period July 1, 2001 through March 30, 2004, we noted 15 reimbursements and 18 credit memorandums issued to non-state agencies by Surplus Property for sales of property owed by the non-state agencies totaling \$112,116.74.

Auditors' Recommendation

We recommend Surplus Property comply with the Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

This practice has been performed in accordance with Chapter 5A, Article 3, Section 8 of the West Virginia Code. Surplus Property Unit will cease this practice while seeking a legal opinion regarding the applicability of this section as it pertains to the Surplus Property Program. (See pages 32 and 33.)

Federal Compliance Audits

7. During our review of Federal Property Utilization Compliance Reports for five eligible organizations, we noted two instances where the acquisition cost of an item specified by the GSA was changed by Surplus Property personnel without the GSA's approval. We further

noted five instances where the time between compliance visits was longer than one year during the 18 month period of restriction. The effect of increasing the acquisition cost of a federal surplus item is that the donee paid a higher service charge for the item than was allowed by the State Plan of Operations. The effect of increasing the acquisition cost of a federal surplus item is that the donee paid a higher service charge for the item. Specifically, the donee overpaid \$470.40. The effect of Surplus' failure to make timely compliance visits is that the donee may not be complying with the restrictions which are conditional to the donation. The donee may not be using the compliance item for its intended purpose or the donee may no longer have a use for the item. Also, the item may not be maintained as necessary and may become damaged or useless. Further, the donee may be delayed in obtaining title to and/or ownership of the equipment at the end of the period of restriction.

Auditors' Recommendation

We recommend the West Virginia Department of Administration's, Surplus Property Division comply with the General Services Administration Rules and Regulations 41 CFR Part §102-37.170 and the West Virginia State Agency for Surplus Property - Permanent Plan of Operations Sections 2.4, 6.7, 7.1, and Appendix I.

Agency's Response

We agree with and accept the recommendation. (See pages 33-36.)

Legislative Rule Not in Compliance With the West Virginia Code

8. The Department of Administration's Legislative Rule Title 148, Series 4 and 5 and the State Plan of Operations submitted to the GSA have not been updated. The possibility may exist where a State agency is following the guidelines set by the Department of Administration's

Legislative Rules when they are in fact in noncompliance with the Chapter 5A, Article 3, Section 43 through 46 of the West Virginia Code. Also, Surplus Property is not presenting a current reflection of their State Plan of Operations to the GSA.

Auditors' Recommendation

We recommend the "State Plan for the Operation of the West Virginia State Agency for Surplus Property, Division of the Department of Finance and Administration" Legislative Rules Title 148, Series 4 and 5 be revised in order to be in compliance with Chapter 5A, Article 3, Section 43 of the West Virginia Code and the State Plan of Operations submitted to the GSA be revised.

Agency's Response

We agree with and accept the recommendation. (See pages 37-39.)

Auctioneer Contract

9. Surplus Property circumvented the Purchasing Division's Purchasing Procedures by not obtaining three written bids for the auctioneer contract which exceeded \$5,000 in fiscal years 2003 and 2002. During our audit period a total of 17 auctions were held, eight in fiscal year 2003 and nine in fiscal year 2002. The total amount paid to the auctioneer during fiscal years 2003 and 2002 were \$6,700 and \$6,400, respectively. When each fiscal year is considered as a whole, the total amount paid to the auctioneer exceeds \$5,000. By not obtaining written bids, Surplus Property does not know if they paid the lowest price available for auctioneer services.

Auditors' Recommendation

We recommend Surplus Property comply with the West Virginia Purchasing Division Policies and Procedures Handbook dated October 1, 2000.

Agency's Response

We agree with and accept the recommendation. (See pages 39 and 40.)

Vehicle Sales

10. Surplus Property was unable to provide National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guides for the period July 1, 2001 through June 30, 2003 which are used to calculate the average loan value. We also noted two instances in which Surplus Property failed to get the proper signature on the Used Vehicle Inspection Checklist. Further, we noted two instances in which the sale price indicated on the Surplus Property database differed from the amount indicated on the Distribution Document and Sales Order (invoices). By not keeping adequate documentation, we were unable to verify the loan value of five of 10 vehicles sold to the public through sealed bids at a total sales price of \$10,177.50. Also, by not having the Surplus Property Manager's signature on the Used Vehicle Inspection Checklist, we could not determine the target prices of the vehicles were approved by the Surplus Property Manager. Further, the vehicle database is overstated by \$275.00 as a result of a data entry error.

Auditors' Recommendation

We recommend Surplus Property comply with Chapter 5A, Article 3, Sections 2 and 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation. (See pages 40-42.)

Unable to Physically Locate Merchandise for Resale

11. During our review of Federal Surplus Property Inventory, we noted Surplus Property failed to physically locate 34 items with a total acquisition cost of \$1,195.00 that were included on

the Inventory on Hand listing. Also, we noted one instance in which Surplus Property failed to locate the file containing a transfer order number from the GSA. Because Surplus Property cannot physically locate the items or provide documentation that the items were sold, we are unable to determine whether the items should be in Surplus Property's custody or if they had been sold to an eligible donee. Further, the federal inventory is overstated by \$1,195.00. By failing to maintain adequate documentation, Surplus Property is unable to determine whether items were approved or denied by GSA.

Auditors' Recommendation

We recommend Surplus Property comply with Section 3.1 of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations.

Agency's Response

We agree with and accept the recommendation. (See pages 43 and 44.)

Payment of Federal Excise Tax

12. Surplus Property has not sought reimbursement from the federal government for federal excise taxes charged on six Petersen, Howell, and Heather (PHH) card monthly invoices. We found 100 instances totaling \$1,270.39 in which Federal Excise Tax was charged on the PHH invoices for gasoline purchases. Because they have not sought reimbursement for the amount paid to the federal government for federal excise taxes, Surplus Property has lost the use of the monies.

Auditors' Recommendation

We recommend Surplus Property comply with the Internal Revenue Service, Publication 378, Fuel Tax Credits and Refunds.

Agency's Response

This issue will be addressed as part of the new contract for fuel services which is currently being bid by the Purchasing Division. (See pages 44-46.)

Equipment Inventory

13. We noted none of the nine equipment items \$39,117.60 tested with an acquisition price of \$1,000.00 or more were reported on the Surplus Property Fixed Asset System. Also, four of the nine reportable equipment items were not being used by Surplus Property employees, as well as four additional items with an acquisition cost under \$1,000.00. Further, there were no State property tag numbers on five of the nine equipment items. Without accurate records of the equipment, Surplus Property is unable to physically locate the equipment. The equipment could also be converted to personal use. Also, by not placing identification tags on their equipment, Surplus Property cannot effectively manage their inventory of equipment.

Auditors' Recommendation

We recommend the West Virginia Department of Administration's, Purchasing Division Surplus Property comply with Section 3.1, 3.6, and 3.11 of the Purchasing Division Inventory Management and Surplus Property Disposition Policies and Guidelines, revised October 1, 2000.

Agency's Response

We agree with and accept the recommendation. (See pages 46-48.)

Purchases Made Not Directly Used by Surplus Property

14. During our audit, we noted 23 out of 161 purchases tested using Surplus Property monies were not purchased for the benefit of Surplus Property. The effect of these 23 purchases is

that a total of \$11,595.07 of State Surplus Property Fund monies was used for unauthorized purposes.

Auditors' Recommendation

We recommend Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation. (See pages 48-51.)

Allocation of Salaries

15. Surplus Property could not provide the reasoning used to justify the percentage of the salaries paid by Surplus Property for six employees. During fiscal years 2002 and 2003, a portion of these six employees' pay and related benefits were paid from the Sale of State Surplus Property Fund. Without time records documenting Purchasing Division employee's time spent performing duties related to Surplus Property, we cannot verify the appropriate percentages of these employees salaries are being paid from the Sale of State Surplus Property Fund.

Auditors' Recommendation

We recommend Surplus Property provide documentation noting the rationale behind the percentage calculations in compliance with Chapter 5A, Article 3, Sections 45 and 46 of the West Virginia Code.

Agency's Response

We will request that this documentation noting the rationale for the percentage calculations for salaries be provided by the Division of Finance. (See pages 51-54.)

Leave System Not Reliable and Documentation Not Provided

16. The reports generated from the computerized leave system are not reliable. During our testing of eight employee's sick and annual leave balances, we noted several discrepancies between the approved Applications for Leave With Pay (leave slips) and the Department of Administration's Leave System for Surplus Property employees. Also, we noted a difference between our audited annual leave balance and the agency annual leave balance for two employees as of June 30, 2003. Further, we noted 21 instances where leave slips were not provided to us for two employees. If the leave reports cannot be relied upon, employees' accrued leave balances may be overstated or understated. Also, if an employee's leave balance is overstated that could result in an employee being paid before services rendered. If an employee's leave balance is understated that could result in an employee being underpaid. Further, without being able to review the leave slips for the instances noted above, we could not determine the leave that was deducted on the leave report was approved by the employee nor their immediate supervisor.

Auditors' Recommendation

We recommend Surplus Property comply with Sections 14.3, 14.4 and 14.14 of the West Virginia Division of Personnel Administrative Rule.

Agency's Response

We will forward this recommendation to the Information Services and Communications Division and the Payroll Office of the Division of Finance for their information regarding the online leave system. Relating to the leave forms submitted by the Surplus Property staff, Surplus Property will comply accordingly. (See pages 54-58.)

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the West Virginia Department of Administration, Purchasing Division Surplus Property (Surplus Property). The audit covered the period July 1, 2001 through June 30, 2003.

SPECIAL REVENUE ACCOUNTS

Surplus operated the following special revenue accounts during our test period:

<u>NUMBER</u>	<u>DESCRIPTION</u>
2280 - 099/640.....	Sale of Federal Surplus Property Fund
2281 - 099/640.....	Sale of State Surplus Property Fund

COMPLIANCE MATTERS

Chapter 5A, Article 3, Sections 44 through 47 of the West Virginia Code generally governs Surplus Property. We tested applicable sections of the above plus general State regulations, other applicable chapters, articles, and sections of the West Virginia Code as they pertain to fiscal matters, and applicable federal rules and regulations as they pertain to the federal surplus property program. Our findings are listed below.

LACK OF EFFECTIVE SYSTEM OF INTERNAL CONTROL

During the course of our post audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code and other rules and regulations which governed Surplus

Property, Surplus did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations.

Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended, states in part:

“The head of each agency shall:

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

This law requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to ensure the agency operates in compliance with the laws, rules and regulations which govern it.

During our audit of Surplus, we found the following violations of State laws or other rules and regulations: (1) Surplus Property did not provide written justification for conversion of federal surplus property items to secondary utilization nor did they have General Services Administration’s (GSA) written approval for the conversion. (2) We were unable to audit sales of state property, excluding public auctions, because Surplus Property did not maintain an inventory of state property. (3) We noted Surplus Property is selling property to state agencies and eligible organizations on credit; however, we can find no authority in the West Virginia Code or Surplus Property’s Legislative Rule permitting sales on credit. (4) We were unable to determine that proper state agency funds were reimbursed by Surplus Property for sales of state property. Also, the sum of the supporting documents attached to three state agency invoices did not equal the total amount invoiced. (5) Surplus Property is selling property for non-state agencies which is not authorized by

the West Virginia Code nor Legislative Rule. (6) During our review of Federal Property Utilization Compliance Reports for five eligible organizations, we noted two instances where the acquisition cost of an item was changed by Surplus Property personnel without the GSA's approval. We further noted five instances where the time between compliance visits was longer than one year during the 18 month period of restriction. (7) The Department of Administration's Legislative Rule Title 148, Series 4 and Series 5 and the State Plan of Operations submitted to the GSA have not been updated. (8) Surplus Property circumvented the Purchasing Division's Purchasing Procedures by not obtaining three written bids for the auctioneer contract which exceeded \$5,000 in fiscal years 2003 and 2002. (9) Surplus Property was unable to provide National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guides for the period July 1, 2001 through June 30, 2003 which are used to calculate the average loan value. We also noted two instances in which Surplus Property failed to get the proper signature on the Used Vehicle Inspection Checklist. Further, we noted two instances in which the sale price indicated on the Surplus Property database differed from the amount indicated on the Distribution Document and Sales Order (invoices). (10) During our review of Federal Surplus Property Inventory, we noted Surplus Property failed to physically locate items which were included on the Inventory on Hand listing. Also, we noted one instance in which Surplus Property could not determine if a federal surplus property item(s) they had requested for donation had been approved or denied by GSA. (11) Surplus Property has not sought reimbursement from the federal government for Federal Excise Taxes totaling \$1,270.39 charged for 100 gasoline purchases on several Petersen, Howell, and Heather (PHH) card monthly invoices. (12) We noted none of the nine equipment items tested with an acquisition price of \$1,000.00 or more were reported on the Surplus Property Fixed Asset System. Also, four of the nine reportable equipment items were not being used by Surplus

Property employees, as well as four additional items with an acquisition cost under \$1,000.00. Further, there were no State property tag numbers on five of the nine equipment items. (13) During our audit, we noted 23 out of 161 purchases tested using Surplus Property monies were not purchased for the benefit of Surplus Property. These purchases were made for the benefit of the Purchasing Division. (14) Surplus Property could not provide the reasoning used to justify the percentage of the salaries paid by Surplus Property for six employees. (15) The reports generated from the computerized leave system are not reliable. Also, we noted a difference between our audited annual leave balance and the agency's annual leave balance for two employees as of June 30, 2003. Further, we noted 21 instances where leave slips were not provided to us for two employees.

We believe, if Surplus had an effective system of internal controls in place, management would have been aware of noncompliance with the West Virginia Code at an earlier date and would have been able to take corrective action in a more timely fashion. The following pages of this report contain additional information regarding the specific noncompliance with the West Virginia Code which came to our attention.

We recommend Surplus comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, and establish a system of internal controls.

Agency's Response

No response by Surplus Property.

Federal Property Converted to Secondary Utilization

We tested the donation of 437 items of federal surplus property to eligible organizations during the period July 1, 2001 through April 8, 2004. Federal surplus property "donated" to eligible organizations and Surplus Property is authorized to charge the eligible

organizations a "surcharge" for the cost of transporting the item, warehousing, and distribution. We noted 41 of the 437 items donated were designated as being for "secondary utilization". The Federal Surplus Property Supervisor stated the designation of "secondary utilization" is used equipment donated to an agency or eligible organization (donee) to be used for parts (cannibalized). The General Services Administration Federal Management Regulation 102-37.25 states in part,

"... *Cannibalization* means to remove serviceable parts from one item of equipment in order to install them on another item of equipment...."

Forty of the 41 items noted above were donated to a volunteer fire department. The total acquisition cost to the federal government for these items was \$1,283,739.14 and Surplus Property charged the volunteer fire department a total surcharge of \$8,510.00. The Federal Surplus Property Supervisor told us the volunteer fire department called them to request the type of equipment they wanted and inform them they wanted to use the equipment for parts. A Surplus Property employee reviewed the GSA website for the property requested. Surplus Property requested the items without regard to the GSA condition code. The GSA classifies each item with a numeric condition code. The table below shows the GSA condition codes of the 41 items which were converted to secondary utilization:

<u>Condition Code</u>	<u>Number of items converted to secondary utilization</u>
4 - Used, Good	6
6 - Used, Poor	1
7 - Repair, Good	33
9 - Repair, Poor	1

The Federal Surplus Property Supervisor said the condition codes do not always accurately reflect the true condition of the equipment. He said the code might be Used or Repair, but when they go to pick up the item it is "junk".

After the items were approved for donation by the GSA, the Federal Surplus Property Supervisor, with the Surplus Property Manager's verbal approval, converted the items to secondary utilization and the invoices were generated. A Federal Surplus Property employee then wrote "sec. utilization" on the invoice. We noted 29 of the 40 items were picked up by the volunteer fire department at the federal government location. When a donee picks up an item from the GSA, the donee must sign the federal distribution document (invoice) prior to pick up. This means that in addition to the invoice showing the service charge determined by Surplus Property, the item is also given the designation of "secondary utilization" prior to the donee or Surplus Property staff seeing the equipment. We asked the Federal Surplus Property Supervisor how they know the condition of an item is not actually what the GSA has coded it and should be converted to secondary utilization when the item had not been picked up yet. He said he calls someone at the federal agency and asks them what the item looks like or if a Surplus Property driver is in the area, they go and look at the item.

We further noted some of the invoices for the 40 items referred to above did not have "sec. utilization" written on them. We asked the Federal Surplus Property Supervisor if he could tell us whether the items were secondary utilization. He said there are two ways that he can tell whether an item had been designated as "secondary utilization". First, in the Federal Inventory System there is a box labeled "compliance" that will be checked if the item had an acquisition cost of \$5,000 or more. If the item has been given the designation of secondary utilization the "compliance" box will not be checked. For the invoices that did not have "sec. utilization" written on it, the Federal Surplus Property Supervisor showed us that the compliance box was not checked and then he wrote "secondary utilization" on the invoice. Second, he stated if the surcharge on invoice was \$1,000.00,

\$500.00, or less that would indicate to him that the item had been donated as "secondary utilization".

Each of the items on the invoices noted was assessed a surcharge of \$1,000.00 or less.

The remaining equipment item of the 41 items noted was donated to a state agency. This item was converted to secondary utilization by Surplus Property in February 2001. The federal government purchased the item at a cost of \$32,990.00 and the state agency paid a \$500 surcharge for the item. The state agency repaired the item and requested a title from Surplus Property in November 2001. Surplus Property charged an additional \$500 surcharge for the item, issued the state agency a title, and the item was converted from secondary utilization to a compliance item. The Federal Surplus Property Supervisor stated they charged an additional \$500 to the state agency because they would have originally charged \$1,000 in February if the item had not been donated as secondary utilization.

For the 41 items noted above, Surplus Property did not provide a written request for cannibalization to the GSA before the items were allocated to the donee as secondary utilization. However, the General Services Administration Federal Management Regulation 102-37.220 which deals with requirements for State Agencies for Surplus Property (SASP) states in part,

"... a SASP must obtain written justification from the intended donee, and submit it to GSA along with the transfer request, prior to allocation of: . . .

(b) Items requested specifically for cannibalization; . . ."

Also, the General Services Administration Federal Management Regulation 102-37.235 states in part,

"When a donee wants surplus property to cannibalize, include the following statement on the SF 123: "Line Item Number(s) _____ requested for cannibalization." In addition to including this statement, provide a detailed justification concerning the need for the components or accessories and an explanation of the effect removal will have on

the item. GSA will approve requests for cannibalization only when it is clear from the justification that disassembly of the item for use of its component parts will provide greater potential benefit than use of the item in its existing form.”

In addition, certain items of federal property are restricted for a period of time. The Certification and Agreements included on the Distribution Document (Invoice) states in part,

“ . . . (c) THE DONEE AGREES TO THE FOLLOWING CONDITIONS IMPOSED BY THE STATE AGENCY, APPLICABLE TO ITEMS WITH A UNIT ACQUISITION COST OF \$5,000 OR MORE AND PASSENGER MOTOR VEHICLES REGARDLESS OF ACQUISITION COST, EXCEPT VESSELS 50 FEET OR MORE IN LENGTH AND AIRCRAFT:

. . . (2) There shall be a period of restriction which will expire after such property has been used for the purpose(s) for which acquired for a period of 18 months from the date the property is placed in use,...

The General Services Administration Federal Management Regulation 102-37.235 states in part,

“You must conduct utilization reviews, as provided in your plan of operation, to ensure that donees are using surplus property during the period of restriction for the purposes for which it was donated. You must fully document your efforts and reports all instances of noncompliance (misuse or mishandling of property) to GSA.”

The General Services Administration Federal Management Regulation 102-37.170 states,

“If a SASP does not operate in accordance with its plan, GSA may withhold allocation and transfer of surplus property until the nonconformance is corrected.”

We believe the GSA, depending on the seriousness of the infractions, could suspend the State's participation in the Federal Surplus Property Program. Items with an acquisition cost of \$5,000 or more, that have been converted to secondary utilization without the GSA's approval, are not being restricted and compliance audits are not being performed. Also, the GSA may not have allocated equipment to Surplus Property if they had known their intention was to convert the item to secondary utilization.

We recommend Surplus Property comply with the General Services Administration Federal Management Regulation.

Agency's Response

We agree with and accept the recommendation as issued and will comply with the General Services Administration Federal Management Regulations.

No Inventory of State Surplus Property

As noted in our previous post audit of Surplus Property for the period October 1, 1977 through June 30, 1980, Surplus Property does not maintain an inventory of State surplus property available for sale. State surplus property sales are made either by negotiated sales with state agencies and eligible organizations or by sales to the public through sealed bids or public auctions. We were unable to audit sales of state property, excluding public auctions, because we could not determine what items were available for sale during our audit period. Surplus Property does not prepare a listing of items available for sale at public auctions, but they have other internal controls in place which allowed us to audit the public auction sales. During our audit period, we were able to determine through WVFIMS \$1,540,699.85 and \$1,256,288.60 was deposited into the Sale of State Surplus Property Fund for state property sales, excluding public auctions, for the years ended June 30, 2003 and June 30, 2002, respectively. However, we could not determine whether all money received by Surplus Property for the sale of state property, excluding public auctions, was deposited into the Sale of State Surplus Property Fund.

Chapter 5A, Article 3, Section 45 of the West Virginia Code states in part,

“ . . . the agency may charge and assess fees reasonably related to the costs of care and handling with respect to transfer, warehousing, sale and distribution of state property disposed of or sold pursuant to the provisions of this section.”

In addition, without maintaining an inventory of items available for sale, State surplus property could be converted to personal use. The Surplus Property Manager responded in writing on May 17, 2004 as follows:

“There are significant differences between the state and federal surplus property programs. In the federal program, we generally receive between 300 to 400 items per month. We receive that many items weekly, and often daily in the state program. Our federal surplus property inventory is based on the federal stock classification system which is administered by the General Services Administration. No such system exists for state surplus property. In fact, most of the items that we receive (office furniture and equipment) are not maintained on state agency inventories because the original cost per item is less than what is required for the fixed asset system. A major difference between the two programs also exists with the method by which the property is disposed. Federal surplus property may only be sold to certain eligible organizations and thus the inventory information is easily tracked and removed from the federal system. State surplus property, on the other hand, is primarily disposed of through public auctions where thousands of individual pieces will be sold at one time. This will make it much more difficult to ensure that all of these items were removed from the inventory prior to the auction.

This is not to say that this cannot be done. However, it would be expensive to build and would require additional personnel to maintain. We attempted to devise an inventory system for our state surplus property program approximately ten years ago but abandoned it after it became cost prohibitive. I will request an up to date cost estimate from IS&C to design and build such a system and will be happy to share that information with you.”

We recommend Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation as issued and will comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Sales on Credit Not Authorized by the West Virginia Code

We noted Surplus Property is selling property to state agencies and eligible organizations on credit; however, we can find no authority in the West Virginia Code or Surplus Property's Legislative Rule permitting credit sales. Surplus Property has established accounts receivables for agencies and eligible organizations who purchase state and federal surplus property. As of June 30, 2003, the aged accounts receivable ledger for Surplus Property indicated a grand total accounts receivable balance of \$190,730.93; a balance of \$71,300.49 for federal surplus property sales and a balance of \$119,430.44 for state surplus property sales. In addition, the aged accounts receivable report includes negative accounts receivable balances. These negative accounts receivables totaled \$43,224.81 and consisted of \$7,158.65 for federal sales and \$36,066.16 for state sales.

These negative amounts are actually accounts payables due to state agencies and eligible organizations for their overpayments of accounts receivable or for their respective pro rata share from the sale of an item by Surplus Property for the agency/organization.

In regards to state property sales, Chapter 5A, Article 3, Section 45 states,

“. . . The proceeds of such sales or transfers shall be deposited in the state treasury to the credit on a pro rata basis of the fund or funds out of which the purchase of the particular commodities or expendable commodities was made: Provided, That the agency may charge and assess fees reasonably related to the costs of care and handling with respect to the transfer, warehousing, sale and distribution of state property disposed of or sold pursuant to the provisions of this section.”

In regards to federal property sales, the General Services Administration Federal Management Regulation 102-37.280 states in part,

“Funds accumulated from service charges may be deposited, invested, or used in accordance with State law . . .”

Accounts receivable records are understated by \$43,224.81 because accounts payables are shown as negative accounts receivables in the aged accounts receivable ledger.

Surplus property cannot pay their obligations as a result of having accounts receivable sales. Surplus Property has not paid monies due to the TMO for vehicles sold by Surplus Property on their behalf. As of September 4, 2003, Surplus Property owes the TMO a balance of \$848,066.00.

A memorandum dated September 4, 2003 from the Deputy Finance Director of the Department of Administration Finance Division to the Purchasing Division Director states in part,

“We recommend Surplus Property change the percentage that they reimburse Fleet Management and other agencies for the sale of surplus property to 50 percent instead of the current rates of 75 and 80 percent. In addition, we recommend Surplus Property reimburse Fleet Management the total outstanding balance of fleet sales of \$1,696,132 at the new rate of 50 percent instead of the previously agreed upon rate of 75 percent. This repayment would consist of four equal quarterly installments of \$212,016.50 with the first quarterly installment being made immediately and the last one being due and payable in June 2004. . . .”

According to a letter dated May 18, 2004 from the Deputy Finance Director of the Department of Administration to the Post Audit Division Director,

“ . . . Surplus Property made a payment of \$400,647.62 on October 10, 2003 and committed to pay the remaining monies owed to the Travel Management Office Fund in quarterly installments with the final payment being made on June 2004. This letter will serve as notification that Surplus Property has not been able to comply with the terms of the agreement. Surplus Property is undergoing some cash flow difficulties at this time due largely to the Governor’s order that state agencies not purchase any or a very limited number of new state vehicles. As you know, Surplus Property’s main source of income is from the sale of vehicles and since a minimal number of new state vehicles are being purchased, Surplus Property does not have nearly the number of vehicles to sale that they are accustomed to having, thus resulting in decreased revenue for their agency. We will continue to monitor the agency’s cash flow situation and as soon as monies become available the Travel Management Office will be paid. . . .”

We recommend Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code and the General Services Administration Federal Management Regulation.

Agency's Response

We will direct the Division of Finance, which handles the accounting function for the Surplus Property Unit, to aggressively pursue the collection of outstanding account receivables and will comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code and the General Services Administration Federal Management Regulations.

Unable to Determine Reimbursements to State Agencies Were Correct

We were unable to determine that proper state agency funds were reimbursed by Surplus Property for sales of state property. Also, the sum of the supporting documents attached to three state agency invoices did not equal the total amount invoiced. When Surplus Property sells state property, they are required to reimburse the fund or funds out of which the purchase of the particular commodities were made. During our audit period, the reimbursement rate was 80% of all sales proceeds to all state agencies, except the TMO which was reimbursed 75% of the sale proceeds. Total reimbursements to State agencies during the period July 1, 2001 through June 30, 2003 were \$1,253,262.58.

We tested 14 of 41 reimbursements made to state agencies who originally purchased the items that were later sold by Surplus Property. We noted all of the 14 reimbursements, which equaled \$990,552.22, were made to special revenue funds. We were unable to determine whether 11 of the 14 reimbursements totaling \$274,526.83 were made to the correct fund because the documentation provided to us did not indicate from which fund the purchase had originated.

We noted the documentation for five of the aforementioned 11 reimbursements to one state agency totaling \$226,285.62 indicated the purchase had originated from general revenue funds, but they did not indicate the particular fund numbers. We further noted Surplus Property, at the state agency's request, reimbursed a special revenue fund the \$226,285.62 instead of a general revenue fund(s).

Also, the sum of the supporting documents attached to three state agency invoices totaling \$482,203.76, did not equal the total amount invoiced. The three transactions are detailed in the following table:

<u>Vendor</u>	<u>Date Paid</u>	<u>FIMS Document #</u>	<u>Invoice Amount/ Amount Paid</u>	<u>Sum of Supporting Documents</u>	<u>Difference</u>
State Agency #1	10/01/2001	E000422726	\$210,873.99	\$229,098.99	(\$18,225.00)
State Agency #1	10/03/2002	E000465425	\$190,797.77	\$190,197.77	\$ 600.00
State Agency #2	09/22/2002	E000463752	\$80,532.00	\$80,452.00	\$ 80.00
				Net Effect	<u>(\$17,545.00)</u>

Chapter 5A, Article 3, Section 45 of the West Virginia Code, as amended, states in part,

“ . . . The proceeds of such sales or transfers shall be deposited in the state treasury to the credit on a pro rata basis of the fund or funds out of which the purchase of the particular commodities or expendable commodities was made: . . . ” (Emphasis added)

The Surplus Property Manager stated even though state agencies purchased property using general revenue funds, the reimbursement is not made to general revenue funds because the monies would expire at the end of the fiscal year and that agency would not get to use the money. He said they reimburse the fund(s) indicated on the state agencies invoice. Without documentation indicating which fund the purchase originated from, the possibility exists that Surplus Property is

reimbursing an incorrect fund(s) for sales of state property. For the five purchases noted which originated from general revenue funds, Surplus Property reimbursed a special revenue fund a total of \$226,285.62 when they should have reimbursed a general revenue fund(s).

In addition, the Administrative Services' Supervisor stated the deduction in the amount of \$18,225.00 for the Security (Motor Pool) during the period January 1, 2001 through September 30, 2001 included on the first invoice noted above was for a vehicle(s) which had been reassigned by the Purchasing Division Fleet Manager to another state agency. However, the Administrative Services' Supervisor could not provide us with supporting documentation for the deduction. He also stated the other two differences noted above were due to human error in calculating the invoice total which he did not find before approving the invoices for payment. We could not determine if the correct amount was reimbursed to the state agencies in the three instances noted above.

We recommend Surplus Property reimburse agencies' general revenue funds in instances where general revenue funds were used to make the original purchase and Surplus Property foot state agency reimbursement invoices before submitting them for payment to ensure the correct amount is reimbursed in compliance with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation as issued. Discussion will be generated with the Division of Finance, which handles the accounting function for the Surplus Property Unit, in order to comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Sale of Non-State Agencies' Property

Surplus Property is not authorized by the West Virginia Code nor Legislative Rule to sell property for non-state agencies. During the period July 1, 2001 through March 30, 2004, we noted 15 reimbursements and 18 credit memorandums issued to non-state agencies by Surplus Property for sales of property owed by the non-state agencies totaling \$112,116.74. The 15 reimbursements totaled \$84,089.47 and were paid to nine different organizations. The 18 credit memorandums totaled \$28,027.27 and were paid to 13 different organizations.

Chapter 5A, Article 3, Section 45 of the West Virginia Code state in part,

“The agency shall have the exclusive power and authority to make disposition of commodities or expendable commodities now owned or in the future acquired by the state when any such commodities are or become obsolete or unusable or are not being used or should be replaced. . . .

The agency may sell expendable, obsolete or unused motor vehicles owned by the state to an eligible organization, other than volunteer fire departments. In addition, the agency may sell expendable, obsolete or unused motor vehicles owned by the state with a gross weight in excess of four thousand pounds to an eligible volunteer fire department. . . .”

The Administrative Services' Supervisor stated Surplus Property sells vehicles and other equipment for non-state agencies on occasion. He said they do this as a courtesy for the non-state agencies who are eligible organizations to purchase state and/or federal surplus property. He said it does not happen often. Surplus Property is performing duties and collecting monies not authorized by the West Virginia Code nor their Legislative Rule.

We recommend Surplus Property comply with the Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

This practice has been performed in accordance with Chapter 5A, Article 3, Section 8 of the West Virginia Code. (See attached) Surplus Property Unit will cease this practice while seeking a legal opinion regarding the applicability of this section as it pertains to the Surplus Property Program.

Federal Compliance Audits

During our review of Federal Property Utilization Compliance Reports for five eligible organizations, we noted two instances where the acquisition cost of an item specified by the GSA was changed by Surplus Property personnel without the GSA's approval. We further noted five instances where the time between compliance visits was longer than one year during the 18 month period of restriction after the property has been placed into use by the donee.

Surplus Property could not provide documentation that the change in acquisition cost was approved by the GSA. A \$3,000.00 surcharge was assessed by Surplus Property for a 1980 American-Coleman wheeled tractor, which had an original acquisition cost of \$32,102.00 that was marked out on the Transfer Order and changed to \$40,000.00. For the second item, a \$2,800.00 surcharge was assessed by Surplus Property for a 1986 Dodge Ram Truck, which had an original acquisition cost of \$5,824.00 that was marked out on the Transfer Order and changed to \$7,824.00. Both of these items were purchased by City A.

We further noted five instances where the time between compliance visits for a federal compliance item was longer than one year during the 18 month period of restriction. Surplus Property did not require the donee to submit a written report to them on their utilization of the property. These five items are as follows:

<u>Item Description</u>	<u>Donee</u>	<u># of Months Between Compliance Visits</u>
Blast Cleaner - trailer mounted	Town B	16
Truck, Cargo - AMC 1968	Town B	16
Generator	Public Service District C	14
Truck, Maintenance - Dodge 1986	City A	14
Truck, Cargo - Kaiser Jeep 1980	City A	16

The General Services Administration Rules and Regulations 41 CFR Parts 101-44 and 102-37 which deal with requirements for State Agencies for Surplus Property (SASP) states as follows:

“§102-37.170 What happens if a SASP does not operate in accordance with its plan?”

If a SASP does not operate in accordance with its plan, GSA may withhold allocation and transfer of surplus property until the nonconformance is corrected.”

Section 6.7 and Appendix I of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations states in part,

“6.7 Revision of the Acquisition Cost: The acquisition cost of a donated item may be revised provided that the request therefore is made in writing by the donee, and it is determined by the State Agency that the listed acquisition cost is unrealistic in view of its research and development costs, its incompleteness due to missing parts, or its generally deteriorated condition. This revision will be coordinated with the General Services Administration in order to effect fair adjustment of entitlement statistics.”

“Appendix I - Methodology of Computing Service Charges

Original Acquisition Cost of Property

Service Charge

Under \$200	Zero to 55% of Original Acquisition Cost
\$201 to \$2,500	Zero to 50% of Original Acquisition Cost
\$2,501 to \$10,000	Zero to 40% of Original Acquisition Cost
\$10,001 to \$25,000	Zero to 30% of Original Acquisition Cost
\$25,001 and Over	Zero to 20% of Original Acquisition Cost"

Sections 2.4 and 7.1 of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations states as follows:

"2.4 . . . Federal Surplus Equipment with an acquisition cost of \$5,000 or greater is placed in the hands of donees with certain restrictions. The major restriction is that the property must be used for the purpose intended for at least 18 months. During this period, it is the responsibility of SASP to initiate compliance checks at regular intervals."

"7.1 The State Agency will visit donees receiving property with federal and/or state restrictions on the use of property at least once a year during the period of restriction. All such visits will be made by the Auditing and Control Section personnel or the Director. In the event that a personnel visit is not possible, we will require written reports on utilization from the Donee's Administrative Officer."

We spoke with the Federal Surplus Property Supervisor regarding the increase in the acquisition cost for the two items mentioned above. He stated that he increased the acquisition cost so that he could charge a higher service charge because he felt that the items were worth more than the original acquisition cost and he wanted to get more for them. The effect of increasing the acquisition cost of a federal surplus item is that the donee paid a higher service charge for the item. Further, City A paid 48.1% of the original acquisition cost of the 1986 Dodge Ram truck for which the maximum service charge allowed was 40% according to the State Plan of Operations. Specifically, City A overpaid for the truck in the amount of \$470.40.

We spoke with the Federal Property Compliance Officer regarding the federal property items for which compliance visits were not completed according to Surplus procedures and the State Plan of Operations. He stated that compliance visits are scheduled so that they can visit other donees in the same area at the same time. Also, he stated that bad weather can affect visits to some donees. He further said that they are not as concerned about some donees as they are about others because they are very familiar with the donee or because of the type of agency the donee is (Ex. A visit to a Volunteer Fire Department would take priority over a visit to a municipality). He also stated that sometimes they get behind schedule on compliance visits when they are working on something else.

The effect of Surplus' failure to make timely compliance visits is that the donee may not be complying with the restrictions which are conditional to the donation. The donee may not be using the compliance item for its intended purpose or the donee may no longer have a use for the item. Also, the item may not be maintained as necessary and may become damaged or useless. Further, the donee may be delayed in obtaining title to and/or ownership of the equipment at the end of the period of restriction.

We recommend the West Virginia Department of Administration's, Surplus Property Division comply with the General Services Administration Rules and Regulations 41 CFR Part §102-37.170 and the West Virginia State Agency for Surplus Property - Permanent Plan of Operations Sections 2.4, 6.7, 7.1, and Appendix I.

Agency's Response

We agree with and accept the recommendation as issued and will comply with the General Services Administration Rules and Regulations, 41 CFR, Part §102-37.170 and the West Virginia State Agency for Surplus Property - Permanent Plan of Operations, Sections 2.4, 6.7, 7.1 and Appendix I.

Legislative Rule Not in Compliance With the West Virginia Code

The Department of Administration's Legislative Rule Title 148, Series 4 "State Plan for the Operation of the West Virginia State Agency for Surplus Property, Division of the Department of Finance and Administration", Legislative Rule Title 148, Series 5 "Availability of State Surplus Buildings and Equipment to Charity Food Banks", and the State Plan of Operations submitted to the GSA have not been updated.

The Department of Administration's Legislative Rule Title 148, Series 4 "State Plan for the Operation of the West Virginia State Agency for Surplus Property, Division of the Department of Finance and Administration" states in part,

"§148-4-1. General.

1.2 Authority. – W. Va. Code §5A-8-3. . . .

However, Chapter 5A, Article 8, Section 3 is the Public Records Management and Preservation Definitions.

In addition, the Department of Administration's Legislative Rule Title 148, Series 4 states in part,

§148-4-2. Organizational Structure.

2.1. The State Agency for Surplus Property is under the jurisdiction of the **Department of Finance and Administration . . .**

2.2. The State Agency has divisional status under the direct supervision of the **Commissioner of Finance and Administration. . . .** (Emphasis added.)

In contrast, Chapter 5A, Article 3, Section 43 of the West Virginia Code, states in part,

"There is hereby established within the purchasing division and under the supervision of the director of the purchasing division the state agency for surplus property."

Also, the Department of Administration's Legislative Rule Legislative Rule Title 148, Series 5 "Availability of State Surplus Buildings and Equipment to Charity Food Banks" states in part,

"§148-5-1. General.

1.2 Authority. -- W. Va. Code §9-8-7. . . .

However, Chapter 9, Article 8 of the West Virginia Code states,

"§§ 9-8-1 to 9-8-11. Repealed by Acts 2001, c. 150, eff. July 1, 2001"

Finally, the current organizational structure of Surplus Property noted in Surplus Property's organizational chart and the current format of the various forms and reports differs from the organizational structure, forms and reports referenced in the State Plan of Operations effective December 22, 1983.

The Surplus Property Manager stated he was aware that the Legislative Rule and the Permanent Plan of Operations have not been amended and stated they will work on revising them. The possibility may exist where a State agency is following the guidelines set by the Department of Administration's Legislative Rules when they are in fact in noncompliance with the Chapter 5A, Article 3, Section 43 through 46 of the West Virginia Code. Also, Surplus Property is not presenting a current reflection of their State Plan of Operations to the GSA.

We recommend the "State Plan for the Operation of the West Virginia State Agency for Surplus Property, Division of the Department of Finance and Administration" Legislative Rules Title 148, Series 4 and 5 be revised in order to be in compliance with Chapter 5A, Article 3, Section 43 of the West Virginia Code and the State Plan of Operations submitted to the GSA be revised.

Agency's Response

We agree with and accept the recommendation as issued and will make the proper revisions as requested.

Auctioneer Contract

Surplus Property circumvented the Purchasing Division's Purchasing Procedures by not obtaining three written bids for the auctioneer contract which exceeded \$5,000 in fiscal years 2003 and 2002. According to Surplus Property personnel, public auctions for State property are held approximately 10 times per year. During our audit period a total of 17 auctions were held, eight in fiscal year 2003 and nine in fiscal year 2002. An auctioneer is hired for each auction. Surplus Property has used the services of the same auctioneer for years. Surplus Property completes a WV-48 State of West Virginia Purchasing Division Agreement for the auctioneer's services for each month in which an auction will take place. During the period July 1, 2001 through February 28, 2003, the auctioneer's fee was \$800 per auction. Beginning on March 1, 2003, the auctioneer's fee increased to \$900 per auction. The total amount paid to the auctioneer during fiscal years 2003 and 2002 were \$6,700 and \$6,400, respectively. When each fiscal year is considered as a whole, the total amount paid to the auctioneer exceeds \$5,000.

The West Virginia Purchasing Division Policies and Procedures Handbook dated December 1, 2000 states,

"6.1.3 Purchases \$5,000.01 to \$10,000.00: A minimum of three (3) written bids are required, *when possible*.

A Request for Quotations form, WV-43, or TEAM-Generated RFP/RFQ (See Appendix A) should be used for documenting and making these requests. In all cases, state agencies must attempt to obtain at least three (3) written bids for a product or service. A "no bid" is not considered a bid. An Agency Purchase Order or TEAM generated Purchase Order is required. Fax bids are acceptable. . . .

8.13.2 \$10,000 or Less: Professional services \$10,000 or less may be acquired through a variety of methods, including competitive bid (Request for Quotation) or Direct Purchase using an Agreement. . . .”

The Surplus Property Manager responded in writing as follows:

“As you have indicated, we prepare a tentative schedule for auctions near the beginning of each calendar year. However, this is not intended to be an actual “schedule” but rather a list of potential dates taking into consideration holidays, peak employee vacation times, etc. Our auctions are actually scheduled only 4 to 6 weeks in advance of the event and are entirely dependent upon the amount of state property available for sale. It is almost impossible to predict more than a few weeks in advance when there will be enough property available to conduct an auction. In addition, we have found it necessary to cancel scheduled auctions due to inclement weather or natural disasters. We cannot guarantee that an auctioneer will earn more than \$5000.00 in any given year. Therefore, we do not enter into an annual contractual agreement with an auctioneer, but do it on a case by case basis. The agreement that we use for auctioneer services only covers a one month period of time. It is my understanding that this does not require written bids; however, I will review the Purchasing handbook, and if necessary we will change the way in which auctioneer services are obtained.”

By not obtaining written bids, Surplus Property does not know if they paid the lowest price available for auctioneer services.

We recommend Surplus Property comply with the West Virginia Purchasing Division Policies and Procedures Handbook dated October 1, 2000.

Agency's Response

We agree with and accept the recommendation as issued and will comply with West Virginia Purchasing Division Policies and Procedures Handbook, dated October 1, 2000.

Vehicle Sales

Surplus Property was unable to provide National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guides for the period July 1, 2001 through June 30, 2003 which are

used to calculate the average loan value. We also noted two instances in which Surplus Property failed to get the proper signature on the Used Vehicle Inspection Checklist. Further, we noted two instances in which the sale price indicated on the Surplus Property database differed from the amount indicated on the Distribution Document and Sales Order (invoices). A Distribution Document is generated for sales to eligible organizations and a Sales Order is generated for sale to the public by sealed bid or auction.

We could not determine if the target sales price for five of the 10 vehicle sales by sealed bids were at least the average loan value noted in the N.A.D.A. Also, we could not locate the Surplus Property Manager's approval signature on the Used Vehicle Inspection Checklists for two vehicles with target prices of \$4,875.00 and \$4,000.00. Finally, Surplus Property's vehicle database states the price paid for a 1997 Ford F150 pick-up truck and a 1994 Mercury Sable was \$5,000.00 and \$175.00, respectively. However, the Distribution Document and the Sales Order state the buyers paid \$4,800.00 and \$100.00 for the vehicles, respectively.

Chapter 5A, Article 3, Section 45 of the West Virginia Code, as amended, states,

“ . . . Upon the transfer of commodities or expendable commodities between departments, or upon the sale thereof to an eligible organization described above, the agency shall set the price to be paid by the receiving eligible organization, with due consideration given to current market prices.

The agency may sell expendable, obsolete or unused motor vehicles owned by the state to an eligible organization, other than volunteer fire departments. In addition, the agency may sell expendable, obsolete or unused motor vehicles owned by the state with a gross weight in excess of four thousand pounds to an eligible volunteer fire department. The agency, with due consideration given to current market prices, shall set the price to be paid by the receiving eligible organization, for motor vehicles sold pursuant to this provision: Provided, That the sale price of any motor vehicles sold to an eligible

organization shall not be less than the "average loan" value, as published in the most recent available eastern edition of the National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guide, if such a value is available, unless fair market value of the vehicle is less than the N.A.D.A. "average loan" value, in which case the vehicle may be sold for less than the "average loan" value. Such fair market value must be based on a thorough inspection of the vehicle by an employee of the agency who shall consider the mileage of the vehicle, and the condition of the body, engine and tires as indicators of its fair market value. If no such value is available, the agency shall set the price to be paid by the receiving eligible organization with due consideration given to current market prices. . . ."

Also, Chapter 5A, Article 3, Section 2 of the West Virginia Code states in part,

"The director shall keep in his offices accurate books, accounts and records of all transactions of his division, . . ."

The Surplus Property Administrative Services' Supervisor stated he does not have all of the N.A.D.A. appraisal guides due to the fact people borrow them and fail to return them. By not keeping adequate documentation, we were unable to verify the loan value of five of ten vehicles sold to the public through sealed bids at a total sales price of \$10,177.50. By not having the Surplus Property Manager's signature on the Used Vehicle Inspection Checklist, we could not determine the target prices of the vehicles were approved by the Surplus Property Manager. The Surplus Property Administrative Services' Supervisor stated that the database was probably wrong due to a data entry error. As a result, the vehicle database is overstated by \$275.00.

We recommend Surplus Property comply with Chapter 5A, Article 3, Sections 2 and 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation as issued and will comply with Chapter 5A, Article 3, Sections 2 and 45 of the West Virginia Code.

Unable to Physically Locate Merchandise for Resale

During our review of Federal Surplus Property Inventory, we noted Surplus Property failed to physically locate items which were included on the Inventory on Hand listing. Also, we noted one instance in which Surplus Property failed to locate the file containing transfer order number 54-2001-1158-51.

We were unable to physically locate 34 of 2,181 items received from the the GSA which had a total acquisition cost of \$1,195.00. The following table provides detail of the 34 items in which Surplus Property failed to physically locate items which were included on the Inventory on Hand listing:

<u>Transfer Order Number</u>	<u>Item Number</u>	<u>Date Received At Surplus Property</u>	<u>Description</u>	<u>Quantity Received/ Sold/ Located</u>	<u>Acquisition Cost</u>
54-2001-0999-39	39746	08/10/2001	Folding Table	RECEIVED: 3 SOLD: 2 LOCATED: 0	\$167.00
54-2-0128-24	40164	12/07/2001	Ammo Cans	RECEIVED: 100 SOLD: 69 LOCATED: 0	31 @ \$30.00 = \$930.00
54-2-0128-24	40166	12/07/2001	Parka	RECEIVED: 31 SOLD: 23 LOCATED: 6	2 @ \$49.00 = \$98.00

Section 3.1 of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations states as follows:

“3.1 The State Agency for Surplus Property will maintain accurate inventory records of all surplus personal property received, warehoused, distributed, or otherwise disposed. A \$500 threshold for line item accountability is required. . . .”

The Surplus Property Supervisor stated the wrong Ammo Cans were mistakenly sold. Instead of loading 31 Ammo Cans with item number 40208, the donee loaded 31 Ammo Cans with

item number 40164. He also stated that he does not know where the folding tables and parkas are located. Because Surplus Property cannot physically locate the items or provide documentation that the items were sold, we are unable to determine whether the items should be in Surplus Property's custody or if they had been sold to an eligible donee. Further, the federal inventory is overstated by \$1,195.00. The Surplus Property Manager stated that the transfer order number 54-2001-1158-51 that we could not locate was probably denied. He stated GSA only keeps the records for three years then they are destroyed, so he can not retrieve the file. By failing to maintain adequate documentation, Surplus Property is unable to determine whether items were approved or denied by GSA.

We recommend Surplus Property comply with Section 3.1 of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations.

Agency's Response

We agree with and accept the recommendation as issued and will comply with Section 3.1 of the West Virginia State Agency for Surplus Property - Permanent Plan of Operations.

Payment of Federal Excise Tax

Federal Excise Tax was charged for gasoline purchases on several Petersen, Howell, and Heather (PHH) card monthly invoices. Surplus Property has not sought reimbursement from the federal government for these charges. We tested six PHH invoices and found 100 instances in which Federal Excise Tax was charged on the PHH invoices for gasoline purchases. The total amount of Federal Excise Tax charged was \$1,270.39. We multiplied the total gallons purchased by \$.184 (Federal Excise Tax per gallon) to calculate the total amount of Federal Excise Taxes paid. The details of the six PHH invoices are as follows:

<u>PHH Invoice Date</u>	<u>Total Gallons Purchased</u>	<u>Federal Excise Tax</u>	<u>Total Federal Excise Tax Paid</u>
June 1, 2003	824.20	\$0.184	\$151.65
January 1, 2003	1,118.60	\$0.184	\$205.82
October 1, 2002	1,853.90	\$0.184	\$341.12
June 1, 2002	1,075.60	\$0.184	\$197.91
August 1, 2001	899.70	\$0.184	\$165.54
July 1, 2001	<u>1,132.30</u>	\$0.184	<u>\$208.34</u>
	<u>6,904.30</u>		<u>\$1,270.39</u>

The Internal Revenue Service, Publication 378, Fuel Tax Credits and Refunds states in part:

“ . . . If you are an ultimate purchaser, you can claim a refund for the excise tax on fuels you purchase and use for a nontaxable use. You can file a claim for refund for any quarter of your tax year for which you can claim \$750 or more. This amount is the excise tax on all fuels used for a nontaxable use during that quarter or any prior quarter (for which no other claim has been filed) during the tax year. If you cannot claim at least \$750 at the end of a quarter, you carry the amount over to the next quarter of your tax year to determine if you can claim at least \$750. . . .”

According to the Surplus Property employee responsible for Purchasing and Accounts Payable, she was not aware that Federal Excise Tax was being charged on the invoices. Because they have not sought reimbursement for the amount paid to the federal government for Federal Excise Tax, Surplus Property has lost the use of the monies.

We recommend Surplus Property comply with the Internal Revenue Service, Publication 378, Fuel Tax Credits and Refunds.

Agency's Response

This issue will be addressed as part of the new contract for fuel services which is currently being bid by the Purchasing Division.

Equipment Inventory

We noted none of the nine equipment items tested with an acquisition price of \$1,000.00 or more were reported on the Surplus Property Fixed Asset System. Also, four of the nine reportable equipment items were not being used by Surplus Property employees, as well as four additional items with an acquisition cost under \$1,000.00. Further, there were no State property tag numbers on five of the nine equipment items.

We physically located all nine items of property. The details of the nine equipment items with an acquisition cost of \$1,000.00 or more were as follows:

	<u>Vendor</u>	<u>Description</u>	<u>Invoice Date</u>	<u>Amount</u>
1	TCS Technology Services	Dell Poweredge 2500 p3 1ghz 512 mb 3-18	12/21/01	\$21,827.37
2	TCS Technology Services	Dell Poweredge Server 2500 1ghz 256mb	12/21/01	6,983.11
3	Federal Surplus Property	Tenant Sweeper	3/12/02	2,500.00
4	Sharp Electronics	Laser Fax/MFP Package, FO5700P	9/18/01	1,423.00
5	Hourly Computer Services, Inc.	Lexmark Laser C750 Printer	5/9/02	3,067.00
6	TCS Technology Services	Dell Optiplex GX260 256mb, Attachmate Extra, Netgear,	7/25/02	1,559.41
7	TCS Technology Services	Dell Optiplex GX260 256mb, Attachmate Extra, Netgear	7/25/02	1,559.41
8	TCS Technology Services	Dell Optiplex GX260 256mb, Attachmate Extra, Netgear	7/25/02	1,559.41
9	Pomeroy Computer Resources	Dell Optiplex GX240, P4, 512 mb, M9	4/25/02	<u>1,529.00</u>
		TOTAL		<u>\$39,117.60</u>

Further, we noted Surplus Property does not have property tag numbers on equipment within their possession. Items one through five above did not have a property tag.

Section 3.1 of the State of West Virginia's Purchasing Division Inventory Management and Surplus Property Disposition Policies and Guidelines, revised October 1, 2000, states:

"The head of every department of State government must, on or before July fifteenth of every year, file with the Director of the Purchasing Division a certification verifying that all reportable property in its possession as of the close of the last fiscal year was properly entered into the WVFIMS Fixed Assets System in accordance with policy and the WVFIMS Fixed Assets Training Manual."

Also, Section 3.6 of the State of West Virginia's Purchasing Division Inventory Management and Surplus Property Disposition Policies and Guidelines, revised October 1, 2000, states:

"The Purchasing Division has established a capitalization figure of \$1,000 and a useful life of one (1) year or more as reportable property. This means that any item which has an original acquisition cost of \$1,000 or more and a useful life of one (1) year or more is required to be entered into the WVFIMS Fixed Asset system. Although not required by the Purchasing Division, agencies may, however, enter property or equipment costing less than \$1,000 in the WVFIMS Fixed Asset system."

Further, Section 3.11 of the State of West Virginia Purchasing Division Inventory Management and Surplus Property Disposition Policies and Guidelines, revised October 1, 2000, states:

"All equipment over \$1,000 will have a numbered equipment identification tag and that equipment will be entered into the WVFIMS Fixed Asset system. Agency's will be responsible for obtaining and placing the proper tags on all equipment under their jurisdiction. Tags are to be placed on all items of property/equipment in such a manner that it may be easily seen and read."

The Surplus Property Administrative Services' Supervisor stated that this must have been an oversight because he thought the nine equipment items were on the Surplus Property Fixed

Asset System. Without accurate records of the equipment, Surplus Property is unable to physically locate the equipment. The equipment could also be converted to personal use.

Also, the Surplus Property Administrative Services' Supervisor told us that he just had not been placing the identification tags on the equipment at Surplus Property. By not placing identification tags on their equipment, Surplus Property cannot effectively manage their inventory of equipment.

We recommend the West Virginia Department of Administration's, Purchasing Division Surplus Property comply with Section 3.1, 3.6, and 3.11 of the Purchasing Division Inventory Management and Surplus Property Disposition Policies and Guidelines, revised October 1, 2000.

Agency's Response

We agree with and accept the recommendation as issued and will comply with Sections 3.1, 3.6 and 3.11 of the Purchasing Division Inventory.

Purchases Made Not Directly Used by Surplus Property

During our audit, we noted 23 out of 161 purchases tested using Surplus Property monies were in noncompliance with the West Virginia Code. During our test of current expenses, we noted 14 of 116 purchases tested using Surplus Property monies were not purchased for the benefit of Surplus Property. These purchases were made for the benefit of the Purchasing Division. These 14 purchases are detailed in the following table:

<u>Vendor</u>	<u>Description</u>	<u>Date</u>	<u>Amount</u>
Franklin Covey	Handheld Organizer for Purchasing Division's New Business Development Manager*	3/19/02	\$ 123.31
Impression Products	Toner for Purchasing Division Computer Technician**	4/04/03	232.00

<u>Vendor</u>	<u>Description</u>	<u>Date</u>	<u>Amount</u>
Dell Marketing	4 - Access 2002 Win32 English MVL licenses, 21 - Office XP Pro Enterprise Win32 MVL licenses***	12/31/01	2,388.89
WV Correctional Industries	60 Capitol Directories****	3/31/02	540.00
Boise Cascade	Office Supplies	3/04/02	331.46
Boise Cascade	Office Supplies	1/04/02	49.63
Boise Cascade	Office Supplies	1/17/02	56.42
Boise Cascade	Office Supplies	1/22/02	222.05
Boise Cascade	Office Supplies	3/19/02	61.14
Boise Cascade	Office Supplies	2/27/02	47.66
Boise Cascade	Office Supplies	4/02/03	410.37
Boise Cascade	Office Supplies	1/14/02	151.48
Boise Cascade	Office Supplies	1/14/02	53.48
Boise Cascade	Office Supplies	4/22/03	<u>116.78</u>
TOTAL			<u>\$4,784.67</u>

*Purchasing Division's New Business Development Manager

**Purchasing Division Computer Technician

***Department of Administration Purchasing Division employees, The Surplus Property Fund was charged for one third of the total cost which is \$7,166.68.

****To be sold to vendors and the general public.

We also noted during our test of equipment, six of 31 equipment items tested were not being used by Surplus Property. Three Dell computers valued at \$4,678.23 and three Viewsonic monitors valued at \$533.67 purchased from TCS Technology Services were being used by Purchasing Division employees.

We further noted, during our test of 14 repairs and alterations transactions, that half of the total charges for work performed on the Purchasing Division's telephone system were charged to the Surplus Property Fund. Payment of three invoices from Access Systems totaling \$3,196.00 for installation of PA system in the Purchasing Division was made using the Purchasing Division Administrative Secretary's purchasing card. Two of the three invoices were dated April 30, 2001 and

the third invoice was dated May 29, 2001. Half of the total charges or \$1,598.50 was charged to the Sale of State Surplus Property Fund while the other half was paid from a Purchasing Division Fund.

Chapter 5A, Article 3, Section 45 of the West Virginia Code states in part,

“ . . . the agency may charge and assess fees reasonably related to the costs of care and handling with respect to transfer, warehousing, sale and distribution of state property disposed of or sold pursuant to the provisions of this section.”

The Purchasing Division Administrative Secretary told us the Purchasing Division uses the Surplus Property Fund to purchase office supplies and equipment when there are no monies available in the Purchasing Division's General Fund. She told us that Surplus Property reports to the Purchasing Division; therefore, the Surplus Property Fund is used when purchasing office supplies, etc. for the division since it is an overall account. We also asked the Purchasing Division Administrative Secretary about the Capitol directories that were purchased to sell to vendors and the public. She told us that they reimburse the Surplus Property Fund as the directories are sold. We looked at the WVFIMS transactions for the reimbursements for 2002 and 2003, but were unable to find any. We told her we were unable to find the reimbursements and she said that after speaking with the Accounting Section employee responsible for Billing and Receipts, the money from these sales was deposited into a Purchasing Division Fund instead of Surplus Property Fund. The Manager of the Automation Unit for the Purchasing Division told us that the computer licenses were purchased for Purchasing Division employees.

Regarding the work on the telephone system, the Administrative Secretary for the Purchasing Division stated that half of the cost of the Purchasing Division's PA system was paid from the Surplus Property Fund because Surplus Property is under the supervision of the Purchasing

Division and the Surplus Property Fund had money available to use for this purchase. The effect of these 23 purchases is that a total of \$11,595.07 of State Surplus Property Fund monies was used for unauthorized purposes.

We recommend Surplus Property comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Agency's Response

We agree with and accept the recommendation as issued and will comply with Chapter 5A, Article 3, Section 45 of the West Virginia Code.

Allocation of Salaries

Surplus Property could not provide the reasoning used to justify the percentage of the salaries paid by Surplus Property for six employees. During fiscal years 2002 and 2003, a portion of these six employees' pay and related benefits were paid from the Sale of State Surplus Property Fund. Without time records documenting Purchasing Division employee's time spent performing duties related to Surplus Property, we cannot verify the appropriate percentages of these employees salaries are being paid from the Sale of State Surplus Property Fund.

The following table depicts the six employee's average salaries and average employee benefits paid from the Sale of State Surplus Property Fund 2281 during the period July 1, 2001 through June 30, 2003 and the percentage of the employees' time allotted to Surplus Property in accordance with the Payroll Expenditure Schedules effective during the period noted above:

<u>Employee</u>	<u>Job Title</u>	<u>Average Salary Paid from the Surplus Property Fund</u>	<u>Average Employee Benefits Paid from the Surplus Property Fund</u>	<u>Total Average Amount Paid from the Surplus Property Fund</u>	<u>Percentage of Employee's Salary Paid from the Surplus Property Fund</u>
1	Purchasing Director	\$26,079.98	\$ 9,127.99	\$ 35,207.98	33%
2	Pub Info Spec III	21,561.08	7,546.38	29,107.45	45%
3	Adm Secretary	16,755.50	5,864.43	22,619.93	50%
4	Pub Info Spec I	11,497.10	4,023.98	15,521.08	50%
5	Office Assistant III	2,253.18	788.61	3,041.80	27%
6	Adm Ser Mgr II	<u>16,267.10</u>	<u>5,693.49</u>	<u>21,960.59</u>	100%
		<u>\$94,413.93</u>	<u>\$33,044.88</u>	<u>\$127,458.81</u>	

part, Fair Labor Standards Act of 1938, Part 516.2(a) of Subpart A, as amended, states in

“§516.2 Employees subject to minimum wage or minimum wage and overtime provisions pursuant to section 6 or sections 6 and 7(a) of the Act.

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

(1) Name in full, as used for Social Security recordkeeping purposes,

...

(5) Time of day and day of week on which employee's workweek begins . . .

(6)(i) Regular hourly rate of pay for any workweek in which overtime compensation is due under section 7(a) fo the Act, . . .

(7) Hours worked each workday and total hours worked each workweek (for purposes of this section, a "workday" is any fixed period of 24 consecutive hours and a "workweek" is any fixed and regularly recurring period of 7 consecutive workdays)." (Emphasis added.)

Further, Chapter 5A, Article 3, Section 2 of the West Virginia Code applies to all employees who are exempt from the Fair Labor Standards Act and states in part,

“The director shall keep in his offices accurate books, accounts and records of all transactions of his division, . . .”

The Purchasing Division’s Director stated that he knew there were people on the Surplus Property payroll that did not belong there, but there was no other payroll to put them on. The Purchasing Director also said he does not know the reasoning used to determine the percentages for each of these six employees noted above and currently, there is a movement to reorganize the Department of Administration and in this reorganization employees will be paid from the proper accounts. He further stated these employees duties were as follows: Employee #2 - Public Relations and Communications, interviews Surplus customers, assists with newsletters, auction announcements, and presentations using PowerPoint; Employee #3 - Secretary to the Director of Purchasing who assists with seminars, conferences and presentations, makes travel arrangements for Surplus Property employees, personnel and payroll adjustments; Employee #4 - worked for the Cabinet Secretary’s Office on special projects; Employee #5 - Part-time employee who assists Employee #2; and Employee #6 - Purchasing Division Acquisitions & Contract Administration Section Director who assists with new equipment purchase requests involving old equipment trade-in requests made to Surplus Property by State agencies.

We recommend Surplus Property provide documentation noting the rationale behind the percentage calculations in compliance with Chapter 5A, Article 3, Sections 45 and 46 of the West Virginia Code.

Agency's Response

We will request that this documentation noting the rationale for the percentage calculations for salaries be provided by the Division of Finance.

Leave System Not Reliable and Documentation Not Provided

The reports generated from the computerized leave system are not reliable. During our testing of eight employee's sick and annual leave balances, we noted several discrepancies between the approved Applications for Leave With Pay (leave slips) and the Department of Administration's Leave System for Surplus Property employees. Also, we noted a difference between our audited annual leave balance and the agency annual leave balance for two employees as of June 30, 2003. Further, we noted 21 instances where leave slips were not provided to us for two employees.

The report from the Department of Administration Leave System for Surplus Property employees (leave report) dated October 29, 2003, was provided to us for the period July 1, 2001 through October 16, 2003. For employee #1, we noted a total of 11 hours (5 hours annual leave and 6 hours of sick leave) of leave requested was requested and approved on the leave slip for September 17 and 18, 2002. The leave report dated October 16, 2003 indicated a total of 14 hours of leave taken (1.93 hours of annual leave and 12.06 hours of sick leave) on these dates.

We spoke with an Accounting Section Payroll Unit employee about the difference. She generated another leave report from the Department of Administration Leave System on April 29, 2004 for the period September 1 through September 30, 2002 for Employee #1. The new leave report dated April 29, 2004 indicated a total of 14.45 hours taken (8.38 hours of annual leave and 6.07 hours of sick leave) on the dates in question, which differs from the 14 hours indicated on the report

generated on October 29, 2003. The Payroll Unit employee said she did not know why the reports were different and contacted an IS&C programmer. In an email dated April 29, 2004, the IS&C programmer told the Payroll Unit employee that "There is a problem with the report that was printed today and the one that was printed on 10/29/2003. I looked at the raw data and have placed the correct leave slips in the attached spreadsheet." We also noted information was not available for the month of January 2002 on the Surplus Property leave report dated October 29, 2003.

For the other seven employees tested, we noted some of the sick and annual leave hours taken as indicated on their approved leave slips could not be located on the leave report dated October 29, 2003. The following tables provide detail for the employee's sick and annual leave not found on the leave report:

<u>Employee</u>	<u>Leave Type</u>	<u>Hours Requested and Approved</u>	<u>Number of Instances and Date of Leave Request</u>
2	Sick	46.50	Six instances; ranging from 1/2/02 to 1/11/02
3	Sick	1.00	One instance for 9/27/01
4	Sick	71.00	Two instances for 1/2/02 and 1/23/02
5	Annual	1.00	One instance for 1/8/02
6	Annual	5.50	Two instances for 1/11/02 to 1/25/02
7	Annual	16.50	Three instances; ranging from 1/8/02 to 1/17/02
8	Annual	<u>16.00</u>	Two instances for 8/20/01 and 1/7/02
		<u>157.50</u>	

In addition, we noted a difference between our audited annual leave balance and the agency annual leave balance for two employees (employee #7 and #8 above) as of June 30, 2003. For employee #7, we calculated an understatement of 8 hours in his annual leave balance. The annual

leave balance indicated on Surplus Property's leave records was 174.11 hours. We calculated an annual leave balance of 182.11 at June 30, 2003. For employee #8, we calculated an understatement of 29.50 hours in his leave annual balance. The annual leave balance indicated on Surplus Property's leave records was 371.00 hours. We calculated an annual leave balance of 400.50 at June 30, 2003.

Further, when comparing the leave report dated October 29, 2003 with the approved leave slips, we noted 21 instances where approved leave slips were not provided. Employee #7 had 14 instances during the period June 9th through 27th of 2003 in which approved sick leave slips were not provided. A total of 112 hours of sick leave was deducted on the leave report for these instances. Employee #7 also had five instances during the period December 3rd through 7th of 2001 in which annual leave slips were not provided. A total of 36 hours of annual leave was deducted on the leave report for these 5 instances. Also, Employee #1 had two instances equaling a total of 8.26 hours on October 18, 2002 and November 4, 2002 in which annual leave slips were not provided.

Section 14.3 of the West Virginia Division of Personnel Administrative Rule states in part,

“(a) Amount, Accrual - Except as otherwise noted in this rule, each employee is eligible to accrue annual leave with pay and benefits. The table below lists the rates of accrual according to the employee's length of service category and the number of hours of annual leave that may be carried forward from one calendar year to another. Annual leave is accrued at the end of each pay period or on the last work day for separating employees. . . .

Length of Service Category	Accrual Rate: Hours Equal To	Carry-forward Hours: Hours Equal To
Less than 5 years of regular employment	1.25 days/month	30 days
5 years but less than 10 years of regular employment	1.50 days/month	30 days

10 years but less than 15 years of regular employment	1.75 days/month	35 days
15 years or more	2.00 days/month	40 days

(b) Service to Qualify - Qualifying service for length of service category is based on State employment or employment in the classified service. No service credit accrues for periods during which an employee is not paid a wage or salary unless otherwise provided by State or Federal statute.”

Section 14.4 of the West Virginia Division of Personnel Administrative Rule states in part,

“(a) Accrual - Except as otherwise provided in this subdivision, each employee shall receive accrued sick leave with pay and benefits. Sick leave is computed on th basis of hours equal to 1.5 days per month for full-time employees. . . .”

Section 14.14 of the West Virginia Division of Personnel Administrative Rule states in part,

“Leave Records - Each agency shall maintain a current leave records of its employees’ accrued and used leave. . . .”

We spoke with the Surplus Property Manger about the problems with the computer generated leave system and he told us that he was unaware of a problem with the leave system, but he would look into it. If the leave reports cannot be relied upon, employees’ accrued leave balances may be overstated or understated. If an employee’s leave balance is overstated that could result in an employee being paid before services rendered. If an employee’s leave balance is understated that could result in an employee being underpaid.

In addition, the Surplus Property Manager told us they could not locate the leave slips for the 21 instances noted above. He told us they make photocopies of the original leave slips to keep on file at Surplus Property and the original leave slips are sent to the Department of Administration Accounting Section’s Payroll Unit. An Accounting Section Payroll unit employee was asked by the

Surplus Property Manager to provide copies of the missing leave slips. The records for this time period had been archived and she had requested to get them back. She was instructed to send copies of any of the missing leave slips that are found. As of the date of this report, the leave slips were not provided to us. Without being able to review the leave slips for the instances noted above, we could not determine the leave that was deducted on the leave report was approved by the employees nor their immediate supervisor.

We recommend Surplus Property comply with Sections 14.3, 14.4 and 14.14 of the West Virginia Division of Personnel Administrative Rule.

Agency's Response

We will forward this recommendation to the Information Services and Communications Division and the Payroll Office of the Division of Finance for their information regarding the online leave system. Relating to the leave forms submitted by the Surplus Property staff, Surplus Property will comply accordingly.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of cash receipts, disbursements and changes in cash balances of Surplus Property of the West Virginia Department of Administration's Purchasing Division for the years then ended June 30, 2003 and June 30, 2002. The financial statement is the responsibility of the management of Surplus Property of the West Virginia Department of Administration's Purchasing Division. Our responsibility is to express an opinion on the financial statement based on our audit.


Except as discussed in the following paragraph, we conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance as to whether the financial statement is free from material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Surplus Property does not maintain an inventory of state surplus property available for sale. State surplus property sales are made either by negotiated sales with state agencies and eligible organizations or by sales to the public through sealed bids or public auctions. We were unable to audit sales of state property, excluding public auctions, because we could not determine what items were available for sale during our audit period. During our audit period, we were able to determine through WVFIMS \$1,540,699.85 and \$1,256,288.60 was deposited into the Sale of State Surplus Property Fund for state property sales, excluding public auctions, for the years ended June 30, 2003 and June 30, 2002, respectively. However, we could not determine whether all money received by Surplus Property for the sale of state property, excluding public auctions, was deposited into the Sale of State Surplus Property Fund.

In our opinion, except for the effect of such adjustments, if any, as might have been determined to be necessary had we been able to examine State Surplus Property inventory, the financial statement referred to in the first paragraph above presents fairly, in all material respects, the revenues collected and expenses paid of Surplus Property of the West Virginia Department of Administration's Purchasing Division for the years then ended June 30, 2003 and June 30, 2002 on the basis of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for the purposes of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectively submitted,


Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

May 7, 2004

Auditors: Ethelbert Scott, Jr., CPA, Supervisor
Rhonda L. Combs, CPA, Auditor-in-Charge
Amy J. Swain, CPA
Bonita P. Compton
William Spencer, III, CPA

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION SURPLUS PROPERTY
STATEMENT OF CASH RECEIPTS, DISBURSEMENTS
AND CHANGES IN CASH BALANCES

	<u>Year Ended June 30,</u>	
	<u>2003</u>	<u>2002</u>
Cash Receipts:		
State Surplus Property Sales	\$1,537,723.86	\$1,258,492.35
State Surplus Property Sales	1,537,723.86	1,258,492.35
Public Auction Sales	1,058,314.80	384,435.62
Federal Surplus Property Sales	<u>226,843.36</u>	<u>211,080.84</u>
	4,360,605.88	3,112,501.16
Disbursements:		
Personal Services	712,818.00	717,384.54
Employee Benefits	235,236.63	227,979.49
Current Expenses	1,122,709.50	837,984.87
Repairs and Alterations	29,494.96	24,627.93
Assets	9,330.15	37,927.74
Other Disbursements	10,863.55	2,360.11
Transfer of Funds (IGT)	<u>7,028.00</u>	<u>7,388.00</u>
	<u>2,127,480.79</u>	<u>1,855,650.68</u>
Cash Receipts Over Disbursements	2,233,125.09	1,256,850.48
Beginning Balance	<u>740,607.45</u>	<u>742,249.32</u>
Ending Balance	<u>\$2,973,732.54</u>	<u>\$1,999,099.80</u>

See Notes to Financial Statements

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SURPLUS PROPERTY

NOTES TO FINANCIAL STATEMENTS

Note A - Accounting Policies

Accounting Method: The cash basis of accounting is followed, therefore certain revenue and related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

Note B - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employees' contributions are 4.5% of their annual compensation and employees have vested rights under certain circumstances. The Department of Administration Purchasing Division Surplus Property matches contributions at 9.5% of the compensation on which the employees made contributions. Surplus Property's pension expenditures were as follows:

	<u>Year Ended June 30,</u>	
	<u>2002</u>	<u>2001</u>
Special Revenue	<u>\$67,691.17</u>	<u>\$67,107.34</u>

SUPPLEMENTAL INFORMATION

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION SURPLUS PROPERTY
STATEMENT OF CASH RECEIPTS DISBURSEMENTS
AND CHANGES IN CASH BALANCES
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>2003</u>	<u>2002</u>
<u>Sale of Federal Surplus Property Fund 2280</u>		
Cash Receipts:		
Federal Surplus Property Sales	<u>\$226,843.36</u>	<u>\$211,080.84</u>
	226,843.36	211,080.84
Disbursements:		
Operating Transfer to Surplus Property Fund 2281	<u>400,000.00</u>	<u>100,000.00</u>
Total Disbursements	400,000.00	100,000.00
Cash Receipts (Under)/Over Disbursements	(173,156.64)	111,080.84
Beginning Balance	<u>672,616.47</u>	<u>561,535.63</u>
Ending Balance	<u>\$499,459.83</u>	<u>\$672,616.47</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION SURPLUS PROPERTY
STATEMENT OF CASH RECEIPTS DISBURSEMENTS
AND CHANGES IN CASH BALANCES
SPECIAL REVENUE

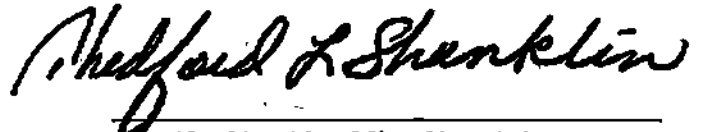
	<u>Year Ended June 30,</u>	
	<u>2003</u>	<u>2002</u>
<u>Sale of State Surplus Property Fund 2281</u>		
Cash Receipts:		
State Surplus Property Sales	\$1,537,723.86	\$1,258,492.35
Public Auction Sales	1,058,314.80	384,435.62
Operating Transfer from Surplus Property Fund 2280	<u>400,000.00</u>	<u>100,000.00</u>
Total Receipts	2,996,038.66	1,742,927.97
Disbursements:		
Personal Services	712,818.00	717,384.54
Employee Benefits	235,236.63	227,979.49
Current Expenses	1,122,709.50	837,984.87
Repairs and Alterations	29,494.96	24,627.93
Assets	9,330.15	37,927.74
Other Disbursements	10,863.55	2,360.11
Transfer of Funds (IGT)	<u>7,028.00</u>	<u>7,388.00</u>
Total Disbursements	<u>2,127,480.79</u>	<u>1,855,650.68</u>
Cash Receipts Over/(Under) Disbursements	868,557.87	(112,722.71)
Beginning Balance	<u>67,990.98</u>	<u>180,713.69</u>
Ending Balance	<u>\$ 936,548.85</u>	<u>\$ 67,990.98</u>

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR:

I, Thedford L. Shanklin, CPA, 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 26th day of July, 2004.



Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Purchasing Division, Department of Administration; Governor; Attorney General; State Auditor; and, Director of Finance Division, Department of Administration.