

# **STATE OF WEST VIRGINIA**

## **AUDIT REPORT**

**OF**

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**

**GENERAL SERVICES DIVISION**

**STATE BUILDING COMMISSION FUND**

**FOR THE PERIOD**

**JULY 1, 1999 - JUNE 30, 2001**



**OFFICE OF THE LEGISLATIVE AUDITOR**

**CAPITOL BUILDING**

**CHARLESTON, WEST VIRGINIA 25305-0610**

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**

**GENERAL SERVICES DIVISION**

**STATE BUILDING COMMISSION FUND**

**FOR THE PERIOD**

**JULY 1, 1999 - JUNE 30, 2001**

# WEST VIRGINIA LEGISLATURE

## *Joint Committee on Government and Finance*

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To the Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 5A, Article 2, as amended, we have examined the accounts of the State Building Commission Fund, General Services Division of the West Virginia Department of Administration.

Our examination covers the period July 1, 1999 through June 30, 2001. The results of the examination are set forth on the following pages of this report.

Respectfully submitted,

TLS/jdb

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**

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WEST VIRGINIA DEPARTMENT OF ADMINISTRATION  
GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND  
EXIT CONFERENCE

We held an exit conference on January 3, 2003, with the Secretary of the West Virginia Department of Administration. Director of the Finance Division and Director of the Leasing Section and several other representatives of the West Virginia Department of Administration. All findings and recommendations were reviewed and discussed. The above-named officials' responses are included in bold and italics in the Summary of Findings, Recommendations and Responses and after our recommendations in the General Remarks section of this report.

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**

**INTRODUCTION**

The State Building Commission of West Virginia was created on February 9, 1966 under Chapter 5, Article 6, Section 1, as amended of the West Virginia Code to replace the State Office Building Commission of West Virginia which was created under the same Code section in 1939. In 1989, the State Building Commission was transferred to and incorporated in and administered as part of Department of Administration. Effective July 1, 2000, Article 6 was changed to State Buildings and the power and authority granted to the State Building Commission was transferred to the Secretary of Administration.

The Secretary of the Department of Administration has broad powers and extensive authority to provide for the construction of building and related facilities for use and occupancy by the various agencies and departments of State government, and to finance the cost of construction of such buildings and incidental facilities by the issuance and sale of State Building Revenue Bonds. The Secretary is empowered to charge rents for the use of a project or building financed with the proceeds from sales of such revenue bonds and to provide for the maintenance, repair and operation of such projects and buildings. In addition to collecting rent from State agencies for office space, the Secretary charges lessees for repairs and alterations performed that are not part of the general maintenance of the buildings.

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**ADMINISTRATIVE OFFICERS AND STAFF**  
**AS OF JUNE 30, 2001**

Greg Burton .....	Secretary Department of Administration
Dorothy V. Yeager .....	Deputy Secretary Department of Administration
David Pentz .....	Director General Services Division
Bill Pauley .....	Deputy Director General Services Division
Tammy King .....	Director Leasing Section
Andrew Fizer .....	Deputy Director Finance Division

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES**

**Lack of Effective System of Internal Controls**

1. During the course of our examination, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the General Services Division, State Building Commission Fund 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 Division comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended and establish a system of internal controls.

**No Formal Procedures in Effect for the Determination of the "Fair Rental Value" of Property/Office Space**

2. The Department of Administration's Leasing Division does not have formal written procedures to determine "fair rental value" of property/office space being considered for acquisition. Currently, the Leasing Section oversees approximately 742 leases; 54 with the Department of Administration, 56 with other spending units and 632 with private lessors. A total of approximately \$31,284,000.00 is

expended annually for the acquisition of property/office space; \$7,600,000.00 to the Department of Administration, \$484,000.00 to other spending units and \$23,200,000.00 to private lessors.

**Auditors' Recommendation**

We recommend the Department of Administration's Leasing Section establish formal written procedures in complying with Chapter 5A, Article 3, Section 40 of the West Virginia Code, as amended and Title 148, Series 2, Section 3 of the Leasing Sections's Legislative Rules.

**Agency's Response**

*The Leasing Section will prepare and issue an RFP with the goal of obtaining services adequate to prepare detailed written procedures for determining fair market value property/office space. In addition, we are currently reviewing the need for a qualified appraisal of all state owned buildings to determine fair rental value. (See pages 16 - 19.)*

**Certification of Necessary Space  
Missing from Tenant Files**

3. Spending units desiring to lease space must file with the Leasing Officer of the Purchasing Division of the Department of Administration a "Requisition For Space" which contains certification made by the Chief Executive Officer or his designee. Of the 15 leases we examined, four leases did not have the required certifications and one lease did not have the "Requisition For Space".

**Auditors' Recommendation**

We recommend the Department of Administration's Purchasing Division's Leasing Section comply with Chapter 5A, Article 3, Section 40 of the West Virginia Code, as amended.

**Agency's Response**

*We will adhere to Chapter 5A, Article 3, Section 40 of the West Virginia Code.*

(See Pages 19 and 20.)

**Disbursements Relating to Chilled Water Plant  
Erroneously Paid from State Building Commission Fund**

4. We noted the State Building Commission Fund (Fund) has been paying the majority of the operating expenses for Building 11, Central Chilled Water Plant. We believe that by the Central Chilled Water Plant being built from appropriated General Revenue moneys and not from the issuance of State building revenue bonds or from monies of the Fund, the disbursements relating to the Water Plant should be paid from General Revenue funds.

**Auditors' Recommendation**

We recommend the Department of Administration comply with Chapter 5, Article 6, Sections 5 and 8 of the West Virginia Code, as amended.

**Agency's Response**

*We interpreted the rule to mean that the Chiller Plant was an appropriate disbursement.* (See pages 21 - 23.)

**Year-end Transfer of Disbursements  
To Prevent Expiration of Appropriation**

5. During our review of subsequent events of the General Services Division - State Building Commission, we noted the Department of Administration moved disbursements totaling \$151,044.05 from a special revenue account to a general revenue account to prevent the expiration of the general revenue appropriation.

**Auditors' Recommendation**

We recommend the Department of Administration comply with Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended and transfer the disbursements totaling \$151,044.05 back to the General Services Division - State Building Commission Fund and allow the balances in the General Services Division Appropriated Fund to expire.

**Agency's Response**

*We agree with this finding and will research the disbursement to insure we comply with Chapter 12, Article 3, Section 12 of the West Virginia Code in the future. We will also research the ability of the General Services Division to allow approximately \$151,000 to expire. (See pages 23 - 25.)*

**Purchase of Real Property from Wrong Fund**

6. The Department of Administration purchased real property located at 2006 Quarrier Street for \$206,000.00. This property was paid for from two separate accounts, \$100,000.00 from the General Services Division - State Building Commission Fund and \$106,000.00 from the Capitol Dome and Capitol Improvements Fund. We believe the amount disbursed from the Capitol Dome

and Capitol Improvements Fund is in noncompliance with the Legislative intent of the Fund and should not have been disbursed.

**Auditors' Recommendation**

We recommend the Department of Administration comply with Chapter 5A, Article 4, Section 2(c) of the West Virginia Code, as amended and reimburse the Capitol Dome and Capitol Improvement Fund \$106,000.00.

**Agency's Response**

*We interpreted the purchase of the real property to be an improvement to the capitol complex based on the proximity of the property to the capitol complex.*

(See pages 25 -27.)

**Unauthorized Charges for Services Provided by  
State Building Commission Fund Craft Crew Employees**

7. We were unable to find any statutory authority through State laws, rules or regulations permitting the State Building Commission Fund to charge for services provided by its Craft Crew operations. The Craft Crew consists of carpenters, electricians, plumbers, security personnel, custodians and general laborers which provide spending units with services such as painting, moving furniture, electrical and plumbing projects, security services, custodial services and renovation projects. From fiscal years 1999 through 2002, the Craft Crew has collected \$2,550,351.97 from its operations.

**Auditors' Recommendation**

We recommend the Department of Administration's State Building Commission Fund comply with Chapter 5, Article 6, Section 4 (11) of the West Virginia Code, as amended.

**Agency's Response**

*We are currently reviewing a methodology which would allow General Services to include maintenance charges as a component of overall lease rates. In lieu of this methodology we are also considering utilizing expense to expense charges in order to reimburse Craft for expenses incurred.* (See pages 27 and 28.)

**Payments to the Department of Administration's  
Accounting Section For Accounting Services**

8. The General Services Division - State Building Commission Fund was charged \$99,650.36 for fiscal year 2001 and \$76,763.06 for fiscal year 2000 for accounting services provided by the Department of Administration's Finance Division's Accounting Section. We were unable to find any State laws, rules or regulation authorizing the Accounting Section to charge spending units for anything other than services relating to the Single Audit Service Fund.

**Auditors' Recommendation**

We recommend the General Services Division - State Building Commission Fund prohibit the expenditure of its funds to IS&C for accounting charges. We again recommend the Department of Administration comply with Chapter 5A, Article 2, Section 1 and Chapter 5A, Article 7, Section 6 of the West Virginia Code, as amended.

*Agency's Response*

*We are currently reviewing the Accounting Sections billing methods. Since the Accounting Section was created in 1990, the IS&C has used their billing authority to assist Accounting in recovering the cost of their function. We will be asking the Legislature for the authority to bill for services. (See pages 29 - 31.)*

**Division of Purchasing's State-Wide  
Contract Rules Not Being Followed**

9. The General Services Division's State Building Commission Fund is not following the Division of Purchasing's procurement policies, procedures and guidelines requiring spending units to purchase commodities available from existing Statewide Contracts. If spending units do not utilize Statewide contract vendors, vendors will not realize the volume of business anticipated by offering items at a reduced cost, and may possibly have to discontinue the contract and eventually the Purchasing Division may not be able to continue the Statewide Contract Program.

**Auditors' Recommendation**

We recommend the Department of Administration's State Building Commission Fund comply with Section Six "Agency Purchasing Procedures" of the Department of Administration's Purchasing Division "Policies and Procedures Handbook".

*Agency's Response*

*We will comply with Section Six "Agency Purchasing Procedures" of the Department of Administration's Purchasing Division's "Policies and Procedures Handbook". (See page 31 - 33.)*

**Unauthorized Signatures on  
Purchasing Card Receipts**

10. We noted many instances of purchasing card receipts signed by someone other than the authorized cardholder. The practice of someone signing the receipts other than the cardholder appears to be routine for the Fund's cardholder. The Fund staff said that due to the volume of purchasing card purchases and the Purchasing Assistants other duties, it is not possible for the Purchasing Assistants to pick-up items ordered and sign the purchasing card receipts. The "State Purchasing Card Program Policies and Procedures" state that card delegation is strictly prohibited.

**Auditors' Recommendation**

We recommend the Department of Administration comply with the West Virginia State Auditor's Office's "State Purchasing Card Program Policies and Procedures".

**Agency's Response**

*We will comply with the State Auditor's Office, "State Purchasing Card Program's Policies and Procedures". (See pages 33 - 35.)*

**Lunch Periods Included as Time Worked**

11. We noted lunch periods are included as time worked when calculating total hours worked by the General Services Division - State Building Commission Fund (Fund) employees each work week which is in noncompliance with the West Virginia Division of Personnel's Fair Labor Standards Act For Public Employees Policy. When completing "Individual Attendance Reports", the Fund employees indicate they have worked eight hours of regular time, however the eight hours

included a one-half hour lunch period. The Fund employees were paid \$619.64 in overtime payments as a result of the spending unit paying time and one-half rate for hours worked between a regular workweek of 37.5 hours (excluding lunch periods) and 40 hours of actual work or “gap time”.

**Auditors’ Recommendation**

We recommend the Department of Administration comply with the Division of Personnel’s Fair Labor Standards Act For Public Employees Policy.

**Agency’s Response**

*We will comply with the Fair Labor Standards Act of 1938, as amended.* (See pages 35 and 36.)

**Lack of Supporting Documentation**

12. We noted the following instances where the General Services Division - State Building Commission Fund (Fund) was unable to provide us with adequate supporting documentation regarding certain financial activities of the Fund. We believe these instances would be in non-compliance with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, as well as other specific section of the West Virginia Code, rules and regulation of policies and procedures.
  1. The Fund was unable to provide us time sheets supporting the payroll transactions for the period July 1, 1999 through December 31, 1999.
  2. The Fund was unable to provide us with documentation showing three bid attempts on three transactions totaling \$22,993.00.
  3. Supporting documentation for seven Purchasing Card transactions totaling \$2,780.40 could not be located.
  4. We were unable to locate the assigned inventory tag on three equipment items.

5. We noted 29 invoices totaling \$788,614.26 that did not have the appropriate approval signature needed for payment.

**Auditors' Recommendation**

We recommend the Department of Administration's State Building Commission Fund comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended.

**Agency's Response**

*We will comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code.*

(See pages 36 - 38.)

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**

**GENERAL REMARKS**

**INTRODUCTION**

We have completed a post audit of the State Building Commission Fund, General Services Division of the West Virginia Department of Administration. The audit covered the period July 1, 1999 through June 30, 2001.

**SPECIAL REVENUE ACCOUNT**

During the audit period, the State Building Commission Fund operated from the following special revenue accounts:

<b><u>Account Number</u></b>	<b><u>Description</u></b>
State Building Commission Fund:	
2241-099 .....	Unclassified
2241-640 .....	Departmental and Miscellaneous Income
Asbestos Litigation Recovery Fund:	
2250-099 .....	Unclassified
2250-640 .....	Departmental and Miscellaneous Income
2250-523 .....	Investment Earnings
Education, Arts, Sciences, and Tourism Debt Service Fund:	
2252-523 .....	Statutory Transfers
2252-640 .....	Departmental and Miscellaneous Income

## **COMPLIANCE MATTERS**

Chapter 5, Article 6 and Chapter 5A, Article 3, Sections 38 through 42 of the West Virginia Code generally govern the State Building Commission Fund, General Services Division of the West Virginia Department of Administration. We tested applicable sections of the above, plus the State Building Commission - General Services Division and Leasing Sections's rules and regulation and other applicable chapters, articles and sections of the West Virginia Code as they pertain to fiscal matters. Our findings are discussed below:

### **Lack of Effective System of Internal Controls**

During the course of our examination, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the State Building Commission - General Services Division did not have an effective system of internal controls in place to ensure compliance with applicable State laws. Chapter 5A, Article 8, Section 9 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 the General Services Division's State Building Commission Fund (Fund), we found the following noncompliance with State laws or other rules and

regulations: **(1)** The Department of Administration's Leasing Section does not have formal written procedures to determine "fair rental value" of property/office space being considered for leasing. **(2)** We were unable to locate certification statements for four spending units that lease property/office space from the same private vendor in the same building. **(3)** The Fund has been paying the majority of the operating expenses of Building 11, Central Chilled Water Plant, which we believe are erroneous and should be paid from General Revenue moneys. From fiscal year 1997 through fiscal year 2002, the Fund has expended \$1,030,712.89 for the Central Chilled Water Plant. **(4)** The Department of Administration moved disbursements totaling \$151,044.05 relating to Building 9, (Culture and History) from a special revenue account to a general revenue account to prevent the expiration of a general revenue appropriation. **(5)** The Department of Administration disbursed \$106,000.00 from the Capitol Dome and Capitol Improvements Fund for the purchase of real property, which we believe is in noncompliance with Chapter 5A, Article 4, Section 2 (c) of the West Virginia Code, as amended. **(6)** We were unable to find any statutory authority permitting the Fund to charge for services provided by its' Craft Crew operations. From fiscal year 1999 through 2002, the Fund has received from spending units a total of 2,550,351.97 in income generated from services provided by it's Craft Crew. **(7)** The Fund disbursed \$176,413.42 during fiscal years 2000 and 2001 to the Department of Administration's Finance Division for accounting services. We were unable to find any State laws, rules or regulation authorizing the Accounting Section to charge spending units for their services. **(8)** The Fund is not complying with the Division of Purchasing's procurement policies, procedures and guidelines requiring spending units to purchase available commodities from existing Statewide Contracts. The Fund purchased computers at a cost of \$3,243.00 from a vendor who was not included in the

Statewide Contract. (9) We noted many instances of State purchasing card receipts signed by someone other than the authorized cardholder. (10) We noted lunch periods are included as time worked when calculating total hours worked by the Fund employees each work week. Attendance reports indicate the employees are working eight hours, however the eight hours include a one-half hour lunch period. (11) The Fund was unable to provide us with supporting documentation regarding certain financial activities: time sheets to support payroll transactions; documentation of three bid attempts for three disbursement transactions totaling \$22,993.00; supporting documentation for seven Purchasing Card transactions totaling \$2,780.40 could not be located; we were unable to locate the assigned inventory tag on three equipment items; and, we noted 29 invoices totaling \$788,614.26 that did not have the appropriate approval signature needed for payment.

**No Formal Written Procedures for  
Fair Rental Value of Property/Office Space**

As of July 2002, total annual lease costs were approximately \$31,284,000 Statewide for property/office space. Of this total, State agencies leased property/office space from private lessors, the Department and other State spending units at an approximate cost of \$23,200,000, \$7,600,000 and \$484,000, respectively. The Secretary of Administration is authorized by statute to execute leases for the preceding spaces at a price not to exceed fair rental value. We noted no formal written procedures have been established by the Department to determine fair rental value. We believe written procedures need to be established for lease agreements in relation to fair rental value determinations including rent escalations. The Secretary of Administration is granted the authority to lease property/office space by Chapter 5A, Article 3, Section 39 of the West Virginia Code which states,

“The secretary is authorized to lease, in the name of the state, any grounds, buildings, office or other space required by any department, agency or institution of state government: Provided , That the secretary may expressly delegate, in writing, the authority granted to him by this article to the appropriate department, agency or institution of state government when the rental and other costs to the state do not exceed the sum specified by regulation in any one fiscal year or when necessary to meet bona fide emergencies arising from unforeseen causes.”

The Secretary of Administration is required, before executing any contract or lease, to determine the fair rental value of any property/office space requested by a spending unit.

Chapter 5A, Article 3, Section 40 of the West Virginia Code, as amended, states in part:

“ . . . The secretary shall, before executing any rental contract or lease, determine the fair rental value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall contract for or lease said premises at a price not to exceed the fair rental value thereof. . . .”

Further, Legislative Rule, Title 148, Series 2, Section 3 states in part,

“ . . . To determine the fair rental value of the space requested, the Secretary of Administration may appoint a real estate appraiser to make such determination. The cost of the appraisal shall be borne by the spending unit requesting the space and the appraisal shall be based on the condition in which the space exists and any improvements required by the spending unit.

No contract or lease shall be entered into if the rental exceeds the fair rental value of the space requested.”

The Director of Leasing told us that her duties include the determination of fair rental values for properties/office space throughout the State. Although the Director is not a licensed real estate appraiser, she told us that knowledge and experience obtained through her employment at the Department enables her determine fair rental values. She further stated the

Department does not use the services of an appraiser as provided for above because the cost to the State would not be financially beneficial and obtaining these services would delay the lease process. To the Director's knowledge, no appraiser has ever been used to assist in the determination of fair rental value for leases. We asked and were told that no cost-benefit study had been performed for using appraiser services.

During our review, we noted nine separate leases by state spending units for similar property in the same business park from the same private lessor that range from \$11.45 to \$16.02 per square foot. We further noted that most leases contain a rent escalation clauses. We asked the Director of Leasing why the rent per square foot rates vary for basically similar property. She stated that the current fair rental value for this area is \$12 to \$13 per square foot. The leases that exceed that amount have been in existence for some time, some maybe 10 years, and the per square foot charge has risen due to escalation clauses in the lease agreements that had been approved by prior secretaries. Reasons for rent escalations could include amortization of renovations and inflation. The following chart depicts the lease, space amount, rent costs per month, year and square foot, rent escalation clause, types of services included in the rent, and the end of the lease period:

#	<u>Lease No.</u>	<u>Sq. Ft.</u>	<u>Rent Per</u>		<u>Sq. Ft.</u>	<u>Escalation</u>	<u>Utility</u>	<u>Janitorial</u>	<u>Lease</u>
		<u>Per Space</u>	<u>Month</u>	<u>Year</u>		<u>Clause</u>	<u>Service</u>	<u>Services</u>	<u>Ended</u>
1	<u>BRC-001-205</u>	<u>1200</u>	<u>\$1,602</u>	<u>\$19,224</u>	<u>\$16.02</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>02/28/2005</u>
2	<u>RAC-001-503</u>	<u>1000</u>	<u>\$1,335</u>	<u>\$16,020</u>	<u>\$16.02</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>05/31/2003</u>
3	<u>PNB-002-D02</u>	<u>2025</u>	<u>\$2,495</u>	<u>\$29,935</u>	<u>\$14.78</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>12/31/2002</u>
4	<u>BOM-001-D02</u>	<u>8645</u>	<u>\$10,380</u>	<u>\$124,555</u>	<u>\$14.41</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>12/31/2002</u>
5	<u>RNB-002-D02</u>	<u>4245</u>	<u>\$5,089</u>	<u>\$61,073</u>	<u>\$14.39</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>12/31/2002</u>

6	<u>WCF-064-D02</u>	<u>2232</u>	<u>\$2,223</u>	<u>\$26,672</u>	<u>\$11.95</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>12/31/2002</u>
7	<u>SAO-005-206</u>	<u>4800</u>	<u>\$4,700</u>	<u>\$56,400</u>	<u>\$11.75</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>02/28/2006</u>
8	<u>WCF-066-506</u>	<u>1945</u>	<u>\$1,904</u>	<u>\$22,854</u>	<u>\$11.75</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>05/31/2006</u>
9	<u>WCF-063-203</u>	<u>4700</u>	<u>\$4,485</u>	<u>\$53,814</u>	<u>\$11.45</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>02/28/2003</u>

Although rents vary based on services offered, property classifications, locations, etc., we believe written definitions and procedures for determining “fair rental value” are necessary to ensure that value determinations are applied uniformly and the State is not paying more for space than its fair rental value.

We recommend the Department of Administration establish formal written procedures to ensure value determinations are applied uniformly and the State is not paying more than fair rental value for leased space in accordance with Chapter 5A, Article 3, Section 40 of the West Virginia Code, as amended.

**Agency’s Response**

*The Leasing Section will prepare and issue an RFP with the goal of obtaining services adequate to prepare detailed written procedures for determining fair market value property/office space. In addition, we are currently reviewing the need for a qualified appraisal of all state owned buildings to determine fair rental value.*

**Certification of Lease Space**  
**Missing from Tenant Files**

During our subsequent review of 15 leases, we were unable to locate certification statements from four spending units that leased property/office space from the same private lessor in the same building. Certification statements are required in accordance with Chapter 5A, Article 3, Section 40 of the West Virginia Code, as amended, which states in part:

“The secretary shall have sole authority to select and to acquire by contract or lease, in the name of the state, all grounds, buildings, office space or other space, the rental of which is necessarily required by any spending unit, upon a certificate from the chief executive officer or his designee of said spending unit that the grounds, buildings, office space or other space requested is necessarily required for the proper function of said spending unit, that the spending unit will be responsible for all rent and other necessary payments in connection with the contract or lease and that satisfactory grounds, buildings, office space or other space is not available on grounds and buildings now owned or leased by the state. . . .”

Without certification statements, we are unable to determine if the leased space was required for the proper function of the spending units, if the spending units were responsible for the rents, and that satisfactory spaces were not available on properties that were already owned or leased by the State. To lease office space, spending units are required to complete a “Requisition for Space” form as promulgated in Legislative Rule, Title 148, Series 2.1 which states in part,

“A spending unit desirous of leasing any ground, building, office space or other space shall submit to the Leasing Officer of the Purchasing Division of the Department of Administration a completed Requisition for Space on the form provided by the Leasing Office, signed by the chief executive officer or his/her designee . . . .”

A standard “Requisition for Space” form contains the following certification clause at the bottom of the form for signature by the chief executive officer or his designee:

“I certify: 1) that the costs of rent and other expenses incurred for the space described herein shall be the full responsibility of this agency; 2) this space is required for the proper function of this agency; and, 3) that satisfactory space is not available on grounds or in buildings or facilities currently owned or leased by the State.”

Of the four leases with no certification statements, no “Requisition for Space” form could be located for one lease while the other three leases had the entire certification clause missing from the bottom of the forms.

We recommend the Department of Administration comply with Chapter 5A, Article 3, Section 40 of the West Virginia Code, as amended.

**Agency’s Response**

*We will adhere to Chapter 5A, Article 3, Section 40 of the West Virginia Code.*

**Disbursements Relating to Chilled Water Plant  
Erroneously Paid from State Building Commission Fund**

During our examination of disbursements made from the State Building Commission Fund (Fund), we noted the Fund has been paying the majority of the operating expenses of Building 11, Central Chilled Water Plant (Water Plant). We believe that by the Water Plant being built from appropriated General Revenue moneys and not from the issuance of state building revenue bonds or from monies of the Fund, the disbursements relating to the Water Plant should be paid from General Revenue funds. Chapter 5, Article 6, Section 5 of the West Virginia Code, as amended, in establishing the Fund, states in part:

“ . . . All moneys of the commission from whatever source derived . . . shall deposit them to a special revenue fund to be known as the “state building commission fund”. **The moneys in the account shall be impressed with and subject to the lien or liens on the moneys in favor of the bondholders provided in the proceedings for issuance of bonds pursuant to this article. . . .” (Emphasis added)**

Further, Chapter 5, Article 6, Section 8 of the West Virginia Code, as amended, states in part:

“(a) The commission is hereby empowered to raise the cost of a project, as defined in this article, by the issuance of state building revenue bonds of the state, the principal of and interest on which shall be payable solely from the special revenue fund provided in

section five [§5-6-5] of this article for the payment. Subject to the proceeding pursuant to which any bonds outstanding were authorized and issued pursuant to this article, **the commission shall pledge the moneys in the special revenue fund, except that part of the proceeds of sale of any bonds to be used pay the cost of a project and for the payment of the principal of and interest on bonds issued pursuant to this article....” (Emphasis added)**

Also, by statute the Fund is charged with maintaining and operating only projects authorized. Chapter 5, Article 6, Section 4 (11) of the West Virginia Code, as amended, states:

“To maintain, construct and operate a project authorized under this article;”

The definition of a “project” as defined in Chapter 5, Article 6, Section 3(3) is as follows:

“Project means collectively the acquisition of land, the construction, equipping, maintaining and furnishing of a building or buildings, together with incidental approaches, structures and facilities, herein authorized to be constructed;...”

Personnel in the Department of Administration said that funds were not normally available in the General Services Division appropriated funds. Also, we believe the Department of Administration’s attempt to reimburse the Fund for the Water Plant expenses (discussed below) indicated the Department also believed the Fund should not be paying for the operation and maintenance of the Water Plant.

During the period, July 1, 1996 through June 30, 2002, the following amounts of moneys per fiscal year were disbursed from the Fund for the operation and maintenance of the Water Plant:

<u>Fiscal Year</u>	<u>Amount</u>
1997.....	\$ 188.34
1998.....	\$ 0.00
1999.....	\$ 13,589.47
2000.....	\$332,423.00
2001.....	\$333,698.26
2002.....	\$350,804.82

The amount shown above for fiscal year 2001 has been reduced by \$32,998.60. This amount was reimbursed to the Fund in an attempt by the Department of Administration to reimburse the Fund for disbursements for fiscal year 2001. Paperwork was prepared to reimburse the Fund from the Department of Administration's General Services Division Appropriation for total disbursements of \$366,697.36 for fiscal year 2001, however, at the end of the fiscal year only \$32,998.60 remained of the appropriation to be transferred.

We recommend the Department of Administration comply with Chapter 5, Article 6, Sections 5 and 8 of the West Virginia Code, as amended.

**Agency's Response**

*We interpreted the rule to mean that the Chiller Plant was an appropriate disbursement. Also, by statute the Fund is charged with maintaining and operating only projects authorized. Chapter 5, Article 6, Section 4 (11) of the West Virginia Code, as amended, states:*

*The definition of a project" as defined in Chapter 5, Article 6, Section 3(3) is as follows:*

*"Project means collectively the acquisition of land, the construction, equipping, maintaining and furnishing of a building or buildings, together with the incidental approaches, structures and facilities, herein authorized to be constructed;..."*

**Year-end Transfer of Disbursements  
To Prevent Expiration of Appropriation**

During our review of subsequent events of the General Services Division - State Building Commission Fund (Fund), we noted the Department of Administration moved disbursements totaling \$151,044.05 from a special revenue account to a general revenue account to prevent the expiration of the general revenue appropriation. These disbursements were initially

paid from the Fund which we believe is the proper account from which the disbursements should be paid. The Culture and History Building is one of the buildings in the Capitol Complex that is the specific responsibility of the State Building Commission due to the building being constructed with funds provided from the issuance of revenue bonds of the former State Building Commission. Chapter 5, Article 6, Section 4, Subsections (11)(12) and (13) states in part:

- “ . . .(11) To maintain, construct, and operate a project authorized under this article;...
- (12) To charge rentals for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved in whole or in part with the proceeds of sale of bonds issued pursuant to this article, subject to and in accordance with such agreements with bondholders as may be made as provided in this article: . . .
- (13) To issue negotiable bonds and to provide for the rights of the holders of the negotiable bonds; . . .”

The expense-to-expense transfer dated July 5, 2001 moved the disbursements related to Building 9 (Culture and History ) from the Fund Account (2241) to the General Services Division Account (0230) in which funds were set to expire. The transfer was made during the 30 day period in which expenditures, incurred prior to June 30 of any given year, are permitted to be paid from the current fiscal year's appropriation before unexpended balances will expire. By making this transfer, the General Services Division - State Building Commission Fund was able to prevent the expiration of any funds in the General Services Appropriated Unclassified Account.

Chapter 12, Article 3, Section 12, of the West Virginia Code, as amended, states in part:

“Every appropriation which is payable out of the general revenue, or so much thereof as may remain undrawn at the end of the year for which made, shall be deemed to have expired at the end of the year for which it is made, and no warrant shall thereafter be issued upon it:...”

The disbursements totaling \$151,044.05 were for the following expenses relating to Building 9 (Culture and History Building):

Fire, Auto, Bond and Other Insurance	\$ 8,400.08
Building and Household Equipment Repair	\$ 25.54
Other Repairs and Alterations	\$ 852.42
Water and Sewage Expense	\$ 8,037.97
Fire Service Fees	\$ 12,650.67
Custodial	\$ 93,199.56
Contractual	\$ 6,855.00
HVAC Maintenance Contract	\$ 8,872.41
Elevator Maintenance Contract	<u>\$ 12,150.00</u>
	<u>\$151,044.05</u>

The Department of Administration believed that since the Division of Culture and History was not paying rent, the disbursements should never had been paid from the State Building Commission Fund. Although rental monies have never been collected from Building 9, statutorily Building 9 is still the property and responsibility of the State Building Commission Fund (Fund).

We recommend the Department of Administration comply with Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended and transfer the disbursements totaling \$151,044.05 back to the General Services Division - State Building Commission Fund and allow the balance in the General Services Division Appropriated Fund to expire.

**Agency's Response**

*We agree with this finding and will research the disbursement to insure we comply with Chapter 12, Article 3, Section 12 of the West Virginia Code in the future. We will also research the ability of the General Services Division to allow approximately \$151,000 to expire.*

## Purchase of Real Property from Incorrect Fund

In January 2001, the Department of Administration purchased real property located at 2006 Quarrier Street, Charleston, West Virginia in the amount of \$206,000.00. The Department paid for this property from two separate Funds. The General Services Division - State Building Commission Fund disbursed \$100,000.00 for the property and the Capitol Dome and Capitol Improvements Fund disbursed the balance of \$106,000.00.

The Secretary of Administration is granted authority to acquire real property under the State Building Commission's Fund, Chapter 5, Article 6, Section 4(3) of the West Virginia Code, as amended, which states:

“. . . To contract to acquire and to acquire, in the name of the commission or of the state, by purchase, lease, lease-purchase or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish those purposes; . . .”

Chapter 5A, Article 4, Section 2(c) of the West Virginia Code states:

“There is created in the state treasury a special revenue account to be named the “capitol dome and capitol improvements fund.” . . . Moneys in the fund shall be expended for maintenance and repairs of the capitol dome and other capital improvements and repairs to **state-owned buildings.**” (emphasis added)

We believe the \$106,000.00 disbursed from the Capitol Dome and Capitol Improvement Fund is in noncompliance with Chapter 5, Article 4, Section 2 (c) of the West Virginia Code, as amended and should not have been disbursed. More specifically, the monies are to be spent only on the Capitol Dome or State-owned buildings. Disbursement of monies from the Capitol Dome and Capitol Improvements Fund that do not appear to be relative to the Fund could delete the monies that may be needed for future repairs or improvements to the

Capitol Dome or other State-owned buildings. Department of Administration officials believed that purchase of this real property constituted a capital improvement and therefore was a legitimate disbursement from the Capitol Dome and Capitol Improvement Fund.

We recommend the Department of Administration comply with Chapter 5A, Article 4, Section 2(c) of the West Virginia Code, as amended, and reimburse the Capitol Dome and Capitol Improvement Fund \$106,000.00.

**Agency's Response**

*We interpreted the purchase of the real property to be an improvement to the capitol complex based on the proximity of the property to the capitol complex. We interpreted this to mean:*

*Chapter 5A, Article 4, Section 2(c) of the West Virginia Code states:*

*“There is created in the state treasury a special revenue account to be named the “capitol dome and capitol improvements fund.”...Moneys in the fund shall be expended for maintenance a repairs of the capitol dome and other capitol improvements and repairs to state-owned buildings.”*

**Unauthorized Charges for Services Provided by  
State Building Commission Fund Craft Crew Employees**

We were unable to find any statutory authority through State laws, rules or regulation permitting the State Building Commission Fund (Fund) to charge for services provided by its' Craft Crew operations. The Craft Crew consists of carpenters, electricians, plumbers, security personnel, custodians and general laborers. The Craft Crew provides many services to spending units including painting, moving furniture, electrical and plumbing projects, security services, custodial services and renovation projects among others. Craft Crew also provides

services for events held at the Capitol Complex. Spending units, organizations and individuals are charged for the services provided by the Craft Crew.

The Fund is mandated by Statute to maintain and operate authorized projects with no mention of charging for its' services. Chapter 5, Article 6, Section 4 (11) of the West Virginia Code, as amended, states:

“To maintain, construct and operate a project authorized under this article;...”

Furthermore, the definition of a “project” as defined in Chapter 5, Article 6, Section 3(3) is as follows:

“Project” means collectively the acquisition of land, the construction, equipping, maintaining and furnishing of a building or buildings, together with incidental approaches, structures and facilities, herein authorized to be constructed;...”

The charges imposed by the Fund consist of labor, materials and a ten percent labor administrative fee. Income generated from these charges represent a small portion of the Funds income, ten percent or less is generated from the services provided by the Craft Crew. The table below shows the income generated from Craft Crew operations. Income generated is driven by the amount of work requested to be performed in any fiscal year and is used to pay personnel and related charges and materials.

<u>Fiscal Year</u>	<u>Amount</u>
1999.....	\$683,275.64
2000.....	\$213,007.46
2001.....	\$803,093.46
2002.....	\$850,975.41

We asked the Department of Administration to site specific authority for the Fund to charge spending units for the services of the Craft Crew and the authority to charge an

additional amount for an administrative fee. The Department of Administration responded by saying:

“While no specific code authority could be found to support the billing for rent or other services, it has been the long standing practice (dating back to at least 1988) to bill for those activities. . . .It has been the long standing practice of General Services (dating back to at least 1988) to include a separate charge for an administrative fee...”

We recommend the Department of Administration’s State Building Commission Fund comply with Chapter 5, Article 6, Section 4 (11) of the West Virginia Code, as amended.

**Agency’s Response**

*We are currently reviewing a methodology which would allow General Services to include maintenance charges as a component of overall lease rates. In lieu of this methodology we are also considering utilizing expense to expense charges in order to reimburse Craft for expenses incurred.*

**Payments to the Department of Administration’s Accounting Section For Accounting Services**

The General Services Division - State Building Commission Fund (Fund) was charged for accounting services provided by the Department of Administration’s Finance Division’s Accounting Section. We were unable to find any State laws, rules or regulation authorizing the Accounting Section to charge spending units for anything other than services relating to the Single Audit or the Comprehensive Annual Financial Report (CAFR) for the Single Audit Services Fund.

The Accounting Sections’s policy of billing spending units for accounting services was previously discussed in an audit conducted on the Department of Administration’s Finance

Division. Accounting charges in the amount of \$99,650.36 for fiscal year 2001 and \$76,763.06 for fiscal year 2000 were paid by the Fund . We believe the Fund should not be paying for these services since there is no authority for the Accounting Section to charge for their services.

The services provided to spending units under the Department of Administration (DOA) include: payroll processing, payment processing, preparation of reports related to taxes and benefits; maintenance of employee leave and personnel records, budget and cash analysis for payroll and employee benefits expenditures, rental and craft billings, as well as other services. The Information, Services and Communications Division (IS&C) provides funding for the Accounting Section's employees' salaries and benefits and issues quarterly invoices to the various spending units within the DOA to recover these payroll costs. The amount of the invoice is determined by the number of hours of services provided each spending unit. The number of payroll and direct hours are derived from time records kept by the Accounting Section employees. Time spent on payroll and leave processing is allocated to the spending units by the number of payroll checks issued for the last quarter of each payroll

Chapter 5A, Article 2, Section 1 of the West Virginia Code, as amended, states in part:

“ . . . The accounting section shall have the duties conferred upon it by this article and by the secretary, including, but not limited to, general financial accounting, payroll, account payable and accounts receivable for the department of administration. . . .”

Chapter 5A, Article 7, Section 4 of the West Virginia Code, as amended, which deals with the IS&C states in part:

“(a) The division is responsible for providing technical services and assistance to the various state spending units with respect to developing and improving data processing and telecommunications

functions. The division may provide training and direct data processing services to the various state agencies. . . .

(b) The director is responsible for the development of personnel to carry out the technical work of the division. . . .

(c) The director may assess each state spending unit for the cost of any evaluation of the economic justification, system design and suitability of equipment and systems used by the state spending unit or any other technical assistance that is provided or performed by the chief technology officer and the division. . . .”

Also, Chapter 5A, Article 7, Section 6 of the West Virginia Code, as amended,

states:

“The director shall employ such persons as shall be necessary to carry out the provisions of sections seven, eight, nine and ten [ §§ 5A-7-7 to 5A-7-10] of this article.”

The provisions in Sections seven through nine of Chapter 5A, Article 7 relate to the central mailing office and Section 10 creates a special revolving fund and the types of receipts and disbursements which are legally authorized within that fund.

Accounting Section personnel told us that Accountings’ payroll had been paid from the IS&C fund since 1990. It appears the this billing procedure is in place because IS&C is permitted by the West Virginia Code to charge spending units for services rendered by them.

We recommend the General Services Division-State Building Commission Fund prohibit the expenditure of its funds to IS&C for accounting charges. We again recommend the Department of Administration comply with Chapter 5A, Article 2, Section 1 and Chapter 5A, Article 7, Section 6 of the West Virginia Code as amended.

Agency's Response

*We are currently reviewing the Accounting Sections billing methods. Since the Accounting Section was created in 1990, the IS&C has used their billing authority to assist Accounting in recovering the cost of their function. We will be asking the Legislature for the authority to bill for services.*

Division of Purchasing's State-Wide  
Contracts Rules Not Being Followed

The General Services Division's State Building Commission Fund (Fund) is not following the Division of Purchasing's procurement policies, procedures and guidelines requiring spending units to purchase commodities available from existing Statewide Contracts. During our examination we found an instance of the Fund purchasing computers from a vendor who was not part of the Statewide Contract established for the purchasing of peripherals, software and related services. The following computers, computer accessories and software purchases were made by the Fund from vendor not on the Statewide Contract:

Computers Plus

4/23/01	Three Diamond Ultra Computers	\$3,243.00
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A Statewide Contract is defined in the Division of Purchasing's "Policies and Procedures Handbook" as follows:

"A legal and binding instrument between the state and a vendor(s) which is used by all state agencies to purchase frequently used commodities and services. **State agencies are required to use these contracts**, which are competitively bid, awarded and maintained by the Purchasing Division."(Emphasis added.)

Statewide contracts are one of the mandatory contracts that must be used by State agencies.

Section 4.6.2.1 of the "Policies and Procedures Handbook" states:

**“Statewide Contracts: *West Virginia Code*, §5a-3-5,** authorizes the Purchasing Director to promulgate and adopt standard specifications based on scientific and technical data for appropriate commodities and services, which establishes the quality to which such commodities and services to be purchased and services to be contracted for by the state must conform. These standard specifications are used to establish statewide contracts for commodities that are needed on a repetitive basis and are established for the benefit of state spending units.

No agency may be exempt from using statewide contracts without prior written approval from the Purchasing Director. . . .”

State spending units purchasers are reminded throughout the Division of Purchasing’s “Policies and Procedures Handbook” to find out if a “Statewide Contract” exist for whatever commodity they are purchasing. Section six “Agency Delegated Acquisition Procedures” of the Handbook requires agencies, under each level of purchasing “\$1,000 and Less:”, “\$1001 to \$5,000:” and “\$5,000 to \$10,000” to:

“ . . . Agencies must first check mandatory contracts or internal resources, such as statewide contract or agency open-end contract exists for the commodity or service or if Surplus Property, Correctional Industries, or West Virginia Association of Rehabilitation Facilities is able to supply the need: . . .”

Also, some Statewide Contracts have numerous vendors from which spending units may choose to purchase the commodities they need. For instance, the Statewide Contract for the purchase of peripherals, software and related services consist of seven vendors. Spending units are to contact the vendors included in the Statewide Contract for the best price. However, in the purchase of the above computers, the three vendors, contacted by the Fund for verbal bids, were not part of the Statewide Contract. When we asked Department of Administration personnel why the above items were not purchased from the Statewide Contract, we were told that possibly

the employees doing the purchasing were not aware that a Statewide contract existed for the items.

The theory behind Statewide Contract purchasing is to offer items to spending units throughout the various regions of the State from specific vendors at a fair price. This fair price may not always be the best price in certain regions, but probably the best price a vendor may be able to afford in order to service all regions of the State. If spending units do not utilize Statewide contract vendors, vendors will not realize the volume of business anticipated by offering items at a reduced cost and possibly have to drop out of the contract and eventually the Purchasing Division may not be able to continue the Statewide Contract Program.

We recommend the Department of Administration's State Building Commission Fund comply with Section Six "Agency Purchasing Procedures" of the Department of Administration's Purchasing Division's "Policies and Procedures Handbook".

**Agency's Response**

***We will comply with Section Six "Agency Purchasing Procedures" of the Department of Administration's Purchasing Division's "Policies and Procedures Handbook".***

**Unauthorized Signatures on Purchasing Card Receipts**

While reviewing the receipts supporting the purchasing card transactions paid from the General Services Division's State Building Commission Fund (Fund) , we noted many instances of purchasing card receipts signed by someone other than the authorized cardholder. The purchasing cards are issued to the Purchasing Assistants for the General Services Division; however, in one month, we noted five credit card receipts totaling \$3,480.56 signed by other employees within the Division. Considering the volume of merchandise and services acquired by

the Fund with the State Purchasing Card, the practice of someone signing the receipts other than the cardholder appears to be routine for the Fund's cardholders.

When purchasing cards are used by individuals other than the authorized cardholder, the security of the purchasing card is compromised. Therefore, there is a greater possibility of unauthorized purchases and purchases that are not for the benefit of the State. Section 3.4 of the State Auditor's "State Purchasing Card Program Policies and Procedures" states in part:

“. . . **Card Delegation** - The process of allowing an individual other than the cardholder whose name appears on the front of the purchasing card to initiate or complete a transaction. . . . The person's name appearing on the purchasing card is responsible for all transactions appearing on the statement and is responsible for each card issued in his or her name. . . **Card Delegation is strictly prohibited.** . . .” (Emphasis added.)

Card security was also mentioned in an audit report of another Division in the Department of Administration. This report conducted by the Office of the State Auditor's Purchasing Card Post-Audit staff of certain purchasing card transactions stated in part:

“. . . The field audit revealed instances in which more than one person is authorizing transactions using the same Purchasing Card. The audit revealed that it is common practice to allow employees who are not cardholders to sign credit card receipts, . . . This situation creates serious security risks for the individual cardholders that are responsible for every purchase made on their card.

. . . The Purchasing Card Program recommends that individual cardholders keep their Purchasing Card in a secure location at all times. If an employee needs to pick up an order that was paid for with the Purchasing Card by phone, the Purchasing Card Program recommends that the employee sign an itemized invoice, and that the credit card receipt be faxed to the actual cardholder.”

The Fund staff stated that they believed this was the most important finding in the report and they were implementing steps to overcome the finding.

According to Fund staff, phone orders are placed by the Purchasing Assistants, however, because of the large volume of purchasing card purchases and their additional purchasing duties, it is not possible for the Purchasing Assistants to take time to pick up the purchases. Therefore, other employees frequently pick up these items ordered with the purchasing card and consequently sign their name to the receipt.

We recommend the Department of Administration comply with the West Virginia State Auditor's Office, "State Purchasing Card Program's Policies and Procedures".

**Agency's Response**

*We will comply with the State Auditor's Office, "State Purchasing Card Program's Policies and Procedures".*

**Lunch Periods Included as Time Worked**

We noted lunch periods are included as time worked when calculating total hours worked by the General Services Division - State Building Commission Fund (Fund) employees each work week, which is in noncompliance with the federal Fair Labor Standards Act of 1938, as amended (FLSA). When completing "Individual Attendance Reports" the Fund employees indicate they have worked eight hours of regular time, however the eight hours includes a one-half hour lunch period. The employees have actually only "worked" seven and one-half hours. Inaccurate employee attendance reports may cause inaccurate employee compensation.

According to the FLSA, time sheets must be maintained for employees covered by the Act, and lunch periods are not to be included as time worked except during certain situations.

Title 29, Code of Federal Regulations (CFR), Part 516.2, “Records to be Kept by Employers” states in part,

“(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:...

“(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),...”

Meal periods are defined in Title 29 CFR, Part 785.19- Meal as follows:

“(a) *Bona fide meal periods.* Bona fide meal periods are not worktime. Bona fide meal periods do not include coffee breaks or time for snacks. These are rest periods. The employee must be completely relieved from duty for the purposes of eating regular meals. Ordinarily 30 minutes or more is long enough for a bona fide meal period....”

Administration officials said they were not aware they were having employees complete the attendance reports inaccurately since employees are paid for a 40 hour work week which includes a paid lunch period.

We recommend the Department of Administration comply with the Fair Labor Standards Act of 1938, as amended.

**Agency’s Response**

*We will comply with the Fair Labor Standards Act of 1938, as amended.*

**Lack of Supporting Documentation**

We noted the following instances where the General Services Division - State Building Commission Fund (Fund) was unable to provide us with adequate supporting documentation regarding certain financial activities of the Fund. We believe these instances

would be in non-compliance with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, as well as other specific sections of the West Virginia Code, rules and regulations or policies and procedures which are stated within the affected instance. Chapter 5A, Article 8, Section 9 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. . . .”

1. The Fund was unable to provide us with the time sheets supporting the payroll transaction for the period July 1, 1999 through December 31, 1999. As a result of the missing time sheets, we were unable to determine if the employees were paid properly and if the hours actually worked were approved.
2. During our testing of the Fund’s repairs and alterations disbursements, Department of Administration personnel were unable to provide us with documentation showing three bid attempt on three transactions totaling \$22,993.00. The State of West Virginia Purchasing Division’s Agency Purchasing Manual, Section Six, provides guidelines, policies, and procedures in regard to the bidding process and states in part:

“6.1.3 \$5,001 to \$10,000.00: A minimum of three (3) written bids shall be obtained. . . . In all cases, state agencies must attempt to obtain at least three written bids for a product or service. A no bid is not considered a bid. . . . Fax bids are acceptable. . . .”

Without the documentation of the three bids, we were unable to determine if the Fund paid a fair price for the merchandise purchased and if all vendors had the opportunity to participate in the bidding process.

3. Supporting documentation for seven Purchasing Card transactions totaling \$2,780.40 could not be located. Since the Fund was unable to provide us with these documents supporting payment transactions, we were unable to verify if the proper amounts were paid, if the disbursements were unauthorized and approved as an actual State expenditures, and if the payments were paid promptly.
4. We were unable to locate the assigned inventory tag on three equipment items; one tugger cable puller and two Toro deck lawnmowers. With equipment not

properly tagged, the incidence of theft is made greater. The Department of Administration's Purchasing Division's Inventory Management & Surplus Property Disposition Policies and Guidelines 3.11 states in part:

“All equipment over \$1,000.00 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 tag 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. . . .”

5. In our test of disbursement transactions, we noted 29 invoices totaling \$788,614.26 that did not have the appropriate approval signature needed for payment. According to the procedures described to us by the General Services Division's Projects Manager and the Accounting Technician, General Services Division's invoices are sent to the Project's Manager or Director of General Services for their signature approving them for payment

Nineteen of the invoices were for janitorial services, three were for water treatment services, one each for boiler repairs, telephone bill, heating and ventilation, garbage service, elevator service, liability and property insurance, central mailing and security services. Twenty-one of the invoices were not signed by anyone and eight were signed by the accounting technician processing them for payment.

According to the Accounting Technician, prior to fiscal year 2002, the policy of the Accounting Section of the Department of Administration's Finance Division was to process on-going and/or month-to-month invoices of a set amount, without evidence of proper approval. Beginning with fiscal year 2002, the Accounting Section has started to obtain prior approval, identified by the “approval for payment” stamp for all invoices before preparing them for payment.

If invoices are being approved for payment by someone other than the person responsible for approval, payments could be made from the Fund for purchases or services that have not been authorized or for items or services that have not been received by the Fund.

We recommend the Department of Administration's State Building Commission Fund comply with Chapter 5A, Article 8, Section 9 of the West Virginia code, as amended.

**Agency's Response**

***We will comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code.***  
**INDEPENDENT AUDITORS' OPINION**

The Joint Committee on Government and Finance:

We have audited the statement of cash receipts, disbursements and changes in cash and investment balances of the State Building Commission Fund, General Services Division of the West Virginia Department of Administration for the years ended June 30, 2001 and June 30, 2000. The financial statement is the responsibility of the management of the State Building Commission Fund, General Services Division of the West Virginia Department of Administration. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance as to whether the financial statement is free of 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.

As described in Note A, the financial statement was prepared on the cash basis of accounting which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the cash receipts collected and disbursements paid by the State Building Commission Fund, General Services Division of the West Virginia Department of Administration for the years ended June 30, 2001 and June 30, 2000 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 except for the effects, if any, of the matters discussed in paragraph three above, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectfully submitted,

September 20, 2002

Auditors: Ethelbert Scott, Jr., Supervisor  
Charles L. Lunsford, Auditor-in-Charge  
Melanie L. Nuckols, CPA  
Rhonda L. Combs  
Peter J. Maruish, Jr., CPA  
Thomas F. Ward, CPA  
Noah E. Cochran, CPA  
Trent W. Morton  
Frank A. Ciordia

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**STATEMENT OF CASH RECEIPTS, DISBURSEMENTS**  
**AND CHANGES IN CASH AND INVESTMENT BALANCES**

	<b><u>Year Ended, June 30,</u></b>	
	<b><u>2001</u></b>	<b><u>2000</u></b>
<b>Cash Receipts:</b>		
Transfers from West Virginia Lottery	\$ 9,999,737.50	\$ 9,995,987.50
Rental Income	7,870,316.28	7,695,923.20
Insurance Proceeds - Building Loss	0.00	18,532.18
Charges for Building Repairs and Alterations	803,093.46	213,007.46
Investment Earnings	623,815.00	558,988.43
Court Settlement Revenues	231,484.62	0.00
Refund - Payment of Taxes	39,089.15	0.00
Transfer from General Revenues - Capitol Complex - Capitol Outlay (Fiscal Year 1999)	0.00	10,000.00
	<u>19,567,536.01</u>	<u>18,492,438.77</u>
<b>Disbursements:</b>		
Personal Services	1,944,403.87	1,775,187.92
Employee Benefits	672,784.37	634,525.75
Current Expenses	4,513,025.59	4,252,488.09
Repairs and Alterations	509,129.68	479,769.65
Equipment	176,535.29	111,509.35
Land Purchase	100,000.00	0.00
Buildings	1,332,799.86	1,379,462.11
Public Employees Insurance Reserve	18,814.00	0.00
Debt Service	9,999,737.50	9,995,987.50
	<u>19,267,230.16</u>	<u>18,628,930.37</u>
Cash Receipts Over/(Under) Disbursements	300,305.85	(136,491.60)
Beginning Balance	<u>11,082,454.89</u>	<u>11,218,946.49</u>
Ending Balance	<u>\$11,382,760.74</u>	<u>\$11,082,454.89</u>

*See Notes to Financial Statements*

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**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's General Services Division's State Building Commission Fund matches contributions at 9.5% of the compensation on which the employees made contributions. The General Services Division's State Building Commission Funds pension expenditures were as follows:

	<u>Year Ended June 30,</u>	
	<u>2001</u>	<u>2000</u>
Special Revenue	<u>\$179,668.38</u>	<u>\$165,442.89</u>

**Note C - Cash and Investment Balances**

The amounts of cash and investment balances were as follows:

	<u>Year Ended June 30,</u>	
	<u>2001</u>	<u>2000</u>
Cash	\$ 585,103.65	\$ 738,718.66
Investments	<u>10,797,657.09</u>	<u>10,343,736.23</u>
	<u>\$11,382,760.74</u>	<u>\$11,082,454.89</u>

SUPPLEMENTAL INFORMATION

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**STATEMENT OF CASH RECEIPTS, DISBURSEMENTS**  
**AND CHANGES IN CASH BALANCE**  
**SPECIAL REVENUE**

	<u>Year Ended, June 30,</u>	
	<u>2001</u>	<u>2000</u>
<b><u>State Building Commission Fund (2241-640/099)</u></b>		
Cash Receipts:		
Rental Income	\$7,870,316.28	\$7,695,923.20
Insurance Proceeds - Building Loss	0.00	18,532.18
Refund - Payment of Taxes	39,089.15	0.00
Charges for Building Repairs and Alterations	<u>803,093.46</u>	<u>213,007.46</u>
	8,712,498.89	7,927,462.84
Disbursements:		
Personal Services	1,894,536.89	1,775,187.92
Employee Benefits	662,226.26	634,525.75
Current Expenses	4,310,852.67	4,069,691.53
Repairs and Alterations	436,076.92	474,675.65
Equipment	161,991.19	106,138.82
Land Purchase	100,000.00	0.00
Buildings	1,332,799.86	1,379,462.11
Public Employees Insurance Reserve	<u>18,381.00</u>	<u>0.00</u>
	<u>8,916,864.79</u>	<u>8,439,681.78</u>
Cash Receipts Under Disbursements	(204,365.90)	(512,218.94)
Beginning Balance	<u>659,240.03</u>	<u>1,171,458.97</u>
Ending Balance	<u>\$ 454,874.13</u>	<u>\$ 659,240.03</u>

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**STATEMENT OF CASH RECEIPTS, DISBURSEMENTS**  
**AND CHANGES IN CASH BALANCE**  
**SPECIAL REVENUE**

	<u>Year Ended June 30,</u>	
	<u>2001</u>	<u>2000</u>
<b><u>Asbestos Litigation Recovery Fund (2250-640/099)</u></b>		
Cash Receipts:		
Investment Earnings	\$637,269.54	\$543,780.07
Court Settlement Revenues	231,484.62	0.00
Transfer from General Services -		
Capitol Complex - Capitol Outlay (Fiscal Year 1999)	0.00	10,000.00
	<u>868,754.16</u>	<u>553,780.07</u>
Disbursements:		
Personal Services	49,866.98	0.00
Employee Benefits	10,558.11	0.00
Current Expenses	202,172.92	182,796.56
Repairs and Alterations	73,052.76	5,094.00
Equipment	14,544.10	5,370.53
Public Employees Insurance Reserve	433.00	0.00
Net Transfer to Investment Fund	<u>467,375.40</u>	<u>343,780.07</u>
	<u>818,003.27</u>	<u>537,041.16</u>
Cash Receipts Over Disbursements	50,776.29	16,738.91
Beginning Balance	<u>79,478.63</u>	<u>62,739.72</u>
Ending Balance	<u>\$130,229.52</u>	<u>\$ 79,478.63</u>

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**STATEMENT OF CASH RECEIPTS, DISBURSEMENTS**  
**AND CHANGES IN CASH BALANCE**  
**SPECIAL REVENUE**

	<u>Year Ended June 30,</u>	
	<u>2001</u>	<u>2000</u>
<b><u>Education, Arts, Science, Tourism Debt Service</u></b>		
<b><u>Fund (2252-640/523)</u></b>		
Cash Receipts:		
Transfers from West Virginia Lottery	\$9,999,737.50	\$9,995,987.50
Disbursements:		
Debt Service	<u>9,999,737.50</u>	<u>9,995,987.50</u>
Beginning Balance	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION**  
**GENERAL SERVICES DIVISION - STATE BUILDING COMMISSION FUND**  
**INVESTMENT ACCOUNT**  
**SPECIAL REVENUE**

	<b><u>Year Ended, June 30,</u></b>	
	<b><u>2001</u></b>	<b><u>2000</u></b>
<b><u>Asbestos Litigation Recovery Fund Acct. 160000000-01</u></b>		
Additions:		
Dividends Reinvested	\$ 623,815.00	\$ 558,988.43
Transfers to State Board of Investments	<u>130,105.86</u>	<u>0.00</u>
	753,920.86	558,988.43
Deductions:		
Withdrawals from State Board of Investments	<u>300,000.00</u>	<u>200,000.00</u>
	453,920.86	358,988.43
Beginning Balance	<u>10,343,736.23</u>	<u>9,984,747.80</u>
Ending Balance	<u>\$10,797,657.09</u>	<u>\$10,343,736.23</u>

**STATE OF WEST VIRGINIA**

**OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:**

I, Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the report of audit 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 5<sup>TH</sup> day of January 2003.

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

