

STATE OF WEST VIRGINIA

AUDIT REPORT

OF

***WEST VIRGINIA
CONSOLIDATED PUBLIC RETIREMENT BOARD***

EXPENSE FUND

FOR THE PERIOD

JULY 1, 2003 - JUNE 30, 2005



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

FOR THE PERIOD

JULY 1, 2003 - JUNE 30, 2005

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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CHARLESTON, WEST VIRGINIA 25305-0610

To the Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the Expense Fund as administered by the West Virginia Consolidated Public Retirement Board (CPRB).

Our examination covers the period July 1, 2003 through June 30, 2005. The results of this examination are set forth on the following pages of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Theford L. Shanklin".

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

TLS/cds

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

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WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

EXIT CONFERENCE

We held an exit conference on April 19, 2007 with the Executive Director of the West Virginia Consolidated Public Retirement Board (CPRB) and all findings and recommendations were reviewed and discussed. The Board's responses are included in bold and italics in the Executive Summary and after our findings in the General Remarks section of this report.

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

INTRODUCTION

Consolidated Public Retirement Board

Effective July 1, 1991, Chapter 5, Article 10D of the West Virginia Code created the West Virginia Consolidated Public Retirement Board (CPRB). The Board's duties are to administer all State Retirement Systems. It shall have all the powers, duties, responsibilities and liabilities of the Public Employees Retirement System (PERS); the Teachers Retirement System (TRS); the Teachers' Defined Contribution Retirement System (TDCRS or TDC Plan); the Death, Disability and Retirement Fund (Plan A) of the West Virginia State Police; and the Judges' Retirement System (JRS). Subsequent to July 1, 1991, the Board also began administering (in addition to the aforementioned retirement systems) the West Virginia State Police Retirement System (Plan B) on March 12, 1994 and the Death, Disability and Retirement Fund for Deputy Sheriffs on July 1, 1998. Additionally, the Board is responsible for administering a 457 Deferred Compensation Plan, which members of the other State Retirement Systems can utilize to supplement their regular retirement.

The Board consists of 14 members as follows: the Governor; State Treasurer; State Auditor; Secretary of the Department of Administration; four residents of the State who are not members, retirees or beneficiaries of any of the retirement systems; a member, annuitant or retiree of the Public Employees Retirement System who is or was a State employee; a member, annuitant or retiree of the Public Employees Retirement System who is not or was not a State employee; a member, annuitant or retiree of the Teachers Retirement System; a member,

annuitant or retiree of the State Police Death, Disability and Retirement Fund; a member, annuitant or retiree of the Deputy Sheriff's Death, Disability and Retirement System; and, a member, annuitant or retiree of the Teachers' Defined Contribution Retirement System.

The Board elects from its own number a chairman and vice chairman. The Board is granted the authority under State law to appoint an executive director to be the chief administrative officer of all of the retirement systems. The executive director is responsible for employing, with the Board's approval, such administrative, technical and clerical employees as are required in the proper operation of the retirement systems. Also, the Board is authorized by State law to employ a state retirement actuary or actuarial firm and be represented by an attorney who is licensed to practice law in the state of West Virginia who is not a member of any of the retirement systems administered by the Board.

The Board is required by law to meet at least once every three months, with seven voting members constituting a quorum. All board meetings must be public. Members serve without compensation for their services, provided that each member is reimbursed, upon Board approval, for any necessary expenses incurred by them in carrying out their duties. No public employee member may suffer any loss of salary or wages on account of their service as a trustee.

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

CONSOLIDATED PUBLIC RETIREMENT BOARD MEMBERS AND STAFF

AS OF JUNE 30, 2005

BOARD MEMBERS

Governor Joe Manchin III Ex Officio

Robert W. Ferguson, Jr., Secretary of Department
of Administration Ex Officio

Glen B. Gainer III, State Auditor Vice Chairman - Ex Officio

John Perdue, Treasurer Ex Officio

William McGinley State Resident

Janet Wilson State Resident

David Wyant Chairman - State Resident

Carl Guthrie State Resident

Paul Hardesty State Employee Member
Public Employees Retirement System

Drema B. Evans Non-State Employee Member
Public Employees Retirement System

E. Gene Davis Teachers Retirement System Member

David Anderson Teachers' Defined Contribution
Retirement System Member

F. Douglas Beasley Division of Public Safety's Death,
Disability and Retirement Fund Member

Donald T. Murray Deputy Sheriff's Death, Disability
and Retirement Fund Member

STAFF

Joseph J. Jankowski, Jr Executive Director (July 1, 2003 to February 23, 2005)

Terasa Miller Acting Executive Director (February 23, 2005 to June 30, 2005)

Harry Mandel Board Actuary

Lori Cottrill Accounting Manager

Cynthia Boyd Internal Auditor

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

EXECUTIVE SUMMARY

1. System of Internal Control

During the course of our audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the Consolidated Public Retirement Board (CPRB) 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 of the West Virginia Code 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 spending unit operates in compliance with the laws, rules and regulations which govern it.

Auditors' Recommendation

We recommend the CPRB comply with Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code, as amended, and establish a system of internal control.

Spending Unit's Response

The West Virginia Consolidated Public Retirement Board believes that it has a very effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations and so I would disagree with your general statement in your report that it does not have such a system. (See pages 11 and 12)

2. Contracts Not Provided

The CPRB could not provide us with copies of the agreements required by State Purchasing Division policies which support transactions totaling \$11,905.39 made to a vendor who provided professional and consulting services to the CPRB during the period July 1, 2003 through June 30, 2005. By not ensuring that a written agreement is entered into which stipulates a negotiated price and the expected services before the services are rendered, the CPRB risks paying more for the services than expected or not receiving the services needed.

Auditors' Recommendation

We recommend the CPRB comply with Section 8.13 of the West Virginia Purchasing Division Policies and Procedures Handbook.

Spending Unit's Response

We will comply with the audit recommendation. (See pages 12-15)

3. Fixed Assets

We discovered 10 instances where CPRB did not enter items of Information Technology equipment with a total purchase price of \$20,609.81 into the WVFIMS Fixed Asset System. In addition, we noted nine instances where items of equipment which were purchased during our audit period were entered into the West Virginia Fixed Asset System, however, the State Tag Number was entered incorrectly. Fixed assets which are not properly tagged and entered into the West Virginia Fixed Asset System are at an increased likelihood of being misappropriated.

Auditors' Recommendation

We recommend the CPRB comply with Sections 3.6, 3.11 and 3.12 of Appendix G of the West Virginia Purchasing Division, Inventory Management and Surplus Property Division's Inventory Management and Surplus Property Disposition Policies and Guidelines.

Spending Unit's Response

We will comply with the audit recommendation. (See pages 15-18)

4. Payment of Salary Before Services Were Rendered

We noted four instances where employees were overpaid a total of \$253.63. In three instances, employees were overpaid a total of \$159.55 due to the employees being paid for an entire workweek even though the employees had not worked the entire week. In the fourth instance, an employee was overpaid \$94.08 due to the employee being paid twice for the same day of work. Based on the results of our work, we project that employees of the CPRB may have been overpaid as much as a total of approximately \$16,000.00 during the audit period.

Auditors' Recommendation

We recommend the CPRB comply with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended by ensuring that employees are not paid for time they have not worked.

Spending Unit's Response

CPRB is in agreement in general with this finding. (See pages 18-20)

5. Incorrect Payment of Overtime

We noted 11 employees in our sample were either overpaid or underpaid for overtime worked resulting in a total overpayment of \$367.99. Based on the results of our work, we estimate that all employees of the CPRB may have been overpaid as much as approximately \$1,000.00 for incorrectly calculated overtime payments during the audit period.

Auditors' Recommendation

We recommend the CPRB comply with the Fair Labor Standards Act of 1938, as amended, the West Virginia Department of Personnel's Interpretive Bulletin of the Fair Labor Standards Act (BOP-B5), and the overtime policies as set forth in the West Virginia Department of Administration's Employee Handbook.

Spending Unit's Response

CPRB agrees in general that there were some inconsistent entries, particularly on weeks that contained a holiday. (See pages 20-23)

6. P-Card Log Sheets

During our audit of Purchasing Card activity which occurred during Fiscal Years 2005 and 2004, we noted that CPRB purchasing cardholders are not completing their P-Card log sheets as transactions occur. Instead, these cardholders are completing the P-Card log sheets while performing the monthly reconciliation.

Auditors' Recommendation

We recommend the CPRB comply with Section 7.2 of the State Purchasing Card Policies and Procedures published by the State Auditor's Office.

Spending Unit's Response

A CPRB employee was told by two P-Card Auditors that because the CPRB had so few P-Card transactions that the P-Card log could be completed during the monthly reconciliation process. CPRB wants to follow the appropriate process and will request written direction from the State Auditor. (See pages 23 and 24)

7. Incorrect Payment of Late Charges

We noted the CPRB incorrectly paid \$49.64 relating to late payment charges to a vendor regarding the purchase of computer equipment under a Statewide contract. According to the records made available to us, payment was made approximately 35 days after receipt of the vendor's invoice and vendors are not due interest unless payment is made more than 60 days after receipt of an uncontested invoice.

Auditors' Recommendation

We recommend the CPRB comply with Chapter 5A, Article 3, Section 54 of the West Virginia Code, as well as, applicable sections of the policies and procedures of the West Virginia Purchasing Division.

Spending Unit's Response

We will comply with the audit recommendation. (See pages 24-26)

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the Expense Fund as administered by the West Virginia Consolidated Public Retirement Board (CPRB). The audit covered the period July 1, 2003 through June 30, 2005.

SPECIAL REVENUE ACCOUNT

During the audit period, the CPRB maintained one special revenue account to contain the assessments received and to account for all expenditures related to the operation of the Consolidated Public Retirement Board as required by law. Monies collected were deposited with the State Treasurer in the following special revenue account:

| <u>Account Number</u> | <u>Description</u> |
|------------------------------|--------------------------------|
| 2120..... | Administrative Expense Account |

COMPLIANCE MATTERS

Chapter 5, Article 10D of the West Virginia Code generally governs the administration of the CPRB's Expense Fund. We tested applicable sections of the above plus other applicable chapters, articles, and sections of the West Virginia Code as they pertain to financial matters. Our findings are discussed below.

System of Internal Control

During the course of our audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the Consolidated Public Retirement Board 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 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 Expense Fund, as administered by the Consolidated Public Retirement Board, we found the following noncompliance with State laws or other rules and regulations: **(1)** The CPRB could not provide us with copies of agreements made with a vendor for professional and consulting services totaling \$11,905.39. **(2)** We noted ten equipment items with a total purchase price of \$20,609.81 were not recorded in the West Virginia Fixed Asset System. **(3)** We observed that three CPRB employees included in our sample were overpaid a total of \$253.63 for time not worked during the audit period. Based on the results of our work, we project that employees of the CPRB may have been overpaid as much as a total of approximately \$16,000.00 during the audit period. **(4)** A total of 11 different CPRB employees were overpaid a total of \$381.98 related to overtime pay issues. When projecting the results of

our sample over the entire population of payroll transactions for the CPRB, we project that employees of the CPRB may have been overpaid as much as approximately \$1,000.00 for incorrectly calculated overtime payments during the audit period. (5) We noted CPRB purchasing cardholders are not completing their P-Card log sheets as transactions occur, rather they are completing the P-Card log sheets while performing the monthly reconciliation process. (6) The CPRB incorrectly paid a vendor \$49.64 for late payment charges.

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

Spending Unit's Response

The West Virginia Consolidated Public Retirement Board ("CPRB" or "Board") believes that it has a very effective system of internal controls in place to ensure compliance with applicable state laws, rules and regulations and so I would disagree with your general statement on page eight (8) of your report that it does not have such a system. However, all systems can be improved, and I appreciate your recommendations.

Contracts Not Provided

The CPRB could not provide us with the agreements which support transactions totaling \$11,905.39 made to a vendor, William M. Mercer Inc., who provided professional and consulting services to the CPRB during the audit period of July 1, 2003 through June, 30 2005. Since these agreements could not be provided, we were unable to determine the nature of the services performed or that the CPRB actually received the services for which payment was made. In accordance with State Purchasing Division policies, professional and consulting services provided by a vendor are required to be documented by a written agreement (WV-48)

between the State agency and the vendor. However, the CPRB could not provide us with the agreements which supported the payments listed below:

| <u>Doc ID #</u> | <u>Fiscal Year</u> | <u>Object Code</u> | <u>Payment Date</u> | <u>Vendor ID</u> | <u>Description of Transaction</u> | <u>Amount</u> |
|-----------------|--------------------|--------------------|---------------------|------------------|---|---------------------------|
| I006209074 | 2004 | 025/309 | 01/16/2004 | 0000020144 | Professional Services For OCT & NOV 2003 Per Code 5 10D-2 | \$ 3,950.00 |
| I006748779 | 2005 | 025/309 | 02/25/2005 | 0000020144 | Consulting Services AUG 2004 Thru Dec 04 Per Code 5 10D-2 | <u>7,955.39</u> |
| Total | | | | | | <u>\$11,905.39</u> |

In the first instance, payment totaling \$3,950.00 was made to a vendor, William M. Mercer Inc., for professional services provided in the months of October 2003 and November 2003. We were provided with Purchase Order #CPR20012 which was effective 11/01/2000 through 10/31/2001. Language within the contract allowed for two, (2) additional one year renewals or until such reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period was not to exceed 12 months. These additional renewals and the reasonable time period allowed for the contract to be extended, via change orders, through November 1, 2003. Purchase Order #CPR20012 was replaced by Purchase Order #CPR20012A effective November, 1 2002 through June 30, 2003. Purchase Order #CPR20012A extended and increased the amount of the original contract, according to all terms, conditions, and specifications contained in the original contract including all authorized change orders. Purchase Order #CPR20012A's second change order (Change Order #2) extended the original contract through September 30, 2003. No subsequent change orders were provided to us. In summary, we cannot substantiate that payment made to the vendor for services provided by the vendor in October 2003 and November 2003 was in accordance with any existing agreement since the only

agreement with this vendor which was provided to us was effective only through September 30, 2003.

In the second instance, payment totaling \$7,955.39 was made to a person who was an employee of William M. Mercer Inc. for consulting services provided from August 2004 through December 2004. These services were not related to Purchase Order #CPR20012A. We noted that similar services were provided by this person during the previous year (July 2003) and a written agreement between the CPRB and the individual existed at that time. However, the CPRB could not provide us with a written agreement between the respective parties for the services provided from August 2004 through December 2004.

Section 8.13 of the West Virginia Purchasing Division Policies and Procedures Handbook effective December 1, 2000 states in part,

“8.13 Professional Services: Professional service contracts provide a mechanism to acquire specific professional expertise. Legal, architectural, medical, dental, engineering, and other consultant services are best suitable for such contracts. These services should provide a direct benefit to the overall operation of the state and the purchase orders are restricted to the use of the originating agency only. . .

. . . 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.

8.13.3 Forms: **An agreement for professional or consulting services in any amount requires the Agreement, (WV-48).** (See Appendix B). This form alleviates the need to create complicated legal forms depending upon the complexity of the project. By utilizing the form, whose content and format have previously been approved, the agency will aid in the prompt processing of the contract.” **(Emphasis added)**

By not ensuring that a written agreement is entered into which stipulates a negotiated price and the expected services before the services are rendered, the CPRB risks paying more for the services than expected or not receiving the services needed.

In the first instance, the CPRB was unable to give us a reasonable explanation as to why an agreement could not be located. However, the CPRB's Acting Executive Director, told us that William M. Mercer, Inc. provided consulting services in relation to the Teachers Defined Contribution (TDC) Plan and that this was an involved process which lasted several years.

In relation to the second transaction, the CPRB's Acting Executive Director told us that the individual providing the services was an employee of William M. Mercer Inc. and that she provided fiduciary training to CPRB Board members. The Acting Executive Director stated that these services provided by the aforementioned individual were not related to the Mercer TDC contract and were paid as a one-time service. However, we noted upon reviewing the contract documentation, that an agreement existed between the individual and the CPRB for such services provided in July of 2003 which suggests that an agreement should have been entered into for the same services provided by the individual for August 2004 through December 2004.

We recommend the CPRB comply with Section 8.13 of the West Virginia Purchasing Division Policies and Procedures Handbook .

Spending Unit's Response

CPRB agrees that there were two instances in which no contracts could be found: 1) for the Mercer, Inc. professional services invoiced September and October 2003 and 2) for the one-time fiduciary training provided to Board members by an employee of Mercer Inc.

Unfortunately, these contracts would probably have been kept in the files of the Executive Director at that time. This Executive Director is no longer employed at CPRB.

To prevent this occurring again, all CPRB contracts, written agreements and other documents to support any invoice payment are now appropriately reviewed and appropriately filed before any payment on any invoice is made. CPRB's Chief Financial Officer and accounting manager are insuring that no one, including the Executive Director, has the authority to circumvent these purchasing requirements, as may have occurred in the past.

Fixed Assets

During our audit of equipment purchases which occurred during Fiscal Years 2005 and 2004, we discovered 10 instances where the CPRB did not enter certain items of Information Technology equipment into the WVFIMS Fixed Asset System with a total purchase price of \$20,609.81 as reflected in the following schedule:

| <u>Purchase Date</u> | <u>Type of Equipment</u> | <u>Serial Number</u> | <u>State Tag Number</u> | <u>Purchase Price</u> |
|-----------------------------|---------------------------------|-----------------------------|--------------------------------|------------------------------|
| 11/3/2003 | Dell Optiplex 6X270 | 1LKHP31 | 1654 | \$ 1,055.00 |
| 11/3/2003 | Dell Optiplex 6X270 | 3LKHP31 | 1653 | 1,055.00 |
| 11/3/2003 | Dell Optiplex 6X270 | 4LKHP31 | 1770 | 1,055.00 |
| 11/3/2003 | Dell Optiplex 6X270 | 5LKHP31 | 1718 | 1,055.00 |
| 11/3/2003 | Dell Latitude D600 (Laptop) | BVKHP31 | 1728 | 2,312.00 |
| 11/3/2003 | Dell Latitude D600 (Laptop) | GTKHP31 | 1753 | 2,312.00 |
| 1/17/2004 | Sync Master 213 T (Monitor) | NB21H4JV | 1658 | 1,190.01 |

| <u>Purchase Date</u> | <u>Type of Equipment</u> | <u>Serial Number</u> | <u>State Tag Number</u> | <u>Purchase Price</u> |
|----------------------|-----------------------------|----------------------|-------------------------|---------------------------|
| 1/17/2004 | Sync Master 213 T (Monitor) | M321H4JW | 1663 | 1,190.01 |
| 10/25/2004 | HP Proliant ML350 Server | EAO1KZR13K | 1695 | 7,470.00 |
| 12/28/2004 | Dell Latitude D600 (Laptop) | 922LC61 | 1775 | <u>1,915.79</u> |
| | | | Total | <u>\$20,609.81</u> |

In addition, we noted nine instances where items of equipment which were purchased during our audit period were entered into the West Virginia Fixed Asset System, however, the State Tag Number was entered incorrectly.

Additionally, we discovered two computers which had not been assigned State inventory tag numbers. We noted that one of these computers was located in the Information Technology (IT) Section in a vacated cubicle that was previously assigned to a former employee of the IT Section. Fixed assets which are not properly tagged and entered into the West Virginia Fixed Asset System are at an increased likelihood of being misappropriated.

Section 3.6 of Appendix G of the West Virginia Purchasing Division, Inventory Management and Surplus Property Division's, Inventory Management and Surplus Property Disposition Policies and Guidelines states in part,

"...any item which has 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." (**Emphasis added**)

Also, Section 3.11 of the same guidance states:

“Identification Tags: 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 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.” (Emphasis added)

In addition to Sections 3.6 and 3.11, Section 3.12 of the guidance states:

“Added Property: When an agency acquires new, reportable property/equipment, the item should be entered into the WVFIMS Fixed Asset system and labeled with a numbered identification tag. Agencies are responsible for adding new equipment into the WVFIMS Fixed Assets System. The equipment should be entered into the WVFIMS Fixed Asset system as soon as the vendor’s invoice has been paid and the FIMS ‘T’ document number has been established.” (Emphasis added)

An employee of the IT Section said that she is assigned the responsibility of attaching tags to new computer equipment and entering the equipment into the CPRB’s internal inventory system. This inventory system is used exclusively for computer equipment. She told us that when a new item of computer equipment is received, she does not immediately affix a State inventory tag to the item and enter it into her inventory listing, rather, the item is tagged and entered into the CPRB’s internal inventory system as time permits. Regarding the computer which had not been tagged, an employee of the CPRB’s Information Technology Section stated that the computer not having a State inventory tag was the result of employee oversight.

We recommend the CPRB comply with Sections 3.6, 3.11, and 3.12 of Appendix G of the West Virginia Purchasing Division, Inventory Management and Surplus Property Division’s, Inventory Management and Surplus Property Disposition Policies and Guidelines.

Spending Unit’s Response

CPRB is in agreement with the Auditors' findings that there were ten instances during FY 2003 and 2004 in which computers or other technology equipment were not appropriately entered into the WVFIMS Fixed Asset System and two computers without tags.

CPRB staff is now aware of the errors and will prevent repetitions in the future. A different employee has been charged with the responsibilities of the fixed assets and will be working on catching up the WVFIMS Fixed Asset System entries as well as the tagging schedule.

Payments of Salary Before Services Were Rendered

During our audit of payroll transactions for the period of July 1, 2003 through June 30, 2005, we noted four instances in our sample where employees were overpaid a total of \$253.63. In three instances, employees were overpaid a total of \$159.55 due to the employees being paid for an entire workweek even though the employees had not worked the entire week. In the fourth instance, an employee was overpaid \$94.08 due to the employee being paid twice for the same day of work. Based on the results of our work as described in the sentences above, we project that employees of the CPRB may have been overpaid approximately \$16,000.00 during the audit period.

CPRB employees are required to work a 40 hour work week. In the three instances where employees were paid for time not worked, time records indicated that the employees had not worked a 40 hour work week, however, payroll records indicated that the employees received their regular pay as if they had worked 40 hours. Leave records indicated that no leave had been taken by the employees to make up for the difference. Below is a schedule that summarizes the overpayments.

| <u>Employee</u> | <u>Payroll Date</u> | <u>Regular Pay Period Hours</u> | <u>Hours Worked Per Time Records</u> | <u>Difference</u> | <u>Hourly Rate</u> | <u>Overpayment</u> |
|-----------------|---------------------|---------------------------------|--------------------------------------|-------------------|--------------------|------------------------|
| #1 | 07/16/2003 | 92.00 | 91.25 | 0.75 | \$11.83 | \$ 8.87 |
| #1 | 09/15/2004 | 88.00 | 82.00 | 6.00 | \$12.74 | 76.43 |
| #2 | 02/27/2004 | 80.00 | 72.50 | 7.50 | \$ 9.90 | <u>74.25</u> |
| Total | | | | | | <u>\$159.55</u> |

The details of these transactions are as follows:

- *Employee #1* - The EPICS Payroll Records for the pay period ending 07/16/2003 indicated that the employee was paid for 8.00 hours for 07/10/2003. However, time records indicated that this employee should have only been paid for 7.25 hours (5.75 hours of work plus 1.50 hours of leave) for this day. As a result, the employee was overpaid \$8.87.
- *Employee #1 - 09/15/2004* - According to the CPRB's time records, this employee only worked 6.25 hours on 09/02/2004; 6.75 hours on 09/08/2004; 7.75 hours on 09/09/2004; 7.75 hours on 09/13/2004; 5.00 hours on 09/14/2004; and, 7.50 hours on 09/15/2004. One hour of leave was taken on 09/08/2004; however, that leave was 0.25 hours less than what was needed to cover the time not present for that day; consequently, all these instances resulted in this employee having 6.00 hours less than what was needed to receive their regular rate of pay on 09/15/2004. Therefore, this employee was overpaid \$76.43.
- *Employee #2 - 02/27/2004* - According to log-in/log-out records, this employee only worked 4.25 hours on 02/02/2004; 4.50 hours on 02/04/2004; and, 7.75 hours on 02/05/2004. No leave was taken for this time; consequently, this resulted in the employee having 7.50 hours less than what was needed to receive their regular rate of pay on 02/27/2004. Therefore, this employee was overpaid \$74.25.

During our testing of payroll transactions, we also noted the following:

- *Employee #3* - The CPRB was unable to provide the time records or leave records for this employee for the 12/31/2003 payroll.
- *Employee #4* - This employee's was overpaid \$94.08. Payroll records indicate that the employee was paid for 7/16/03 workday on the 07/31/2003 payroll. However, payroll records indicate that the employee was also paid for the 7/16/03 workday on the 08/16/2003 payroll. In effect, the employee was paid twice for the same day of work.

Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states:

“No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.”

By not ensuring that employees work their regularly schedule hours, the CPRB runs the risk of paying employees for wages to which they are not entitled. CPRB personnel were not able to provide a reasonable explanation as to why these aforementioned employees received their full salaries.

We recommend the CPRB comply with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, by ensuring that employees are not paid for time they have not worked.

Spending Unit's Response

CPRB is in agreement in general with this finding. This applies to CPRB employee numbers #1, 2 and 4.

CPRB records reflect that employee number # 3 was an employee that was pulled from CPRB by then Acting Cabinet Secretary Tom Susman and reassigned to IS&C and worked at 4101 MacCorkle Avenue. CPRB was reimbursed by IS&C for her salary plus benefits. Presumably, her time and leave records would be at IS&C.

Incorrect Payment of Overtime

During our audit of payroll transactions for the audit period of July 1, 2003 through June 30, 2005, we observed 11 employees were either overpaid or underpaid for overtime worked resulting in a total overpayment of \$367.99. The following schedule details the overtime payments relating to the 11 employees in our sample:

| <u>Employee</u> | <u>Payroll Date</u> | <u>Overtime Week Ending Date</u> | <u>Audited Overtime Payment</u> | <u>Actual Overtime Payment</u> | <u>Overpayment/ (Underpayment)</u> |
|-----------------|---------------------|----------------------------------|---------------------------------|--------------------------------|------------------------------------|
| #1 | 07/31/2003 | 05/23/2003 | \$310.19 | \$398.34 | \$88.15 |
| <u>Employee</u> | <u>Payroll Date</u> | <u>Overtime Week Ending Date</u> | <u>Audited Overtime Payment</u> | <u>Actual Overtime Payment</u> | <u>Overpayment/ (Underpayment)</u> |
| #1 | 07/31/2003 | 05/30/2003 | \$132.94 | \$199.17 | \$66.23 |
| #1 | 07/31/2003 | 07/04/2003 | \$327.17 | \$276.73 | (\$50.44) |
| #1 | 07/31/2003 | 07/11/2003 | \$160.81 | \$240.66 | \$79.85 |
| #1 | 09/30/2003 | 09/05/2003 | \$651.56 | \$740.26 | \$88.70 |
| #2 | 10/15/2004 | 09/03/2004 | \$118.54 | \$ 92.19 | (\$26.35) |
| #2 | 06/15/2005 | 05/06/2005 | \$157.91 | \$147.42 | (\$10.49) |
| #3 | 05/14/2004 | 04/16/2004 | \$ 74.06 | \$111.05 | \$36.99 |
| #3 | 05/14/2004 | 04/23/2004 | \$85.45 | \$111.05 | \$25.60 |
| #4 | 11/30/2004 | 06/04/2004 | \$37.90 | \$54.85 | \$16.95 |
| #4 | 11/30/2004 | 06/04/2004 | \$52.64 | \$54.85 | \$2.21 |
| #5 | 12/30/2004 | 10/29/2004 | \$153.57 | \$51.19 | (\$102.38) |
| #6 | 01/16/2004 | 11/14/2003 | \$27.99 | \$42.84 | \$14.85 |
| #7 | 01/30/2004 | 01/16/2004 | \$126.24 | \$106.08 | (\$20.16) |
| #8 | 11/30/2004 | 11/15/2004 | \$222.40 | \$321.36 | \$98.96 |
| #9 | 08/29/2003 | 08/01/2003 | \$135.40 | \$142.50 | \$7.10 |
| #10 | 03/31/2005 | 02/25/2005 | \$78.13 | \$114.54 | \$36.41 |
| #11 | 10/31/2003 | 09/19/2003 | \$59.48 | \$35.70 | (\$9.79) |
| #11 | 10/31/2003 | 09/26/2003 | \$87.48 | \$131.25 | \$43.77 |
| #11 | 11/30/2004 | 10/03/2003 | \$80.48 | \$76.30 | (\$4.18) |
| Total | | | | | <u>\$381.98</u> |

When projecting the results of our sample over the entire population of payroll transactions for the CPRB, we project that employees of the CPRB may have been overpaid as much as \$1,000.00 for incorrectly calculated overtime payments during the audit period.

The West Virginia Department of Administration has adopted guidelines which are in compliance with the requirements of the *Federal Fair Labor Standards Act of 1938, as Amended*. The *Federal Fair Labor Standards Act of 1938, as Amended*, requires overtime (i.e. pay at time-and-a-half) to be paid to non-exempt employees for all hours worked in excess of 40 hours per week. In accordance with the West Virginia Department of Administration guidelines, employees must work a minimum of 40 hours of actual work time in a workweek before receiving pay at time-and-a-half for any hours worked in excess of 40 hours. When determining actual work time, holidays, sick leave, annual leave, leaves of absence without pay, and unpaid time for disciplinary actions are not included. For example, to calculate an employee's overtime pay in an instance where an employee worked 12 hours of overtime in a workweek which included a holiday, the eight hours for the holiday would first be subtracted from the 40 hour workweek to calculate the 32 hours actually worked by the employee. Of the 12 hours of overtime worked by the employee, the first eight hours would be calculated at the employees' regular rate of pay and the remaining four hours would be calculated at time-and-a-half.

We noted 15 instances where employees worked overtime in a workweek which included either a holiday and/or leave taken by the employee where part of the employee's pay should have been paid at the employees' regular rate of pay, however, the entire amount of overtime hours were incorrectly paid at time-and-a-half.

We noted five instances where the employees' overtime pay was miscalculated due to the employee's overtime form not being accurately calculated or the employee's overtime not being properly coded into the EPICS Payroll System.

The Fair Labor Standards Act of 1938, as amended, states:

“Maximum Hours

SEC. 7.^{35*} (a) (1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, **for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.” (Emphasis added)**

The West Virginia Department of Administration Employee Handbook issued May 12, 1994 and revised May 15, 1995 and February 2001, states in part,

“...All overtime must be checked against the leave system before it can be paid; therefore, overtime earnings will usually be paid during the pay period following the one in which it was worked.

The Department of Administration workweek begins at 12:01 A.M. on Saturday and ends at midnight on Friday. **Time taken off for holidays, sick leave, annual leave, leaves of absence without pay (personal or medical), and unpaid time for disciplinary actions will not be included as work time when overtime is calculated.” (Emphasis added)**

The West Virginia Department of Personnel’s Interpretive Bulletin of the Fair Labor Standards Act (BOP-B5) states in part,

“Overtime: The FLSA requires that covered, nonexempt employees receive not less than one and one-half times their regular rates of pay for hours worked in excess of 40 during a workweek....” (Emphasis added)

By not ensuring that the calculations for overtime are correct, the CPRB runs the risk of paying employees for wages to which they are not entitled. According to the CPRB employee who is responsible for overtime, the incorrect payments for overtime were due to employee error.

We recommend the CPRB comply with the Fair Labor Standards Act of 1938, as amended, the West Virginia Department of Personnel's Interpretive Bulletin of the Fair Labor Standards Act (BOP-B5), and the overtime policies as set forth in the West Virginia Department of Administration's Employee Handbook.

Spending Unit's Response

CPRB has just completed a federal Department of Labor audit for some of the same time period and agrees, in general, that there were some inconsistent entries, particularly on weeks that contained a holiday.

P-Card Log Sheets

During our audit of Purchasing Card activity which occurred during Fiscal Years 2005 and 2004, we noted that CPRB purchasing cardholders are not completing their P-Card log sheets as transactions occur. Instead, these card holders are completing the P-Card log sheets while performing the monthly reconciliation.

Section 7.2, titled "Log Sheets," of the Purchasing Card Policies and Procedures published by the West Virginia State Auditor's Office states in part,

"Log sheets may be computerized or manual and must be signed by both the cardholder and agency coordinator acknowledging that all entries have been reconciled are legitimate. Log sheets must be completed as payments are initiated." (Emphasis added)

According to the P-Card Coordinator, two of the State Auditor's Office P-Card auditors told her that completing the P-Card log sheet during the monthly reconciliation process was acceptable because the CPRB had a minimal number of P-Card transactions. However, the State Auditor's policies and procedures as stated earlier require log sheets be completed as payments are initiated. Also, we believe P-Card log sheets completed during the reconciliation

process as opposed to the time transactions occur does not allow for the timely identification of incorrect or unallowable transactions.

We recommend the CPRB comply with Section 7.2 of the State Purchasing Card Policies and Procedures published by the State Auditor's Office.

Spending Unit's Response

CPRB disagrees with the conclusions in the paragraph beginning "According to the P-Card Coordinator." It is my understanding that the coordinator explained to the Legislative Auditors that P-Card Auditors Mike Hutchison and Dale Usey who are employed by the State Auditor, audit CPRB every quarter. When questioned by the employee who is responsible for P-Card matters, they responded that because CPRB has so few P-Card transactions, the log may be completed during the monthly reconciliation process. We understand the Legislative Auditor's position but believe that the State Auditor's directives concerning the P-Card should be followed by CPRB. CPRB wants to follow the appropriate process and will request written direction from the State Auditor.

Incorrect Payment of Late Charges

While performing an equipment test for the audit period of July 1, 2003 through June 30, 2005, we noted the CPRB incorrectly paid \$49.64 relating to late payment charges to Pomeroy, a vendor that sells computer equipment under a Statewide contract. According to CPRB records

(FIMS Document #I5976852), the purchase in question was for a Kodak Scanner and a Kodak Care Kit. The invoice dated June 16, 2003 indicated charges of \$2,872.00 for the scanner and \$437.00 for the kit. Also indicated on the invoice was the fact that \$3,309.00 was due if the invoice was paid within 30 days and \$3,358.64 was due if paid after 30 days. The packing listed

indicated that the goods were received on June 17, 2003 by an employee of the CPRB's IT Department. According to CPRB records, the invoice which was dated June 16, 2003 was entered into the CPRB's accounting system on July 18, 2003. Thereafter, payment in the amount of \$3,358.64 was made to the vendor on July 22, 2003 or approximately 35 days after receipt of the vendor's invoice. In accordance with State law, vendors are not due interest if payment is made within 60 days of receipt of a legitimate, uncontested invoice. Although payment was made to the vendor within 60 days, the amount paid to the vendor included \$49.64 in late charges.

Chapter 5A, Article 3, Section 54 of the West Virginia Code states in part,

“(b) (1) Except as provided in subdivision (2) of this subsection, for purchases of services or commodities made on or after the first day of July, one thousand nine hundred ninety-one, a state check shall be issued in payment thereof within sixty days after a legitimate uncontested invoice is received by the state agency receiving the services or commodities. **Any state check issued after such sixty days shall include interest** at the current rate, as determined by the state tax commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code, which interest shall be calculated from the sixty-first day after such invoice was received by the state agency until the date on which the state check is mailed to the vendor.” **(Emphasis added)**

In addition, the West Virginia Purchasing Division's Policies and Procedures, more specifically, Section 6.4.1, titled “Late Payments,” states in part,

“. . . In order for a vendor to receive payment for interest if entitled, the vendor must request this interest from the agency, in writing, with proof that the vendor received a check payment of the invoice after sixty (60) day time limit. . . .”
(Emphasis added)

During our review of contract procedures and this Statewide contract in particular, we also noted a “General Terms & Conditions” form that is issued to all vendors who conduct business with the State of West Virginia on a contractual basis. Part 10 of the form states,

“Late Payments: Payments may only be made after the delivery of goods or services. **Interest may be paid in accordance with West Virginia Code.**” (Emphasis added)

By not ensuring that invoices are properly paid, the CPRB risks paying vendors in excess of what is entitled to the vendors. According to the Accounting Manager, the payment of the late charge should not have been made to the vendor and was the result of employee error.

We recommend the CPRB comply with Chapter 5A, Article 3, Section 54 of the West Virginia Code, as well as, applicable sections of the policies and procedures of the West Virginia Purchasing Division.

Spending Unit's Response

CPRB is in agreement that it incorrectly overpaid one late charge in the amount of \$49.64. This was a clerical error and it will not be repeated.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of cash receipts, disbursements and changes in cash balance of the Expense Fund as administered by the West Virginia Consolidated Public Retirement Board (the "Board") for the years ended June 30, 2005 and June 30, 2004. The financial statement is the responsibility of the management of the West Virginia Consolidated Public Retirement Board. 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 about 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 revenues collected and expenses paid of the Expense Fund as administered by the Consolidated Public Retirement Board for the years ended June 30, 2005 and June 30, 2004, on the basis of accounting described in Note A.

Respectfully submitted,



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

October 31, 2006

Auditors: Michael E. Sizemore, CPA, Audit Manager
Trenton W. Morton, Auditor-in-Charge
Neil M. McEachron, Jr., CPA
Thomas F. Ward, CPA
India R. Welder
John J. Signore
Michael P. Scyoc

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

SPECIAL REVENUE

| <u>CPRB Administrative Expense Account</u> | <u>Year Ended June 30,</u> | |
|---|-----------------------------------|-----------------------|
| | <u>2005</u> | <u>2004</u> |
| Cash Receipts: | | |
| Administrative Expense Fees | \$5,161,078.79 | \$5,228,300.00 |
| Miscellaneous | <u>483.00</u> | <u>421.99</u> |
| | 5,161,561.79 | 5,228,721.99 |
| Disbursements: | | |
| Personal Services | 2,401,534.76 | 2,260,847.86 |
| Annual Increment | 34,928.29 | 31,050.00 |
| Employee Benefits | 813,029.36 | 760,885.91 |
| Current Expenses | 2,577,266.44 | 1,725,064.59 |
| Repairs and Alterations | 6,801.00 | 18,666.91 |
| Equipment | 61,113.58 | 82,076.32 |
| Payment of Claims | 3,362.33 | 0.00 |
| Other Interest and Penalties | 0.00 | 287.41 |
| Public Employees' Insurance Reserve Transfer | <u>24,205.00</u> | <u>23,704.00</u> |
| | 5,922,240.76 | 4,902,583.00 |
| Cash Receipts (Under)/Over Disbursements | (760,678.97) | 326,138.99 |
| Beginning Balance | <u>1,842,472.31</u> | <u>1,516,333.32</u> |
| Ending Balance | <u>\$1,081,793.34</u> | <u>\$1,842,472.31</u> |

See Notes to Financial Statements

WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

EXPENSE FUND

NOTES TO FINANCIAL STATEMENT

Note A - Accounting Policy

Accounting Method: The cash basis of accounting was followed for all accounts. Therefore, certain revenues and the 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 four and one-half percent of the annual compensation and employees have vested the rights under certain circumstances. The Consolidated Public Retirement Board watches contributions at 10.5% of the compensation on which the employees made contributions.

The Consolidated Public Retirement Board's pension expenditures were as follows:

| | <u>Year Ended June 30,</u> | |
|-----------------|----------------------------|---------------------|
| | <u>2005</u> | <u>2004</u> |
| Special Revenue | <u>\$247,594.47</u> | <u>\$233,796.78</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 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 7th of May 2007.



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 Consolidated Public Retirement Board; Governor; Attorney General; State Auditor; and, Director of Finance Division, Department of Administration.