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WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Stacy L. Sneed, CPA, CICA, Director
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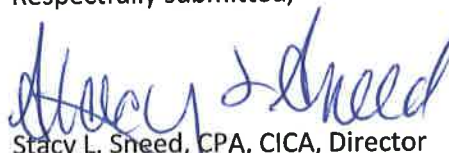
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March 16, 2011

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 12, Article 4, Section 14, as amended, we conducted a compliance inspection and review of the financial transactions and records of the Marmet Volunteer Fire Departments state funds for the calendar year ended December 31, 2008. We conducted our review and compliance inspection based on the criteria set forth by the Legislative Post Audit Division.

Respectfully submitted,


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

SLS/rwa

MARMET VOLUNTEER FIRE DEPARTMENT
January 1, 2008 – December 31, 2008

EXECUTIVE SUMMARY

Marmet VFD <u>Kanawha County</u>	For the Year Ended <u>December 31, 2008</u>
Comingled Funds	<u>\$41,409.96</u>

* We recommend Marmet VFD comply with Chapter 8, Article 15, Section 8b, of the West Virginia Code, and maintain all funds received from the State in separate accounts and not commingled with funds received from any other source.

MARMET VOLUNTEER FIRE DEPARTMENT
January 1, 2008 – December 31, 2008

INTRODUCTION

POST AUDIT AUTHORITY

The procedures were conducted pursuant to Chapter 12, Article 4, Section 14 of the West Virginia Code, as amended, which allows the Legislative Auditor to "assign an employee or employees to perform audits or reviews at the direction of the Legislative Auditor of the disbursement of state grant funds to volunteer fire departments."

BACKGROUND

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

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

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

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

To receive these funds, the volunteer and part volunteer fire companies and departments must comply with the provisions of Chapter 8, Article 15, Section 8a of the West Virginia Code, as amended:

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

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

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

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

MARMET VOLUNTEER FIRE DEPARTMENT
January 1, 2008 – December 31, 2008

OFFICERS AND STAFF

Frank Thomas.....President of the Governing Board
Marian Hansford Secretary/Treasurer
Jerry L. McGhee.....Fire Chief

MARMET VOLUNTEER FIRE DEPARTMENT
January 1, 2008 – December 31, 2008

SCOPE

We conducted an evaluation of the revenue and expenditure transactions, and other records of the Marmet Volunteer Fire Department's state accounts for the year ending December 31, 2008. Our scope included determining instances of noncompliance with Chapter 8, Article 15, Section 8b, as amended, of the West Virginia code, and other applicable laws and regulations. The compliance inspection was conducted in accordance with criteria set forth by the Legislative Post Audit Division.

OBJECTIVES AND METHODOLOGIES

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

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

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, and the Volunteer Fire Department. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

Our reports are designed to assist the Post Audit Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving the operations of Volunteer Fire Departments. As a result, our reports generally do not address activities we reviewed that are functioning properly.

CONCLUSION

We noted the Department commingled State funds with fund received from other sources in non compliance with Chapter 8, Article 15, Section 8b, as amended, of the West Virginia Code. The Marmet VFD currently maintains all State funds in a separate account.

EXIT CONFERENCE

We discussed this report with the current Fire Chief of the Marmet VFD on March 10, 2011. All findings and recommendations were reviewed and discussed. The Marmet VFD agreed to all findings and recommendations.

MARMET VOLUNTEER FIRE DEPARTMENT
January 1, 2008 – December 31, 2008

FINDING

FINDING 1:

The Marmet Fire Department commingled State funds with funds received from other sources.

CONDITION:

We noted the fire department deposited state funds with other sources of funds into one account, and pays non state expenditures from the same account as allowable state expenditures. The fire department does not maintain a general ledger control account for state funds.

CRITERION:

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

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

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section.

Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, may not be commingled with funds received from any other source.”

CAUSE:

According to the Fire Chief, they were unaware that State funds may not be commingled with funds received from any other source.

EFFECT:

Due to the commingling of funds, we are unable to determine if all expenditures, totaling \$41,409.96, made from state funds were allowable and/or properly documented.

RECOMMENDATION:

To comply with Chapter 8, Article 15, Section 8b, of the West Virginia Code, as amended we recommend the Fire Department maintain State funds in a separate account and establish a monthly reconciliation procedure to ensure that the general ledger control account balance for state funds is supported by the underlying accounting records.

MARMET VOLUNTEER FIRE DEPARTMENT
January 1, 2008 – December 31, 2008

SUPPLEMENTAL INFORMATION
STATEMENT OF EXPENDITURES YEAR ENDED DECEMBER 31, 2008

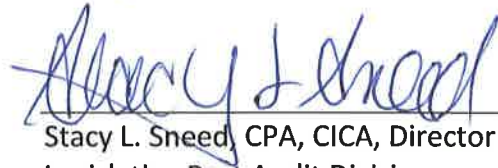
	<u>VFD</u>	<u>AUDIT</u>	<u>DIFFERENCES</u>
Chapter 8, Article 15, Section 8b(1)	\$ 0.00	\$ 0.00	\$ 0.00
Chapter 8, Article 15, Section 8b(2)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(3)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(4)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(5)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(6)	32,218.00	32,218.43	(0.43)
Chapter 8, Article 15, Section 8b(7)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(8)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(9)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(10)	16,945.87	16,916.37	29.50
Chapter 8, Article 15, Section 8b(11)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(12)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(13)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(14)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(15)	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Disbursements For Year Ended December 31, 2008	<u>\$49,163.87</u>	<u>\$49,134.80</u>	<u>\$29.07</u>

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 9th day of June 2011.



Stacy L. Sneed, CPA, CICA, 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 Marmet Volunteer Fire Department; Prosecuting Attorney, Kanawha County; County Clerk, Kanawha County; Governor; Attorney General; State Auditor; and State Fire Marshal.