

LEGISLATIVE FINANCIAL COMPLIANCE INSPECTION

NUTTALL VOLUNTEER FIRE DEPARTMENT FOR THE YEAR ENDING JUNE 30, 2011

REPORT OVERVIEW

- Lack of Support
- Unallowable
- Commingled
- Lack of Proper Record Keeping



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WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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The Joint Committee on Government and Finance:

In compliance with the provisions of the W. Va. Code, §12-4-14 as amended, we conducted a compliance inspection and review of the financial transactions and records of the Nuttall Volunteer Fire Department's state funds for the fiscal year ended June 30, 2011. We conducted our review and compliance inspection based on the criteria set forth by the Legislative Post Audit Division.

Respectfully submitted,

A handwritten signature in blue ink that reads "Denny Rhodes".

Denny Rhodes, Director
Legislative Post Audit Division

DR/rwa

NUTTALL VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2011

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NUTTALL VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2011

EXECUTIVE SUMMARY

FINDING 1 LACK OF SUPPORT:

The Nuttall Volunteer Fire Department lacked proper supporting documentation for expenditures totaling \$66,684.17.

Recommendation:

We recommend the department maintain an itemized invoice or receipt for all expenditures and reimburse their State account \$66,684.17 for expenditures that lacked proper support.

FINDING 2 UNALLOWABLE:

The Nuttall Volunteer Fire Department made \$1,373.00 in expenditures identified from state funds that were not allowed by W. Va. Code §8-15-8(b), as amended.

Recommendation:

We recommend all revenues allocated to the Fire Department only be used for expenditures, as authorized by W. Va. Code §8-15-8(b), as amended. We further recommend the Department reimburse their state account \$1,373.00 for the item that was unallowable.

FINDING 3 COMMINGLED:

The Nuttall Volunteer Fire Department commingled State funds with funds from other sources totaling \$29,156.48.

Recommendation:

We recommend the Nuttall VFD maintain all State funds in a separate account and not commingled with funds received from other sources.

FINDING 4 IMPROPER RECORD KEEPING:

The Nuttall Volunteer Fire Department could not provide reconciliations or ledgers to support their financial statement balances.

Recommendation:

We recommend Nuttall VFD maintain sufficient records and reconciliations, to protect the legal and financial rights of the VFD. Additionally, we recommend the Department ensure their statement of expenditures is filed correctly and that it is reconciled to their bank statement.

Response:

The department agreed with all findings and recommendations.

NUTTALL VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2011

INTRODUCTION

POST AUDIT AUTHORITY

The procedures were conducted pursuant to W. Va. Code, §12-4-14, 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 W. Va. Code, §33-3-14d, 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 W. Va. Code, §33-12c-9, 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 W. Va. Code, §33-3-14d, as amended.

The West Virginia Legislature again provided additional revenue for the volunteer and part Volunteer Fire Departments by authorizing, under W. Va. Code, §33-3-33, 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.

W. Va. Code, §33-3-14d and 33 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 W. Va. Code, §8-15-8a, as amended:

The Legislature placed restrictions on the use of these additional revenues by the Volunteer Fire Departments under W. Va. Code, §8-15-8b, as amended March 8, 2000, and again April 9, 2005.

Prior to the March 8, 2000 amendment, W. Va. Code, §8-15-8b 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, W. Va. Code, §8-15-8b did not allow Dues as described in subsection (12). On March 13, 2010, W. Va. Code, §8-15-8b 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.

W. Va. Code, §12-4-14, 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.

W. Va. Code, §12-4-14 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.

NUTTALL VOLUNTEER FIRE DEPARTMENT

July 1, 2010 – June 30, 2011

OFFICERS AND STAFF

Rick Lewis President

Janet Johnson Treasurer

Kevin Herbaugh Secretary

Joel Feltner Fire Chief

NUTTALL VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2011

SCOPE

We conducted an evaluation of the revenue and expenditure transactions, and other records of the Nuttall Volunteer Fire Department's state accounts for the year ending June 30, 2011. Our scope included determining instances of noncompliance with W. Va. Code, §8-15-8b, 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 Department's 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 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. Our sample also included specific departments selected for audit at the request of the Fire Marshal or by Legislative Post Audit.

We scheduled all canceled checks that were submitted regarding State funds, accounting for every check number in sequence. We matched these checks to the proper invoices and noted any lack of documentation and any instances of noncompliance with W. Va. Code, §8-15-8b, as amended. We reviewed the bank statements to determine if the account was commingled, or if any other deposits were made during the year that did not come from the WV State Treasurer. While reviewing the bank statements we also looked for any other electronic debits or credits or bank service charges. For all State grants awarded to the department for our audit period we requested and reviewed the grant agreement, supporting invoices, bank statements, checks, ledgers, and sworn statement of expenditures, if applicable, to determine if expenditures for the grant were allowable and properly documented.

We made copies of any documents that were questionable. We developed a list of any missing documentation and sent it with a letter to the Fire Chief of the Department to give them a minimum of one week to find any missing documents and to explain any discrepancies we might have with the amount reported by the Department versus the audited amount. We prepared our findings if applicable and report after the deadline had passed. We discussed this report with the Department and explained they would get a copy of the report when it is presented to the Subcommittee.

Our reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving the operations of Volunteer Fire Departments.

CONCLUSIONS

Based on our review, we noted the Department could not provide proper documentation for expenditures totaling \$66,684.17, and made \$1,373.00 in expenditures identified from state funds that were not allowed by W. Va. Code §8-15-8(b), as amended. We also noted the department commingled State funds with funds from other sources totaling \$29,156.48 and could not provide any reconciliations or ledgers to support their financial statement balances.

EXIT CONFERENCE

We discussed this report with the Treasurer of the Nuttall Volunteer Fire Department on 3/11/2014. All findings and recommendations were reviewed and discussed. The department agreed with all findings and recommendations.

NUTTALL VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2011

FINDINGS

FINDING 1 LACK OF SUPPORT:

CONDITION:

The Nuttall Volunteer Fire Department lacked proper supporting documentation for expenditures totaling \$66,684.17. We noted the Fire Department could not provide proper documentation for the following expenditures:

<u>CHECK</u> <u>NO.</u>	<u>CHECK</u> <u>DATE</u>	<u>PAYEE</u>	<u>Amount</u>
647	9/8/2010	Fayette County National Bank	\$30,000.00
651	2/28/2011	Emergency Equipment	\$5,123.00
656	4/26/2011	Fayette County National Bank	<u>\$31,561.17</u>
		Total	\$66,684.17

CRITERIA:

W. Va. Code §8-15-8(b), 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....”

CAUSE:

The Department did not have sufficient procedures in place to insure that all expenditures are properly documented with an itemized invoice.

EFFECT:

There is a greater risk for fraud, error and abuse when expenditures are not properly documented. We also were unable to determine if these expenditures were allowable, due to the lack of supporting documentation.

RECOMMENDATION:

We recommend the department maintain an itemized invoice or receipt for all expenditures and reimburse their State account \$66,684.17 for expenditures that lacked proper support.

FINDING 2 UNALLOWABLE:

CONDITION:

The Nuttall Volunteer Fire Department made \$1,373.00 in expenditures identified from state funds that were not allowed by W. Va. Code §8-15-8(b), as amended.

We determined the following item was purchased with State money that was not allowable under the West Virginia Code:

<u>CHECK</u> <u>NO.</u>	<u>CHECK</u> <u>DATE</u>	<u>PAYEE</u>	<u>Amount</u>	<u>DESCRIPTION</u>
644	8/14/2010	Bill Bailey Insurance	<u>\$1,373.00</u>	Accident and Sickness
		Total	\$1,373.00	

CRITERION:

W. Va. Code §8-15-8(b), 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.”

CAUSE:

The Department may not have sufficient knowledge of W. Va. Code §8-15-8(b) to determine allowable expenditures under the Code.

EFFECT:

Due to unallowable expenditures, the Department may have less funding available for expenditures required for effective and efficient fire protection services.

RECOMMENDATION:

We recommend all revenues allocated to the Fire Department only be used for expenditures, as authorized by W. Va. Code §8-15-8(b), as amended. We further recommend the Department reimburse their state account \$1,373.00 for the item that was unallowable.

FINDING 3 COMMINGLED:

CONDITION:

The Nuttall Volunteer Fire Department commingled State funds with funds from other sources totaling \$29,156.48.

CRITERION:

W.Va. Code §8-15-8(b), 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.” Emphasis added**

CAUSE:

The Department made deposits of \$26,580.00 and \$2,576.48 from other sources into their State account. We were unable to determine the source of these funds.

EFFECT:

Due to the commingling of funds, we may be unable to determine if all expenditures made from state funds were allowable and/or properly documented.

RECOMMENDATION:

We recommend the Nuttall VFD maintain all State funds in a separate account and not commingled with funds received from other sources.

FINDING 4 LACK OF PROPER RECORD KEEPING:

CONDITION:

The Nuttall Volunteer Fire Department could not provide reconciliations or ledgers to support their financial statement balances. We noted multiple differences between the amounts recorded on the Financial Statement and the amounts actual spent and received per the bank statements. There was a net difference of \$16,514.86 We noted the following included in this difference:

	Amount per Financial Statement	Amount per Bank Statement	Difference Financial Statement (Under)/Over Bank
Beginning Balance	\$ 52,598.99	\$66,537.37	(\$13,938.38)
Total State Allocations	44,287.13	44,287.13	0.00
Other Deposits	0.00	29,156.48	(29,156.48)
Total Expenditures	(88,456.35)	(115,036.35)	(26,580.00)
Ending Balance	8,429.77	24,944.63	(16,514.86)

CRITERION:

The department is responsible for keeping adequate records for a reasonable period of time. The department should make and maintain records containing adequate and proper documentation designed to furnish information to protect the legal and financial rights of the department.

W. Va. Code §12-4-14 (g) (1)(B), as amended, states in part:

“File a sworn statement of annual expenditures with the Legislative Auditor on or before the fourteenth day of February of each year. The sworn statement of expenditures shall be signed by the chief or director of the volunteer fire department and shall be made under oath and acknowledged before a notary public.”

W. Va. Code §12-4-14(i), as amended, states in part:

“Any person who files a fraudulent sworn statement of expenditures under subsection (b) or (g) of this section, a fraudulent sworn statement under subsection (d) of this section or a fraudulent report under this section is guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.”

West Virginia Volunteer Fire Department Financial Statement states in part:

“Total Available State Fund Balance (ending balance of the account your State funds are deposited into by the State Treasurer’s Office)”

CAUSE:

The department lacked effective accounting practices, proper record keeping and internal controls necessary to meet reporting requirements.

The Board of Governors did not properly oversee the records of the department to ensure that sufficient ledgers and reconciliations were maintained to support the financial statement balances.

EFFECT:

Due to improper record keeping there is a greater risk of error or fraud. Also due to improper record keeping, there may be insufficient information to protect the legal and financial rights of the department and of persons directly affected by the departments' activities. Additionally, if the department filed a fraudulent statement of expenditures, the person filing the statement may be guilty of a felony.

RECOMMENDATION:

We recommend Nuttall VFD maintain sufficient records and reconciliations, to protect the legal and financial rights of the VFD. Additionally, we recommend the Department ensure their statement of expenditures is filed correctly and that it is reconciled to their bank statement.

NUTTALL VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2011

SUPPLEMENTAL INFORMATION
STATEMENT OF EXPENDITURES YEAR ENDED JUNE 30, 2011

<u>Authorizing W.Va Code</u>	<u>AUDIT</u>	<u>VFD</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	\$2,409.60	-\$2,409.60	b
Chapter 8, Article 15, Section 8b(3)	\$810.04	\$0.00	\$810.04	c
Chapter 8, Article 15, Section 8b(4)	\$28,303.81	\$4,437.21	\$23,866.60	d
Chapter 8, Article 15, Section 8b(5)	\$10,044.91	\$10,044.91	\$0.00	
Chapter 8, Article 15, Section 8b(6)	\$0.00	\$61,561.17	-\$61,561.17	e
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)	\$6,969.41	\$8,342.41	-\$1,373.00	f
Chapter 8, Article 15, Section 8b(11)	\$851.01	\$1,661.05	-\$810.04	g
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, 2011	\$46,979.18	\$88,456.35	-\$41,477.17	a

a = Difference between total audited distributions and total distributions reported on financial statement:

Lack of support	-\$66,684.17
Unallowable	-\$1,373.00
Treasury Deposit	<u>\$26,580.00</u>
Total	-\$41,477.17

b, c, d, e, f, g = Incorrect coding of line items plus above noted items that lacked support , were unallowable, and unrecorded deposit.