

**STATE OF WEST VIRGINIA**

**AUDIT REPORT**

**OF**

***SHIRLEY VOLUNTEER FIRE DEPARTMENT***

***DISBURSEMENT AUDIT***

**FOR THE YEAR ENDED**

**DECEMBER 31, 2006**



**OFFICE OF THE LEGISLATIVE AUDITOR**

**CAPITOL BUILDING**

**CHARLESTON, WEST VIRGINIA 25305-0610**

**SHIRLEY VOLUNTEER FIRE DEPARTMENT**  
**DISBURSEMENT AUDIT**  
**FOR THE YEAR ENDED**  
**DECEMBER 31, 2006**

**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 West Virginia Code, Chapter 12, Article 4, Section 14, as amended, we have audited the disbursements of the Shirley Volunteer Fire Department.

Our audit covered the year ended December 31, 2006. The results of the audit are set forth on the following pages of this report.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Stacy L. Sneed".

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

SLS/gkc

**SHIRLEY VOLUNTEER FIRE DEPARTMENT**

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**SHIRLEY VOLUNTEER FIRE DEPARTMENT**  
**EXIT CONFERENCE**

We held an exit conference on September 16, 2008 with the current Treasurer of the Shirley Volunteer Fire Department and the Report was reviewed and discussed.

## **SHIRLEY VOLUNTEER FIRE DEPARTMENT**

### **INTRODUCTION**

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 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 following provisions of Chapter 8, Article 15, Section 8a of the West Virginia Code, as amended:

- “(a) Submit and maintain current submission of fire loss data to the state fire marshal, including verification, by notarized statement, if no fire loss has occurred;
- (b) Complete or be in the process of receiving firefighters training, including section one of the West Virginia University fire service extension or its equivalent. Such fire company or department must have at least ten members certified as having completed such training or if a volunteer fire company or department has twenty or fewer members, fifty percent of the active volunteer members must have completed such training; and
- (c) Comply with all applicable federal and state laws.”

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 which states:

“Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (12) 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 sixteen-a, article twelve, all of chapter thirty-three of this code, may not be commingled with funds received from any other source. Expenditures may be made for the following:

- (1) Personal protective equipment, including protective head gear, bunker coats, pants, boots, combination of bunker pants and boots, coats and gloves;
- (2) Equipment for compliance with the national fire protection standard for automotive fire apparatus, NFPA-1901;
- (3) Compliance with insurance service office recommendations relating to fire departments;
- (4) Rescue equipment, communications equipment and ambulance equipment: *Provided*, That no moneys received from the municipal pensions and protection fund or the fire protection fund may be used for equipment for personal vehicles owned or operated by volunteer fire company or department members;
- (5) Capital improvements reasonably required for effective and efficient fire protection service and maintenance of the capital improvements;
- (6) Retirement of debts;
- (7) Payment of utility bills;
- (8) Payment of the cost of immunizations, including any laboratory work incident to the immunizations, for firefighters against hepatitis-b and other blood borne pathogens: *Provided*, That the vaccine shall be purchased through the state immunization program or from the lowest cost vendor available: *Provided, however*, That volunteer and part volunteer fire companies and departments shall seek to obtain no cost administration of the vaccinations through local boards of health: *Provided further*, That in the event any volunteer or part volunteer fire company or department is unable to obtain no cost administration of the vaccinations through a local board of health, the company or department shall seek to obtain the lowest cost available for the administration of the vaccinations from a licensed health care provider;
- (9) Any filing fee required to be paid to the legislative auditor's office under section fourteen,[§12-4-14], article four, chapter twelve of this code relating to sworn statements of annual expenditures submitted by volunteer or part volunteer fire companies or departments that receive state funds or grants;
- (10) Property/casualty insurance premiums for protection and indemnification against loss or damage or liability

(11) Operating expenses reasonably required in the normal course of providing effective and efficient fire protection service, which include, but are not limited to, gasoline, bank fees, postage and accounting costs; and

(12) Dues paid to national, state and county associations.”(Chapter 33, Article 12 was amended on March 9, 2002; Chapter 33, Article 12, Section 16a became Chapter 33, Article 12c, Section 9.)

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).

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.

## **SHIRLEY VOLUNTEER FIRE DEPARTMENT**

### **GENERAL REMARKS**

#### **Introduction**

We have completed a disbursement audit of the Shirley Volunteer Fire Department (Department). The audit includes all disbursements made from the State Fund Account (1505369) from January 1, 2006 through December 31, 2006.

#### **Disbursement Statement and Bank Account**

During our audit of the Shirley Volunteer Fire Department Annual Statements of Expenditures for the year ended December 31, 2006, we noted the Department maintained state allocations in three separate accounts for a portion of the calendar year 2006. However, the Department subsequently transferred these funds to one single account in April 2006.

From January through April, the Department had commingled State Funds between two separate accounts, the Operating Account (Acct. # 150-280.3) and the Equipment Account (Acct. # 204-660-0). After further investigation, we received confirmation from the State Treasurer's Office that the State Funded monies should have been maintained in the Equipment Account (Acct. # 204-660-0). However, as of April, 2006 a separate account was opened for the deposit and withdrawal of State Funds (Acct. # 1505369). To open this account, the department originally deposited a total of \$40,000.00 into the State Fund Account from the Equipment Account. In May of 2006, the department started receiving direct deposits of all state funds and started issuing disbursements from this account. Also as of May, the two previously mentioned accounts had a remaining total balance of \$14,464.85 which was also deposited into the State Fund Account. This deposit consisted of \$7,149.50 from the Operating Account (150-

280-3) and \$7,015.35 from the Equipment Account. Once the remaining account balances were deposited into the State Fund Account, the two previous mentioned accounts were closed.

In addition to the items mentioned above, we noted the following disbursements we believe to be not allowable under Chapter 8, Article 15, Section 8b of the West Virginia Code, as amended.

<u>Description</u>	<u>QUESTIONED COSTS YEAR ENDED</u> <u>Dec. 31, 2006</u>
Items Questioned:	
<b><u>NOT ALLOWABLE</u></b>	
Food Items	\$198.48
Promotional Items	489.89
Sales Tax	<u>27.86</u>
TOTAL	<u><u>\$716.23</u></u>

We noted the department failed to report one check totaling \$60.01 on the VFD Financial Statement and check register. Check number 1037 was dated on July 28, 2006 and cut to pay a fuel receipt. After speaking with the Department's Treasurer, she stated this was clearly a clerical error and would be corrected. Also from the above mentioned items, the Shirley Volunteer Fire Department was charged sales taxes totaling \$27.86 for disbursement from the audit period. According to 501 (c) (3) of the Internal Revenue Code, the Department is a tax exempt agency and should not be paying West Virginia State sales tax.

We recommend the Shirley Volunteer Fire Department maintain the existing state account for state allocated funds and remain keeping these funds separate from all other funds. We further recommend the Department reimburse the State account \$716.23 for those

disbursements which are not allowable under Chapter 8, Article 15, Section 8b of the West Virginia Code, as amended.

Due to the commingling of funds we were unable to determine why there were additional differences between the audited disbursements amount and the amount reported by the Department in the financial statements.

**SHIRLEY VOLUNTEER FIRE DEPARTMENT**

**STATEMENT OF EXPENDITURES**

**YEAR ENDED DECEMBER 31, 2006**

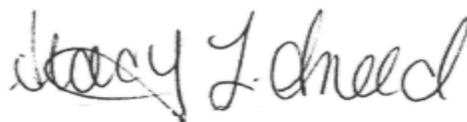
	<u>VFD</u>	<u>AUDIT</u>	<u>DIFFERENCES</u>
Chapter 8, Article 15, Section 8b(a)	\$ 1,495.92	\$ 1,102.67	\$393.25
Chapter 8, Article 15, Section 8b(b)	12,100.00	12,100.00	0.00
Chapter 8, Article 15, Section 8b(c)	1,059.57	1,059.57	0.00
Chapter 8, Article 15, Section 8b(d)	3,235.06	3,235.06	0.00
Chapter 8, Article 15, Section 8b(e)	26,919.74	26,920.19	(0.45)
Chapter 8, Article 15, Section 8b(f)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(g)	6,845.98	6,844.76	1.22
Chapter 8, Article 15, Section 8b(h)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(i)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(j)	11,847.68	11,847.68	0.00
Chapter 8, Article 15, Section 8b(k)	<u>3,975.48</u>	<u>3,844.64</u>	<u>130.84</u>
<b>Total Disbursements For Year</b>			
<b>    Ended December 31, 2006</b>	<b><u>\$67,479.43</u></b>	<b><u>\$66,954.57</u></b>	<b><u>\$524.86</u></b>

**STATE OF WEST VIRGINIA**

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

I, Stacy L. Sneed, 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 12, Article 4, Section 14, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 13<sup>th</sup> day of October, 2008.

A handwritten signature in cursive script that reads "Stacy L. Sneed".

Stacy L. Sneed, 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 Shirley Volunteer Fire Department; Governor; Attorney General; State Auditor; State Fire Marshal; Prosecuting Attorney, Tyler County; and County Clerk, Tyler County.