

STATE OF WEST VIRGINIA

AUDIT REPORT

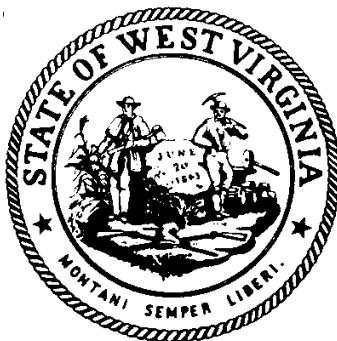
OF

UPPER TRACT VOLUNTEER FIRE DEPARTMENT

DISBURSEMENT AUDIT

FOR THE YEARS ENDED

DECEMBER 31, 2004, 2003 AND 2002



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

**UPPER TRACT VOLUNTEER FIRE DEPARTMENT
DISBURSEMENT AUDIT
FOR THE YEARS ENDED
DECEMBER 31, 2004, 2003 AND 2002**

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Theford L. Shanklin, CPA, Director
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CHARLESTON, WEST VIRGINIA 25305-0610

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 Upper Tract Volunteer Fire Department.

Our audit covered the years ended December 31, 2004, 2003 and 2002. The results of the audit 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

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UPPER TRACT VOLUNTEER FIRE DEPARTMENT

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UPPER TRACT VOLUNTEER FIRE DEPARTMENT
EXIT CONFERENCE

We held an exit conference on March 19, 2007 with the current Fire Chief of the Upper Tract Volunteer Fire Department and the Report was reviewed and discussed.

UPPER TRACT 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 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, which states:

“Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (a) through (k) 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:

- (a) Personal protective equipment, including protective head gear, bunker coats, pants, boots, combination of bunker pants and boots, coats and gloves;
- (b) Equipment for compliance with the national fire protection standard for automotive fire apparatus, NFPA-1901;
- (c) Compliance with insurance service office recommendations relating to fire departments;
- (d) 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;
- (e) Capital improvements reasonably required for effective and efficient fire protection service and maintenance of the capital improvements;
- (f) Retirement of debts;
- (g) Payment of utility bills;
- (h) 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;
- (i) 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;
- (j) Property/casualty insurance premiums for protection and indemnification against loss or damage or liability; and
- (k) 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.”(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 (k) nor did the law prohibit the commingling of the funds with funds from other sources.

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 corporations, associations or other organizations which receive State funds or grants in the amount of \$15,000 or more. The audit must be filed within two years of the disbursement of the funds or grants by the grantee. The Legislature amended this section of the Code effective June 9, 1995, 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 along with a filing fee of seventy-five dollars to the Legislative Auditor's Office on or before February 14, of each year.

The Legislature amended this section of the Code again, effective March 8, 2000, to include a provision for penalties should a department fail to submit timely the annual statement of expenditures or an audit made by an independent certified public accountant. An additional filing fee of twenty-five dollars shall be included with the sworn statement of annual expenditures if the statement is submitted between the fifteenth day of February and the fifteenth day of March. An additional filing fee of fifty dollars shall be included with the sworn statement of annual expenditures if the statement is submitted between the sixteenth day of March and the fifteenth day of April. If the sworn statement is not submitted on or before the fifteenth day of April the volunteer fire department shall file an audit of the disbursement of funds, made by an independent certified public accountant, with the Legislative Auditor's Office no later than the first day of July. The audit shall be made at the cost of the volunteer fire department. If the audit is not filed by the

first day of July, the Legislative Auditor shall notify the state treasurer who shall withhold payment of one thousand dollars from any amount that would otherwise be distributed to the fire department. If the department does not timely file a sworn statement of annual expenditures or an audit of the disbursement of funds, made by an independent certified public accountant, with the Legislative Auditor's Office for three consecutive years, the Legislative Auditor shall notify the treasurer who shall withhold payment of any amount that would otherwise be distributed to the fire department.

Chapter 12, Article 4, Section 14 as amended March 8, 2000, 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.

UPPER TRACT VOLUNTEER FIRE DEPARTMENT

GENERAL REMARKS

Introduction

We have completed a disbursement audit of the Upper Tract Volunteer Fire Department (Department). The audit covered the years ended December 31, 2004, December 31, 2003 and December 31, 2002.

Disbursement Statement and Bank Account

During our audit of the Upper Tract Volunteer Fire Department Annual Statements of Expenditures for the years ended December 31, 2004, December 31, 2003 and December 31, 2002, nothing came to our attention that caused us to believe that the Department failed to comply with the terms of Chapter 8, Article 15, Section 8b of the West Virginia code, as amended.

The differences noted are either timing differences or mathematical errors caused by the Department paying the utilities for the building housing the Department, and the fact that it is shared with several other organizations. They submit bills to these organizations every three months for reimbursement for utilities used. These reimbursements are deposited back into the state fund account.

UPPER TRACT VOLUNTEER FIRE DEPARTMENT

STATEMENT OF EXPENDITURES

YEAR ENDED DECEMBER 31, 2004

	<u>VFD</u>	<u>AUDIT</u>	<u>DIFFERENCES</u>
Chapter 8, Article 15, Section 8b(a)	\$ 592.27	\$ 668.00	\$ 75.73
Chapter 8, Article 15, Section 8b(b)	586.03	569.00	(17.03)
Chapter 8, Article 15, Section 8b(c)	1,046.80	1,021.80	(25.00)
Chapter 8, Article 15, Section 8b(d)	1,619.35	2,072.30	452.95
Chapter 8, Article 15, Section 8b(e)	83.10	83.10	0.00
Chapter 8, Article 15, Section 8b(f)	20,000.00	20,000.00	0.00
Chapter 8, Article 15, Section 8b(g)	4,579.05	4,116.16	(462.89)
Chapter 8, Article 15, Section 8b(h)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(i)	75.00	75.00	0.00
Chapter 8, Article 15, Section 8b(j)	7,527.33	7,527.33	0.00
Chapter 8, Article 15, Section 8b(k)	<u>2,379.82</u>	<u>2,111.37</u>	<u>(268.45)</u>
 Total Disbursements for Year Ended December 31, 2004	 <u>\$38,488.75</u>	 <u>\$38,244.06</u>	 <u>(\$244.69)</u>

UPPER TRACT VOLUNTEER FIRE DEPARTMENT

STATEMENT OF EXPENDITURES

YEAR ENDED DECEMBER 31, 2003

	<u>VFD</u>	<u>AUDIT</u>	<u>DIFFERENCES</u>
Chapter 8, Article 15, Section 8b(a)	\$ 684.67	\$ 678.57	(\$ 6.10)
Chapter 8, Article 15, Section 8b(b)	63.00	63.00	0.00
Chapter 8, Article 15, Section 8b(c)	1,128.10	1,291.40	163.30
Chapter 8, Article 15, Section 8b(d)	802.28	1,133.76	331.48
Chapter 8, Article 15, Section 8b(e)	1,610.20	1,284.84	(325.36)
Chapter 8, Article 15, Section 8b(f)	20,000.00	20,000.00	0.00
Chapter 8, Article 15, Section 8b(g)	3,637.41	3,108.17	(529.24)
Chapter 8, Article 15, Section 8b(h)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(i)	75.00	75.00	0.00
Chapter 8, Article 15, Section 8b(j)	8,249.30	8,249.30	0.00
Chapter 8, Article 15, Section 8b(k)	<u>2,190.62</u>	<u>2,958.72</u>	<u>768.10</u>
Total Disbursements for Year Ended December 31, 2003	<u>\$38,440.58</u>	<u>\$38,842.76</u>	<u>\$402.18</u>

UPPER TRACT VOLUNTEER FIRE DEPARTMENT

STATEMENT OF EXPENDITURES

YEAR ENDED DECEMBER 31, 2002

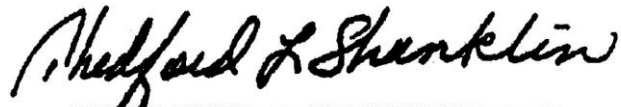
	<u>VFD</u>	<u>AUDIT</u>	<u>DIFFERENCES</u>
Chapter 8, Article 15, Section 8b(a)	\$ 781.10	\$ 364.73	(\$ 416.37)
Chapter 8, Article 15, Section 8b(b)	3,854.75	3,854.75	0.00
Chapter 8, Article 15, Section 8b(c)	2,086.88	1,431.87	(655.01)
Chapter 8, Article 15, Section 8b(d)	7,686.14	7,959.83	273.69
Chapter 8, Article 15, Section 8b(e)	506.14	2,434.37	1,928.06
Chapter 8, Article 15, Section 8b(f)	0.00	2,677.66	2,677.66
Chapter 8, Article 15, Section 8b(g)	1,526.48	1,890.36	363.88
Chapter 8, Article 15, Section 8b(h)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(i)	75.00	75.00	0.00
Chapter 8, Article 15, Section 8b(j)	6,762.85	6,762.85	0.00
Chapter 8, Article 15, Section 8b(k)	<u>7,545.67</u>	<u>4,357.15</u>	<u>(3,188.52)</u>
Total Disbursements For Year Ended December 31, 2002	<u>\$ 30,825.18</u>	<u>\$ 31,808.57</u>	<u>\$ 983.39</u>
Total Disbursements For Years Ended December 31, 2004, 2003 and 2002	<u>\$107,754.51</u>	<u>\$108,895.39</u>	<u>\$1,140.88</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 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 16th day of April, 2008.



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 Upper Tract Volunteer Fire Department; Governor; Attorney General; State Auditor; Director of Finance Division, Department of Administration; State Fire Marshal; Prosecuting Attorney, Pendleton County; and County Clerk, Pendleton County.