



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# Request for Quotation

RFQ NUMBER
INS12015

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
SHELLY MURRAY 304-558-8801

RFQ COPY  
 TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

INSURANCE COMMISSION  
  
 1124 SMITH STREET  
 CHARLESTON, WV  
 25305-0540 304-558-3707

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B	FREIGHT TERMS
04/26/2012				

BID OPENING DATE: **05/30/2012** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		946-20		
<p style="text-align: center;"><b>REQUEST FOR PROPOSAL</b></p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA INSURANCE COMMISSION, IS SOLICITING PROPOSALS TO PROVIDE AUDIT SERVICES FOR FISCAL YEAR ENDING JUNE 30, 2012 PER THE ATTACHED SPECIFICATIONS.</p> <p>TECHNICAL QUESTIONS MUST BE SUBMITTED IN WRITING TO SHELLY MURRAY IN THE WEST VIRGINIA PURCHASING DIVISION VIA MAIL AT THE ADDRESS SHOWN IN THE BODY OF THIS RFP, VIA FAX AT 304-558-4115, OR VIA E-MAIL AT SHELLY.L.MURRAY@WV.GOV. DEADLINE FOR ALL TECHNICAL QUESTIONS IS 05/11/2012 AT THE CLOSE OF BUSINESS. ALL TECHNICAL QUESTIONS RECEIVED, IF ANY, WILL BE ADDRESSED BY ADDENDUM AFTER THE DEADLINE.</p> <p><b>AUDITING SERVICES</b></p> <p><b>EXHIBIT 3</b></p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON 07/01/2012 AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

## GENERAL TERMS & CONDITIONS REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at [www.state.wv.us/admin/purchase/vrc/hipaa.html](http://www.state.wv.us/admin/purchase/vrc/hipaa.html) and is hereby made part of the agreement provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **LICENSING:** Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, and the West Virginia Insurance Commission. The vendor must provide all necessary releases to obtain information to enable the director or spending unit to verify that the vendor is licensed and in good standing with the above entities.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the State of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

### INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



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 Department of Administration  
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BID OPENING DATE: **05/30/2012** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT BY THE STATE OF WEST VIRGINIA, ITS AGENCIES, OR POLITICAL SUBDIVISIONS, THE TERMS, CONDITIONS, AND PRICING SET FORTH HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.</p> <p>RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICE SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
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TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
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<p>SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;">DEPARTMENT OF ADMINISTRATION          PURCHASING DIVISION          BUILDING 15          2019 WASHINGTON STREET, EAST          CHARLESTON, WV 25305-0130</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER: <span style="float: right;">SHELLY MURRAY</span></p> <p>RFQ. NO.: <span style="float: right;">INS12015</span></p> <p>BID OPENING DATE: <span style="float: right;">05/30/2012 (TECHNICAL)</span></p> <p>BID OPENING TIME: <span style="float: right;">1:30 PM</span></p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY</p>						

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<p>TO CONTACT YOU REGARDING YOUR BID:</p> <p>-----</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY):</p> <p>-----</p> <p>ANY INDIVIDUAL SIGNING THIS BID IS CERTIFYING THAT:            (1) HE OR SHE IS AUTHORIZED BY THE BIDDER TO EXECUTE THE BID OR ANY DOCUMENTS RELATED THERETO ON BEHALF OF THE BIDDER, (2) THAT HE OR SHE IS AUTHORIZED TO BIND THE BIDDER IN A CONTRACTUAL RELATIONSHIP, AND (3) THAT THE BIDDER HAS PROPERLY REGISTERED WITH ANY STATE AGENCIES THAT MAY REQUIRE REGISTRATION.</p> <p>***** THIS IS THE END OF RFQ INS12015 ***** TOTAL: _____</p>						

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# REQUEST FOR PROPOSAL

## State of West Virginia

### Offices of the Insurance Commissioner

#### INS12015

## TABLE OF CONTENTS

- Section 1:** General Information  
**Section 2:** Project Specifications  
**Section 3:** Vendor Proposal  
**Section 4:** Evaluation and Award  
**Section 5:** Contract Terms and Conditions

## SECTION ONE: GENERAL INFORMATION

- 1.1 Purpose: The Purchasing Division, hereinafter referred to as the "State," is soliciting proposals pursuant to **West Virginia Code §5A-310b** for the Department of Revenue, Offices of the Insurance Commissioner, hereinafter referred to as the "Agency," to provide Audit Services for fiscal year ending June 30, 2012, with the option of auditing its financial statements for each of the two subsequent fiscal years.
- 1.2 By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this RFP.

A Request for Proposal (RFP) is generally used for the procurement of services in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value). Through its proposal, the bidder offers a solution to the objectives, problem, or need specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements.

- 1.2.1 Compliance with Laws and Regulations: The Vendor shall procure all necessary permits and licenses to comply with all applicable Federal, State, or municipal laws, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract shall be borne by the Vendor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

- 1.3 Schedule of Events:

Vendor's Written Questions Submission Deadline.....	05/1/2012
Mandatory Pre-bid Conference.....	N/A
Addendum Issued .....	TBD
Bid Opening Date .....	05/30/2012
Oral Presentation .....	N/A

- 1.4 **Mandatory Pre-bid Conference:** Not Applicable. A mandatory pre-bid conference shall not be conducted. The agency is electing to utilize written questions and answers as an alternative.
- 1.5 **Inquiries:** Inquiries regarding specifications of this RFP must be submitted in writing to the State Buyer with the exception of questions regarding the proposal submission which may be oral. The deadline for written inquiries is identified in the Schedule of Events, Section 1.3. All inquiries of specification clarification must be addressed to:

Shelly Murray, Buyer Supervisor  
 Purchasing Division  
 2019 Washington Street, East  
 P.O. Box 50130  
 Charleston, WV 25305-0130  
 Fax: (304) 558-4115

**No contact between the Vendor and the Agency is permitted without the express written consent of the State Buyer.** Violation may result in rejection of the bid. The State Buyer named above is the sole contact for any and all inquiries after this RFP has been released.

- 1.6 **Verbal Communication:** Any verbal communication between the Vendor and any State personnel is **not** binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the RFP specifications by an official written addendum by Purchasing is binding.
- 1.7 **Addenda:** If it becomes necessary to revise any part of this RFP, an official written addendum will be issued by the Purchasing Division.

## SECTION TWO: PROJECT SPECIFICATIONS

- 2.1 **Location:** West Virginia Offices of the Insurance Commissioner is located at 1124 Smith Street, Charleston, West Virginia.
- 2.2 **Background and Current Operating Environment:**  
 A copy of the most recent audited financial statements is enclosed for extensive background information about the OIC (see Attachment D). The "Notes to Financial Statements" (Note 1 – Financial Reporting Entity) provides an overview of the organization. All interested vendors should thoroughly review the OIC's audited financial statements in order to understand the reporting entity and the structure and purpose of the various workers' compensation related funds. The Comprehensive Annual Financial Report (CAFR) for June 30, 2011, can be viewed at [www.wvfinance.state.wv.us/cafr11.htm](http://www.wvfinance.state.wv.us/cafr11.htm).

### 2.2.1 WVFIMS:

The State of West Virginia's centralized accounting system is known as the West Virginia Financial Information Management System (WVFIMS). WVFIMS provides a centralized system that meets the budgetary accounting needs of the State and its agencies. The System provides management with on-line access to critical information for general ledger and appropriation accounts. WVFIMS provides State agencies with ledgers for all accounting transactions. The data available with respect to cash, investments, and accounts payable is centralized within WVFIMS. The data available with respect to accounts receivable is not centralized. The OIC maintains its own systems, procedures and account records. It should be noted that the OIC, will be transitioning from WVFIMS to an Enterprise Resource Planning (ERP) system, known as OASIS during the expected duration of this contract.

### 2.2.2 Financial Operations:

The OIC uses the State's accounting systems WVFIMS and EPICS (for payroll) and has in-house systems for general ledger entries and accruals. As noted above, the entire State of WV, including the OIC will be transitioning to an ERP system over the next three fiscal years.

### 2.2.3 Fund Structure/Method of Reporting:

The OIC will be reported as a proprietary fund and governmental fund of the State of West Virginia. Please refer to the fiscal year 2011 financial statements (Attachment D) for a complete overview of the various funds that the OIC maintains and the reporting structure. It is anticipated that the OIC's financial statements will be included in the Comprehensive Annual Financial Report (CAFR) of the State of West Virginia.

### 2.2.4 Investments:

The State Treasurer's Office (STO), Board of Treasury Investments (BTI), and the Investment Management Board (IMB) have the responsibility for the investment of funds for all State agencies, departments, boards and commissions, unless otherwise specified in the West Virginia Code.

### 2.2.5 Special Considerations:

The financial statements of the OIC are to be included as an Enterprise Fund of the financial statements of the State of West Virginia. It is anticipated that the auditing firm will be required to respond to inquiries from the State of West Virginia's Auditor and the accounting staff of the OIC regarding the inclusion of the OIC's financial statements.

An independent consulting actuarial firm will perform an evaluation of the liability associated with the Workers' Compensation Fund using data provided by the OIC. Based on this evaluation, the OIC will then select the "best estimate" of required reserves for inclusion in the financial statements. The OIC's selected auditing firm must demonstrate the necessary competency and experience, either independently or through the use of subcontractors, to opine on the actuarially derived liability calculations for the OIC's various workers' compensation funds. The competence and experience for the actuarial component of the work must be specifically related to worker's compensation liabilities.

It should be noted that due to additional responsibilities of the OIC related to implementation of federal health care reform known as the Affordable Care Act (ACA), the OIC has become a direct recipient of federal grant monies. These federal grants are reported in the OIC's governmental fund and thus far have not reached a level of materiality to be considered a major program under the Single Audit Act. However, the potential exists for the level of funding for the OIC's health care reform programs to increase and may increase the reporting responsibilities of the OIC accordingly.

- 2.3 **Qualifications and Experience:** Vendors will provide in **Attachment A: Vendor Response Sheet** information regarding their firm, such as staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

#### 2.3.1 Staff Qualification

- *Partner, Supervisory and Staff Qualifications and Experience:*  
The Vendor should identify the principle supervisory and management staff, including engagement partners, managers, other supervisors, audit seniors, and specialists, who would be assigned to the engagement and indicate whether each person is licensed to practice as a certified public accountant in West Virginia.



- *Subcontractor Qualifications and Experience:*  
The vendor should identify any subcontractors who will be used during the engagement and list the qualifications of each subcontractor or each person associated with a subcontracted firm.
- The Vendor should describe the number, qualifications, experience, and relevant continuing professional education of the specific staff to be assigned to this engagement. The firm also should indicate how the quality of staff over the term of the agreement will be assured.

### 2.3.2 Firm Experience

- The proposing vendor, as primary contractor, is to provide all information about associated firms and personnel.
- *Vendor Qualifications:*  
The proposal should state, for each firm included by this proposer, the size of the firm, the size of the firm's governmental services staff, the number and nature of the professional staff to be employed in this engagement on a full-time basis, and the number and nature of the staff to be so employed on a part-time basis. The proposal should include the qualifications of any firm or subcontracted actuarial firm that will be providing services related to the review of the actuarially derived liability estimates. The qualification of an actuary to provide services related to workers' compensation liabilities should be clearly defined.
- The vendor should submit a copy of the report on its most recent external quality control review and a statement indicating whether that quality control review included a review of specific government engagements.
- The vendor should provide information on the results of any Federal or State desk reviews or field reviews of its audit during the past three (3) years. In addition, the proposal should state each firm's status within the public accounting profession and the status of any adverse legal action that may jeopardize the firms' long-term viability.
- *Prior Engagements with the State of West Virginia:*  
The vendor should list separately all agreements within the last five (5) years, ranked on the basis of total staff hours, for the State of West Virginia by type of engagement (i.e. audit, management advisory services, other). For each engagement, the vendor should indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principle client contact.
- *Similar Engagements with Other Entities:*  
The vendor should list the most significant engagements (maximum of five) performed in the last five (5) years that are similar to the engagement described in this Request for Proposal. Similar engagements will include those performed for insurance entities, state workers' compensation funds, or any private entity with significant workers' compensation liability exposure. These engagements should be ranked on the basis of total staff hours.
- Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principle client contact.

### 2.3.3 Approach and Audit Work Plan

- *Specific Audit Approach and Work Plan:*
  - The proposal should set forth a work plan for the audit, including the utilization of subcontractors, if any, and how such participation will be managed to ensure appropriate communication between the OIC and the auditing firm. The work plan should include time estimates for the completion of each significant segment of the work and the staff level to be assigned. In developing the work plan, reference should be made to key sources of information, such as financial systems and other management information systems. Describe how the partner-in-charge will take an active role in the audit to ensure that individuals with the necessary experience and expertise will be assigned to the audit at the appropriate point to ensure timely completion. Special attention should be given to the audit plan to review the actuarial estimate of the workers' compensation liabilities.
  - The audit work plan should demonstrate the auditing firm's understanding of the audit requirements and the audit tests and procedures to be applied in completing the work plan. Audit work plans should be specifically designed for the OIC and should demonstrate an understanding of the entity. Audit work plans should be provided for fiscal year 2012. The audit work plan should describe in detail the audit approach for the actuarially determined workers' compensation related liabilities for the various OIC Funds.
- Proposers should provide the following information on their audit approach:
  - Proposed time line and audit plan with specific dates to ensure completion in desired time limits;
  - Level of staff and number of hours to be assigned to each proposed segment of the engagement;
  - Describe aspects of the engagement which may require the services of specialists or involve consultation outside the engagement team; Particular attention should be given to the proposed use of a consulting actuary;
  - Address how new accounting pronouncements or implementation of federal regulations may affect the work plan;
  - Approach to the design of audit tests;
  - Approach to be taken to gain and document an understanding of the OIC;
  - Approach to be taken in determining laws and regulations that will be subject to audit test work;
  - The Vendor should provide sample formats for required reports;
  - The Vendor should provide sample formats for management representations;
  - Certification that the person signing the proposal is entitled to represent the firm; empowered to submit the bid and authorized to sign a contract with the OIC.

### 2.4 **Project and Goals:** The project goals and objectives are:

- 2.4.1 The OIC desires the auditing firm to express an opinion on the fair presentation of financial statements in conformity with generally accepted accounting principles.
- 2.4.2 The auditing firm will be required to prepare all supporting schedules required by the Department of Administration for the preparation of the State's Comprehensive Annual Financial Report (CAFR).

- 2.4.3 The auditing firm shall also be responsible for assisting in the implementation of required supplementary information required by the Governmental Accounting Standards Board (GASB) as mandated by generally accepted auditing standards.
- 2.4.4 The auditing firm will provide technical assistance to the OIC accounting staff in the preparation of financial statements, reports, and documents necessary for compliance with the Comprehensive Annual Financial Report of the State of West Virginia and the requirements of the West Virginia Financial Accounting and Reporting Section of the Department of Administration. The audit and technical assistance must be performed in accordance with the provisions contained below.

*2.4.4.1 Independence:*

The OIC seeks an independent and objective auditing firm.

2.4.4.2 Engagement partners, managers, other supervisory staff, audit seniors, and specialists may need to be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for these or other reasons with the express prior written permission of the OIC. It is also possible that personnel associated with a subcontractor may be assigned to other duties or leave the subcontracted firm. However, in either case, OIC must be informed in writing of these changes and retain the right to approve or reject replacements based upon their qualifications, experience, or performance.

Other personnel may be changed at the discretion of the proposer, provided that replacements have substantially the same or better qualifications or experience.

It is required that the successful bidder possesses comprehensive knowledge of the insurance industry and workers' compensation. The OIC reserves the right to request staff changes throughout the term of the contract.

*2.4.4.3 Reports:*

Following the completion of the audit of the fiscal year's financial statements, the auditing firm shall issue a report on the fair presentation of the financial statements in conformity with generally accepted accounting principles. It is the intention of the OIC to issue a bound set of financial statements.

In addition, the auditing firm will provide an "in-relation-to" report on the supporting schedules based on the auditing procedures applied during the audit of the general purpose financial statements.

The auditing firm shall communicate in a letter to management any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

*Irregularities and illegal acts.* The auditing firm shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the State Comptroller and the Financial Accounting and Reporting Section of the Department of Administration under the authority of Section 5A-2-33 of the State Code.

*Reporting to the OIC.* At a minimum, the auditing firm shall inform the OIC of each of the following:

- The auditing firm's responsibility under generally accepted auditing standards
- Significant accounting policies
- Management judgments and accounting estimates
- Significant audit adjustments
- Other information in documents containing audited financial statements
- Disagreements with management
- Management consultation with other accountants
- Major issues discussed with management prior to retention
- Difficulties encountered in performing the audit

*2.4.4.4 Working Paper Retention and Access to Working Papers:*

All working papers and reports must be retained, at the auditing firm's expense, for a minimum of three (3) years, unless the firm is notified in writing by the OIC of the need to extend the retention period. The auditing firm will be required to make working papers available, upon request, to the OIC.

In addition, the successful auditing firm shall respond to the reasonable inquiries by the OIC or its successor auditing firms and allow its successor auditing firms to review working papers relating to the matters of continuing account significance.

*2.4.4.5 Schedule for Fiscal Year Audit:*

Each of the following shall be completed by the auditing firm no later than the dates indicated. These dates apply to the 2012 audit only.

<b>Required Submission or Event</b>	<b>Required Completion/ Submission Date</b>
Entrance conference	Prior to June 30, 2012
Any interim work must be completed	June 30, 2012
Detailed audit plan	July 20, 2012
Field work to begin	On or after August 1, 2012
Draft submitted to the Financial Accounting and Reporting Section (FARS) of the Department of Administration with copies to the Assistant Commissioner of Finance	September 14, 2012
Unsigned final draft with all modifications to the OIC management for final review	October 5, 2012
Final signed report submitted to the OIC and to FARS	October 12, 2012

At a minimum, the following conferences shall be held by the dates indicated on the schedule:

- *Entrance Conference with OIC staff.* The purpose of this meeting is to discuss potential audit problems and the interim work to be performed. This meeting will also be used to establish an overall liaison for the audit and to make arrangements for work space and other needs of the auditing firm.
- *Monthly Progress Conference with auditing firm's supervisory staff.* The purpose of these meetings will be to summarize the results of the preliminary review and to identify key internal controls of other matters to be tested.
- *Exit Conference with audit managers.* The purpose of this meeting will be to summarize the results of the fieldwork and to review significant findings.

## Audit Work, Audit Plan, and Reports

- *Interim Work.* During this phase, the auditing firm shall gain a detailed understanding of the controls that exist over expenditures and the GAAP basis financial statements.
- *Detailed Audit Plan.* The auditing firm shall provide detailed audit plans and requests for audit assistance.
- *Field Work.* The auditing firm shall complete all field work to ensure that the draft and final reports are delivered as agreed.
- *Draft Reports.* The auditing firm shall have drafts of the audit reports and recommendations to the respective management of the OIC available for their review.
- *Final Reports.* The auditing firm shall deliver the final audit reports and recommendations to the respective management of the OIC. On or before the date that the final report for Fiscal Year 2012 is due, fifty (50) signed copies shall be bound and delivered to the OIC's Assistant Commissioner of Finance. The OIC may request fewer copies if they determine that less than 50 printed copies will meet their needs. The auditing firm shall also provide the OIC with an electronic copy of the final audit report in a format that is suitable for publication on the OIC's website.

### *2.4.4.6 Financial Accounting and Assistance:*

The Financial Accounting staff and responsible management personnel of the OIC will be available during the audit to assist the firm by providing information, documentation, and explanations. The preparation of confirmations will be the responsibility of the auditing firm.

### *2.4.4.7 Work Area, Telephone, Photocopying and Fax Machines:*

The OIC will provide the auditing firm with reasonable workspace, desks, and chairs. The auditing firm will also be provided with access to telephone lines, photocopying facilities, and fax machines as appropriate.

- 2.4.5 The proposal should include a description of the entity that they will be auditing and state a clear understanding of the work that they will be undertaking. The proposal should demonstrate that the firm has thoroughly reviewed the OIC's financial statements and achieved an understanding of the entity and the funds to be audited.

## 2.5 **Mandatory Requirements**

The following mandatory requirements must be met by the Vendor as a part of the submitted proposal. Failure on the part of the Vendor to meet any of the mandatory specifications shall result in the disqualification of the proposal. The terms "must", "will", "shall", "minimum", "maximum", or "is/are required" identify a mandatory item or factor. Decisions regarding compliance with any mandatory requirements shall be at the sole discretion of the State.

- 2.5.1 The successful audit firm must be in compliance with all applicable rules and regulations of the WV Board of Accountancy, as required by WV Accountancy law. All public accounting firms must comply with firm organization and registration requirements and annually renew their registrations with the WV Accountancy Board. Additionally, the successful firm must be authorized by the WV Board of Accountancy to perform attest services within the state of WV.
- 2.5.2 To meet the requirements of this Request for Proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants.

2.5.3 Report preparation, editing, and printing shall be the responsibility of the auditing firm.

2.6 **Oral Presentations:** Not applicable

## SECTION THREE: VENDOR PROPOSAL

3.1 **Economy of Preparation:** Proposals should be prepared simply and economically providing a straightforward, concise description of the Vendor's abilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of the content.

3.2 **Incurring Cost:** Neither the State nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.

3.3 **Proposal Format:** Vendors should provide responses in the format listed below:

**Title Page:** State the RFP subject, number, Vendor's name, business address, telephone number, fax number, name of contact person, e-mail address, and Vendor signature and date.

**Table of Contents:** Clearly identify the material by section and page number.

**Attachment A:** Within the attached response sheet (**Attachment A: Vendor Response Sheet**), provide the following: firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

Also, describe the approach and methodology proposed for this project. This should include how each of the goals and objectives listed is to be met.

**Attachment B:** Complete **Attachment B: Mandatory Specification Checklist**. By signing and dating this attachment, the Vendor acknowledges that they meet or exceed each of these specifications as outlined in 2.5 of Section Two: Project Specifications. The State reserves the right to require documentation detailing how each is met at its discretion.

**Attachment C:** Complete **Attachment C: Cost Sheet** included in this RFP and submit in a separate sealed envelope. Cost should be clearly marked.

**Oral Presentations:** If established by the Agency in the Schedule of Events (Section 1.3), all Vendors participating in this RFP will be required to provide an oral presentation, based on the criteria set in Section 2.6. During oral presentations, Vendors may not alter or add to their submitted proposal, but only to clarify information.

3.4 **Proposal Submission:** Proposals must be received in **two distinct parts**: technical and cost.

- **Technical proposals** must not contain any cost information relating to the project.

- **Cost proposal** shall be sealed in a separate envelope and will not be opened initially.

All proposals must be submitted to the Purchasing Division **prior** to the date and time stipulated in the RFP as the opening date. All bids will be dated and time stamped to verify official time and date of receipt.

- 3.4.1 Vendors should allow sufficient time for delivery. In accordance with **West Virginia Code §5A-3-11**, the Purchasing Division cannot waive or excuse late receipt of a proposal, which is delayed or late for any reason. Any proposal received after the bid opening date and time will be immediately disqualified in accordance with State law.

**Vendors responding to this RFP shall submit:**

One original technical and cost proposal plus 5 convenience copies to:

Purchasing Division  
2019 Washington Street, East  
P.O. Box 50130  
Charleston, WV 25305-0130

The outside of the envelope or package(s) for both the technical and the cost should be clearly marked:

Vendor: \_\_\_\_\_  
Buyer: \_\_\_\_\_  
Req #: \_\_\_\_\_  
Opening Date: \_\_\_\_\_  
Opening Time: 1:30 p.m.

- 3.5 **Purchasing Affidavit:** **West Virginia Code §5A-3-10a** requires that all bidders submit an affidavit regarding any debt owed to the State. The affidavit must be signed and submitted prior to award. It is preferred that the affidavit be submitted with the proposal.
- 3.6 **Resident Vendor Preference:** In accordance with **West Virginia Code §5A-3-37**, Vendors may make application for Resident Vendor Preference. Said application must be made on the attached Resident Vendor Certification form at the time of proposal submission.
- 3.7 **Technical Bid Opening:** The Purchasing Division will open and announce only the technical proposals received prior to the date and time specified in the Request for Proposal. The technical proposals shall then be provided to the Agency evaluation committee.
- 3.8 **Cost Bid Opening:** The Purchasing Division shall schedule a date and time to publicly open and announce cost proposals when the Purchasing Division has approved the technical recommendation of the evaluation committee. All cost bids for qualifying proposals will be opened. Cost bids for non-qualifying proposals will not be opened. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award, pursuant to **West Virginia Code §5A-3-11(h)** and **West Virginia Code of State Rules §148-1-6.2.5**.

## SECTION FOUR: EVALUATION AND AWARD

- 4.1 **Evaluation Process:** Proposals will be evaluated by a committee of three (3) or more individuals against the established criteria with points deducted for deficiencies. The Vendor who demonstrates that they meet all of the mandatory specifications required; and has appropriately presented within their written response and/or during the oral demonstration (if applicable) their understanding in meeting the goals and objectives of the project; and attains the highest overall point score of all Vendors shall be awarded the contract. The selection of the successful Vendor will be made by a consensus of the evaluation committee.
- 4.2 **Evaluation Criteria:** All evaluation criteria is defined in the specifications section and based on a 100 point total score. Cost shall represent a minimum of 30 of the 100 total points.

The following are the evaluation factors and maximum points possible for technical point scores:

• Qualifications and experience	(35) Points Possible
• Approach and methodology	(35) Points Possible
• Cost	<u>30 Points Possible</u>
<b>Total</b>	<b>100 Points Possible</b>

Each cost proposal cost will be scored by use of the following formula for all Vendors who attained the minimum acceptable score:

$$\frac{\text{Lowest price of all proposals}}{\text{Price of Proposal being evaluated}} \times 30 = \text{Price Score}$$

- 4.2.1 **Technical Evaluation:** The Agency evaluation committee will review the technical proposals, deduct points where appropriate, and make a final written recommendation to the Purchasing Division.
- 4.2.2 **Minimum Acceptable Score:** Vendors must score a minimum of 70% (49 points) of the total technical points possible. All Vendors not attaining the minimum acceptable score (MAS) shall be considered as non-qualifying; therefore, the cost bids will not be opened. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award, pursuant to **West Virginia Code** §5A-3-11(h) and **West Virginia Code of State Rules** §148-1-6.2.5.
- 4.2.3 **Cost Evaluation:** The Agency evaluation committee will review the cost proposals, assign appropriate points, and make a final recommendation to the Purchasing Division.
- 4.3 **Independent Price Determination:** A proposal will not be considered for award if the price in the proposal was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to prices with any competitor unless the proposal is submitted as a joint venture.
- 4.4 **Rejection of Proposals:** The State reserves the right to accept or reject any or all proposals, in part or in whole at its discretion. The State further reserves the right to withdraw this RFP at any



time and for any reason. Submission of or receipt of proposals by the State confers no rights upon the bidder nor obligates the State in any manner.

- 4.5 **Vendor Registration:** Vendors participating in this process should complete and file a Vendor Registration and Disclosure Statement (Form WV-1) and remit the registration fee. Vendor is not required to be a registered Vendor in order to submit a proposal, but the **successful bidder must** register and pay the fee prior to the award of an actual purchase order or contract.

## SECTION FIVE: CONTRACT TERMS AND CONDITIONS

- 5.1 **Contract Provisions:** The RFP and the Vendor's response will be incorporated into the contract by reference. The order of precedence shall be the contract, the RFP and any addendum, and the vendor's proposal in response to the RFP.
- 5.2 **Public Record:** All documents submitted to the State Purchasing Division related to purchase orders or contracts are considered public records. All bids, proposals, or offers submitted by Vendors shall become public information and are available for inspection during normal official business hours in the Purchasing Division Records and Distribution center after the bid opening. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award, pursuant to **West Virginia Code §5A-3-11(h)** and **West Virginia Code of State Rules §148-1-6.2.5**.
- 5.2.1 **Risk of Disclosure:** The only exemptions to disclosure of information are listed in **West Virginia Code §29B-1-4**. Any information considered a trade secret must be separated from the Vendor submission and clearly labeled as such. Primarily, only trade secrets, as submitted by a bidder, are exempt from public disclosure. The submission of any information to the State by a Vendor puts the risk of disclosure on the Vendor. The State does not guarantee non-disclosure of any information to the public.
- 5.2.2 **Written Release of Information:** All public information may be released with or without a Freedom of Information request; however, only a written request will be acted upon with duplication fees paid in advance. Duplication fees shall apply to all requests for copies of any document. Currently, the fees are 50 cents per page, or a minimum of \$10.00 per request, whichever is greater.
- 5.3 **Conflict of Interest:** Vendor affirms that neither it nor its representatives have any interest nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.
- 5.4 **Vendor Relationship:** The relationship of the Vendor with the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents.

Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this RFP and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever.

Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation

plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *et cetera* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

The Vendor shall not assign, convey, transfer, or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association, or entity without expressed written consent of the Agency.

5.4.1 Subcontracts/Joint Ventures: The Vendor may, with the prior written consent of the State, enter into subcontracts for performance of work under this contract.

5.4.2 Indemnification: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the contract in a manner not authorized by the contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage laws.

5.4.3 Governing Law: This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws and regulations as provided by Federal, State, and local governments.

5.5. **Term of Contract and Renewals**: This contract will be effective upon award and shall extend for the period of one (1) year, at which time the contract may, upon mutual consent, be renewed. Such renewals are for a period of up to one (1) year, with a maximum of two (2) one-year renewals, or until such reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period shall not exceed twelve (12) months. During the "reasonable time" period, Vendor may terminate the contract for any reason upon giving the Agency ninety (90) days written notice. Notice by Vendor of intent to terminate will not relieve Vendor of the obligation to continue providing services pursuant to the terms of the contract.

5.6 **Non-Appropriation of Funds**: If funds are not appropriated for the Agency in any succeeding fiscal year for the continued use of the services covered by this contract, the State may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The State shall give the Vendor written notice of such non-appropriation of funds as soon as possible after the Agency receives notice. No penalty shall accrue to the Agency in the event this provision is exercised.

5.7 **Changes**: If changes to the contract become necessary, a formal contract change order will be negotiated by the State, the Agency, and the Vendor.

As soon as possible, but not to surpass thirty (30) days after receipt of a written change request from the Agency, the Vendor shall determine if there is an impact on price with the change requested and provide the Agency a written Statement identifying any price impact on the contract. The Vendor shall provide a description of any price change associated with the implementation.

**NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER FROM THE PURCHASING DIVISION.**

- 5.8 **Price Quotations:** The price(s) quoted in the Vendor's proposal will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided in the original specifications.
- 5.9 **Invoices and Progress Payments:** The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To." Progress payments may be made at the option of the Agency on the basis of percentage of work completed if so defined in the final contract.
- 5.10 **Liquidated Damages:** According to *West Virginia Code* §5A-3-4(8), Vendor agrees that liquidated damages shall be imposed at the rate of \$1,000 per day for failure to provide the deliverables set forth in the contract or for failure to meet specified deadlines. This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other additional remedy which the State or Agency may have legal cause for action.
- 5.11 **Contract Termination:** The State may terminate any contract resulting from this RFP immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFP and resulting contract. The State shall provide the Vendor with advance notice of performance conditions which may endanger the contract's continuation. If after such notice the Vendor fails to remedy the conditions within the established timeframe, the State shall order the Vendor to cease and desist any and all work immediately. The State shall be obligated only for services rendered and accepted prior to the date of the notice of termination.

The contract may be terminated by the State with thirty (30) days prior notice pursuant to *West Virginia Code of State Rules* § 148-1-7.16.2.

5.12 **Special Terms and Conditions:**

5.12.1 Bid and Performance Bonds  
Not Applicable

5.12.2 Insurance Requirements:

The successful Vendor must maintain and provide evidence of insurance issued by a company or companies qualified to do business in the State of West Virginia prior to the award of a contract. Said insurance must also be maintained for the duration of the contract, and any contract extensions granted. The insurance must be in the following types and amounts:

- A. Workers' Compensation Insurance covering all liability of the Vendor arising under the Worker's Compensation Act.
- B. Comprehensive General Liability insurance in broad form, written on an "occurrence" basis, with a combined single limit of not less than One Million Dollars (\$1,000,000) to include coverage for the following where exposure exists:
  1. Premises/operations
  2. Independent Contractors
  3. Products/Completed Operations
  4. Personal Injury
- C. Professional Liability Insurance:

1. Limit of Liability: \$1,000,000 minimum per claim made limit with at least a \$2,000,000 aggregate. The deductible is not to exceed more than 5% of the per claim made limit.
  2. Coverage: Errors and Omissions including liability assumed under this contract.
  3. Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences arising out of performance of the services required under the contract shall be maintained in full force and effect under the policy or "tail" coverage for a period of at least two (2) years after termination of the services.
- D. The Vendor agrees that with respect to the insurance requirements referenced above, the Agency shall be provided with certificates of insurance evidencing the required coverage prior to commencement of the agreement and thereafter upon request. Further, the Agency shall be provided with certificates evidencing renewals or replacements of said policies of insurance at least thirty (30) days prior to the expiration of or the cancellation of any policies. Said notices of insurance shall be provided to the OIC at the address below and will be added to the contract via written change order executed by the State Department of Administration's Purchasing Division.

Vickie Marcum, Administrative Support manager  
 WV Offices of the Insurance Commissioner  
 PO Box 50543  
 Charleston, WV 25305-0543

- 5.12.3 License Requirement: Workers' Compensation, Contractor's License, etc. All assigned key professional staff and all associated and subcontracted firms must be certified public accountant licensed to practice in West Virginia. Any subcontractors must be appropriately licensed for their contributions to the audit.
- 5.12.4 Protest Bond: Any bidder that files a protest of an award shall at the time of filing the protest submit a protest bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater.

The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All protest bonds shall be made payable to the Purchasing Division and shall be signed by the protester and the surety. In lieu of a bond, the protester may submit a cashier's check or bank money order payable to the Purchasing Division. The money will be held in trust in the State Treasurer's office.

If it is determined that the protest has not been filed for frivolous or improper purpose, the bond shall be returned in its entirety.

- 5.12.5 The Vendor shall comply with the West Virginia Human Rights Act, as amended, and any rules and regulations promulgated in accordance therewith, include, but not limited to the Equal Employment Opportunity Clause, West Virginia Code.
- 5.12.6 In case of default by the Vendor, the Agency may procure the services from other sources and hold the Vendor responsible for any excess cost occasioned thereby.

- 5.12.7 Invoices shall be submitted to the address herein; payment to be made in accordance with the Prompt Payment Act. Payments are to be made after the delivery and receipt of services.
- 5.12.8 The selected Vendor will be required to assume responsibility for all services offered in this proposal. The Agency will consider the selected Vendor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the agreement
- 5.12.9 Interpretation or Correction of the RFP
- A. The Vendor shall promptly notify the Agency in writing of any ambiguity, inconsistency, or error they may discover upon examination of the RFP.
- B. Interpretations, corrections and changes to the RFP will be made by addendum. Interpretations, corrections, or changes made in any other manner will not be binding.
- 5.12.10 Any agreement resulting from this RFP shall be governed by and construed according to the laws of the State of West Virginia.
- 5.12.11 The Vendor agrees that any information concerning the services provided in the course of this engagement shall remain confidential. Except as may be required by State or federal law, regulation, or order, the vendor agrees not to release any information concerning said services without prior approval of the Insurance Commissioner, or his/her designee.

- 5.13 **Record Retention (Access and Confidentiality):** Vendor shall comply with all applicable Federal and State rules, regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by the Vendor. The Vendor shall maintain such records a minimum of five (5) years and make such records available to Agency personnel at the Vendor's location during normal business hours upon written request by the Agency within ten (10) days after receipt of the request.

Vendor shall have access to private and confidential data maintained by the Agency to the extent required for the Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State and the Agency against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractors, or individuals permitted access by the Vendor.

## Attachment A: Vendor Response Sheet

*Provide a response regarding the following: firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.*

*List project goals and objectives contained in Section 2.4:*

**Section 2.4.1:** The OIC desires the auditing firm to express an opinion on the fair presentation of financial statements in conformity with generally accepted accounting principles.

### Vendor Response:

**Section 2.4.2:** The auditing firm will be required to prepare all supporting schedules required by the Department of Administration for the preparation of the State's Comprehensive Annual Financial Report (CAFR).

### Vendor Response:

**Section 2.4.3:** The auditing firm shall also be responsible for assisting in the implementation of required supplementary information required by the Governmental Accounting Standards Board (GASB) as mandated by generally accepted auditing standards.

### Vendor Response:

**Section 2.4.4:** The auditing firm will provide technical assistance to the OIC accounting staff in the preparation of financial statements, reports, and documents necessary for compliance with the Comprehensive Annual Financial Report of the State of West Virginia and the requirements of the West Virginia Financial Accounting and Reporting Section of the Department of Administration. The audit and technical assistance must be performed in accordance with the provisions contained below.

### Vendor Response:

The audit and technical assistance must be performed in accordance with the provisions contained below.

#### 2.4.4.1 Independence:

The OIC seeks an independent and objective auditing firm.

2.4.4.2 Engagement partners, managers, other supervisory staff, audit seniors, and specialists may need to be changed if those personnel leave the firm, are promoted or are

assigned to another office. These personnel may also be changed for these or other reasons with the express prior written permission of the OIC. It is also possible that personnel associated with a subcontractor may be assigned to other duties or leave the subcontracted firm. However, in either case, OIC must be informed in writing of these changes and retain the right to approve or reject replacements based upon their qualifications, experience, or performance.

Other personnel may be changed at the discretion of the proposer, provided that replacements have substantially the same or better qualifications or experience.

It is required that the successful bidder possesses comprehensive knowledge of the insurance industry and workers' compensation. The OIC reserves the right to request staff changes throughout the term of the contract.

### **Vendor Response:**

#### *2.4.5.3 Reports:*

Following the completion of the audit of the fiscal year's financial statements, the auditing firm shall issue a report on the fair presentation of the financial statements in conformity with generally accepted accounting principles. It is the intention of the OIC to issue a bound set of financial statements.

In addition, the auditing firm will provide an "in-relation-to" report on the supporting schedules based on the auditing procedures applied during the audit of the general purpose financial statements.

The auditing firm shall communicate in a letter to management any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

*Irregularities and illegal acts.* The auditing firm shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the State Comptroller and the Financial Accounting and Reporting Section of the Department of Administration under the authority of Section 5A-2-33 of the State Code.

*Reporting to the OIC.* At a minimum, the auditing firm shall inform the OIC of each of the following:

- The auditing firm's responsibility under generally accepted auditing standards
- Significant accounting policies
- Management judgments and accounting estimates
- Significant audit adjustments
- Other information in documents containing audited financial statements
- Disagreements with management
- Management consultation with other accountants
- Major issues discussed with management prior to retention
- Difficulties encountered in performing the audit

### **Vendor Response:**

#### 2.4.5.4 Working Paper Retention and Access to Working Papers:

All working papers and reports must be retained, at the auditing firm's expense, for a minimum of three (3) years, unless the firm is notified in writing by the OIC of the need to extend the retention period. The auditing firm will be required to make working papers available, upon request, to the OIC.

In addition, the successful auditing firm shall respond to the reasonable inquiries by the OIC or its successor auditing firms and allow its successor auditing firms to review working papers relating to the matters of continuing account significance.

#### Vendor Response:

#### 2.4.5.5 Schedule for Fiscal Year Audit:

Each of the following shall be completed by the auditing firm no later than the dates indicated. These dates apply to the 2012 audit only.

Required Submission or Event	Required Completion/ Submission Date
Entrance conference	Prior to June 30, 2012
Any interim work must be completed	June 30, 2012
Detailed audit plan	July 20, 2012
Field work to begin	On or after August 1, 2012
Draft submitted to the Financial Accounting and Reporting Section (FARS) of the Department of Administration with copies to the Assistant Commissioner of Finance	September 14, 2012
Unsigned final draft with all modifications to the OIC management for final review	October 5, 2012
Final signed report submitted to the OIC and to FARS	October 12, 2012

At a minimum, the following conferences shall be held by the dates indicated on the schedule:

- *Entrance Conference with OIC staff.* The purpose of this meeting is to discuss potential audit problems and the interim work to be performed. This meeting will also be used to establish an overall liaison for the audit and to make arrangements for work space and other needs of the auditing firm.
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#### Audit Work, Audit Plan, and Reports

- *Interim Work.* During this phase, the auditing firm shall gain a detailed understanding of the controls that exist over expenditures and the GAAP basis financial statements.
- *Detailed Audit Plan.* The auditing firm shall provide detailed audit plans and requests for audit assistance.



- *Field Work.* The auditing firm shall complete all field work to ensure that the draft and final reports are delivered as agreed.
- *Draft Reports.* The auditing firm shall have drafts of the audit reports and recommendations to the respective management of the OIC available for their review.
- *Final Reports.* The auditing firm shall deliver the final audit reports and recommendations to the respective management of the OIC. On or before the date that the final report for Fiscal Year 2012 is due, fifty (50) signed copies shall be bound and delivered to the OIC's Assistant Commissioner of Finance. The OIC may request fewer copies if they determine that less than 50 printed copies will meet their needs. The auditing firm shall also provide the OIC with an electronic copy of the final audit report in a format that is suitable for publication on the OIC's website.

**Vendor Response:**

*2.4.5.6 Financial Accounting and Assistance:*

The Financial Accounting staff and responsible management personnel of the OIC will be available during the audit to assist the firm by providing information, documentation, and explanations. The preparation of confirmations will be the responsibility of the auditing firm.

**Vendor Response:**

*2.4.5.7 Work Area, Telephone, Photocopying and Fax Machines:*

The OIC will provide the auditing firm with reasonable workspace, desks, and chairs. The auditing firm will also be provided with access to telephone lines, photocopying facilities, and fax machines as appropriate.

**Vendor Response:**

- 2.4.6 The proposal should include a description of the entity that they will be auditing and state a clear understanding of the work that they will be undertaking. The proposal should demonstrate that the firm has thoroughly reviewed the OIC's financial statements and achieved an understanding of the entity and the funds to be audited.

**Vendor Response:**

## Attachment B: Mandatory Specification Checklist

List mandatory specifications contained in Section 2.5:

**Section 2.5.1:** The successful audit firm must be in compliance with all applicable rules and regulations of the WV Board of Accountancy, as required by WV Accountancy law. All public accounting firms must comply with firm organization and registration requirements and annually renew their registrations with the WV Accountancy Board. Additionally, the successful firm must be authorized by the WV Board of Accountancy to perform attest services within the state of WV.

**Vendor Response:**

**Section 2.5.2:** To meet the requirements of this Request for Proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants.

**Vendor Response:**

**Section 2.5.3:** Report preparation, editing, and printing shall be the responsibility of the auditing firm.

**Vendor Response:**

I certify that the proposal submitted meets or exceeds all the mandatory specifications of this Request for Proposal. Additionally, I agree to provide any additional documentation deemed necessary by the State of West Virginia to demonstrate compliance with said mandatory specifications.

---

(Company)

---

(Representative Name, Title)

---

(Contact Phone/Fax Number)

---

(Date)

# Attachment C: INS12015 Cost Sheet

Cost information below as detailed in the Request for Proposal and submitted in a separate sealed envelope. Cost should be clearly marked.

## COST BID SCHEDULE Fiscal Year 2012

	Hours	Hourly Rates	Total
Partners, Members	_____	_____	_____
Managers	_____	_____	_____
Supervisory Staff	_____	_____	_____
Staff	_____	_____	_____
Other (specify):	_____	_____	_____
	_____	_____	_____
Total all-inclusive maximum price for the annual audit and other services as required in this Request for Proposal			\$ _____

---

If applicable, sign and submit the attached Resident Vendor Preference Certificate with the proposal.

# Attachment D:

## **WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER**

**Financial Statements, Required Supplementary Information  
and Other Financial Information**

**Year ended June 30, 2011  
and  
Independent Auditors' Report**

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Financial Statements, Required Supplementary Information  
and Other Financial Information  
June 30, 2011  
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## INDEPENDENT AUDITORS' REPORT

West Virginia Offices of the Insurance Commissioner  
Charleston, West Virginia

We have audited the accompanying financial statements of the governmental activities, the business-type activities, and each major fund of the West Virginia Offices of the Insurance Commissioner as of and for the year ended June 30, 2011, which collectively comprise the basic financial statements of the West Virginia Offices of the Insurance Commissioner, as listed in the table of contents. These financial statements are the responsibility of the West Virginia Offices of the Insurance Commissioner's management. Our responsibility is to express an opinion on these financial statements 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 statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the West Virginia Offices of the Insurance Commissioner's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, 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 opinions.

As discussed in Note 1, the financial statements of the West Virginia Offices of the Insurance Commissioner are intended to present the financial position, and the changes in financial position and cash flows, where applicable, of only that portion of the governmental activities, business-type activities, and each major fund of the State of West Virginia that is attributable to the transactions of the West Virginia Offices of the Insurance Commissioner. They do not purport to, and do not, present fairly the financial position of the State of West Virginia as of June 30, 2011, and the changes in its financial position and its cash flows, where applicable, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statements referred to previously present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, and each major fund of the West Virginia Offices of the Insurance Commissioner at June 30, 2011, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

The management's discussion and analysis on pages 5 through 11, the unaudited supplemental claims information on pages 49 through 54 and the budgetary comparison schedule on page 54 are not a required part of the basic financial statements but are supplementary information required by the accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.



Charleston, West Virginia

October 14, 2011

## MANAGEMENT'S DISCUSSION AND ANALYSIS



WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
MANAGEMENT'S DISCUSSION AND ANALYSIS  
(Expressed in Thousands)

This section of the West Virginia Offices of the Insurance Commissioner's annual financial report presents management's discussion and analysis of its financial performance for the fiscal years ended June 30, 2011 and June 30, 2010. Please read it in conjunction with the financial statements, which follow this section.

**OVERVIEW OF THE FINANCIAL STATEMENTS**

The West Virginia Offices of the Insurance Commissioner's financial statements are prepared in accordance with accounting principles generally accepted in the United States of America for governmental entities and insurance enterprises where applicable. The West Virginia Offices of the Insurance Commissioner, which is an agency of the state of West Virginia, is the governmental body charged with the regulation and oversight of the insurance industry within the state. In addition to serving as the entity that regulates the privatized workers' compensation insurance market, the Insurance Commissioner is also charged with the administrative oversight of the current and former state run workers' compensation related funds. The oversight, management and financial reporting responsibilities of the following funds are now duties of the Insurance Commissioner: the Old Fund, which consists of the assets and liabilities transferred from the former Workers' Compensation Fund, and the Coal Workers' Pneumoconiosis Fund, which was closed to future liabilities effective December 31, 2005. The West Virginia Offices of the Insurance Commissioner is also responsible for the administration of active proprietary funds including the Uninsured Employers' Fund, the Self-Insured Guaranty Fund, the Self-Insured Security Fund (all established by Senate Bill 1004), and Access West Virginia (AccessWV). AccessWV is a high risk health insurance pool that provides health insurance for medically uninsurable individuals and their dependents.

This annual report consists of four parts - management's discussion and analysis (this section), the basic financial statements, required supplementary information, and other financial information.

The basic financial statements include two kinds of statements that present different views of the West Virginia Offices of the Insurance Commissioner. The statement of net assets and the related statement of activities are government-wide financial statements that provide both long-term and short-term information about the West Virginia Offices of the Insurance Commissioner's overall financial status. The remaining statements are fund financial statements that focus on individual parts of the West Virginia Offices of the Insurance Commissioner's activities, reporting its operations in more detail than the government-wide statements. The financial statements also include notes that explain the information in the financial statements and provide more detailed data. The statements are followed by a section of required supplementary information that presents budgetary comparisons and further explains and supports the information in the financial statements.

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
MANAGEMENT'S DISCUSSION AND ANALYSIS  
(Expressed in Thousands)

**GOVERNMENT-WIDE STATEMENTS**

The statement of net assets and the statement of activities together comprise the government-wide statements, which report information about the West Virginia Offices of the Insurance Commissioner as a whole using the full accrual basis of accounting similar to those used by private-sector companies. This means all revenues and expenses are recognized regardless of whether cash has been received or paid, and all assets and liabilities, including capital assets and long-term debt, are reported at the entity level.

The government-wide statements report the entity's net assets - the difference between total assets and total liabilities - and how they have changed from the prior year.

The activities on the government-wide financial statements are divided into three categories:

- **Governmental activities** - These are the activities that are necessary for the government to function and meet its intended purpose. They are generally funded through a tax. In the financial statements of the West Virginia Offices of the Insurance Commissioner, the governmental funds include the main operating fund of the entity.
- **Business-type activities** - The West Virginia Offices of the Insurance Commissioner charges fees to customers to help it cover the costs of certain services it provides, and receives special revenues and assessments dedicated to fund specific liabilities. For the West Virginia Offices of the Insurance Commissioner, this consists of the combined Workers' Compensation funds and AccessWV.
- **Component units** - The West Virginia Offices of the Insurance Commissioner has no component units. However, the West Virginia Offices of the Insurance Commissioner is an agency of the State of West Virginia, and is considered part of the primary government in the State of West Virginia Comprehensive Annual Financial Report.

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
MANAGEMENT'S DISCUSSION AND ANALYSIS  
(Expressed in Thousands)

**FUND FINANCIAL STATEMENTS**

The fund financial statements provide more detailed information about the West Virginia Offices of the Insurance Commissioner's major funds, not the West Virginia Offices of the Insurance Commissioner as a whole. Funds are accounting devices that governments use to keep track of specific sources of funding and spending for particular purposes. The WV State Legislature has established these funds to control and manage money for the specific purposes stated in Chapter 23 of the WV Code and to show that certain taxes, fees, assessments and grants are used properly.

The West Virginia Offices of the Insurance Commissioner has two kinds of funds:

- Governmental funds - Most of the West Virginia Offices of the Insurance Commissioner's basic services are included in the governmental fund, which focuses on (1) how cash and other financial assets that may readily be converted to cash flow in and out and (2) the balances left at year-end that are available for spending. Consequently, the governmental fund statements provide a detailed short-term view to help determine whether there are more or fewer financial resources that may be spent in the near future to finance the West Virginia Offices of the Insurance Commissioner's programs. Because this information does not encompass the additional long-term focus of the government-wide statements, additional information is included at the bottom of the governmental fund statement that provides a reconciliation to the government-wide statements.
- Proprietary funds - Proprietary funds include enterprise funds and account for activities that are operated in a manner similar to private-sector businesses. Like the government-wide statements, proprietary fund statements are presented using the accrual basis of accounting and provide both long- and short-term financial information. Services for which the West Virginia Offices of the Insurance Commissioner charge customers a fee or receive special revenues are generally reported in proprietary funds. For the West Virginia Offices of the Insurance Commissioner, this consists of Workers' Compensation and AccessWV.

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
MANAGEMENT'S DISCUSSION AND ANALYSIS  
(Expressed in Thousands)

The following table summarizes the financial position and results of operations of the West Virginia Offices of the Insurance Commissioner for the fiscal years 2011 and 2010.

**STATEMENT OF NET ASSETS**  
(Expressed in Thousands)

	Governmental Activities		Business-type Activities		Total Primary Government	
	<u>2011</u>	<u>2010</u>	<u>2011</u>	<u>2010</u>	<u>2011</u>	<u>2010</u>
Current Assets	\$ 64,775	\$ 49,763	\$ 1,251,698	\$ 1,187,674	\$ 1,316,473	\$ 1,237,437
Capital Assets, Net	1,628	1,801	-	-	1,628	1,801
Other Long-Term Assets	51	72	-	-	51	72
Total Assets	<u>66,454</u>	<u>51,636</u>	<u>1,251,698</u>	<u>1,187,674</u>	<u>1,318,152</u>	<u>1,239,310</u>
Current Liabilities	7,491	5,080	226,392	334,682	233,883	339,762
Long-Term Liabilities	277	253	1,837,800	1,847,600	1,838,077	1,847,853
Total Liabilities	<u>7,768</u>	<u>5,333</u>	<u>2,064,192</u>	<u>2,182,282</u>	<u>2,071,960</u>	<u>2,187,615</u>
Net Assets						
Invested in Capital Assets, Net of Related Debt	1,628	1,801	-	-	1,628	1,801
Restricted	-	-	152,094	116,420	152,094	116,420
Unrestricted (Deficit)	57,058	44,502	(964,588)	(1,111,028)	(907,530)	(1,066,526)
Total Net Assets	<u>\$ 58,686</u>	<u>\$ 46,303</u>	<u>\$ (812,494)</u>	<u>\$ (994,608)</u>	<u>\$ (753,808)</u>	<u>\$ (948,305)</u>

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
MANAGEMENT'S DISCUSSION AND ANALYSIS  
(Expressed in Thousands)

**CHANGES IN NET ASSETS**  
(Expressed in Thousands)

	Governmental Activities		Business - Type Activities		Total Primary Government	
	<u>2011</u>	<u>2010</u>	<u>2011</u>	<u>2010</u>	<u>2011</u>	<u>2010</u>
Revenues						
Program Revenues						
Charges for Services	\$ 42,104	\$ 42,722	\$ 259,514	\$ 254,889	\$ 301,618	\$ 297,611
General Revenues						
Investment Earnings	<u>6</u>	<u>5</u>	<u>109,377</u>	<u>129,914</u>	<u>109,383</u>	<u>129,919</u>
Total Revenues	<u>42,110</u>	<u>42,727</u>	<u>368,891</u>	<u>384,803</u>	<u>411,001</u>	<u>427,530</u>
Expenses						
Program Expenses						
Workers' Compensation	-	-	180,063	174,039	180,063	174,039
AccessWV	-	-	6,714	4,563	6,714	4,563
General Government	<u>29,727</u>	<u>30,282</u>	<u>-</u>	<u>-</u>	<u>29,727</u>	<u>30,282</u>
Total Expenses	<u>29,727</u>	<u>30,282</u>	<u>186,777</u>	<u>178,602</u>	<u>216,504</u>	<u>208,884</u>
Change in Net Assets (Deficit)	12,383	12,445	182,114	206,201	194,497	218,646
Net Assets (Deficit), Beginning of Year	<u>46,303</u>	<u>33,858</u>	<u>(994,608)</u>	<u>(1,200,809)</u>	<u>(948,305)</u>	<u>(1,166,951)</u>
Net Assets (Deficit), End of Year	<u>\$ 58,686</u>	<u>\$ 46,303</u>	<u>\$ (812,494)</u>	<u>\$ (994,608)</u>	<u>\$ (753,808)</u>	<u>\$ (948,305)</u>

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
MANAGEMENT'S DISCUSSION AND ANALYSIS  
(Expressed in Thousands)

**FINANCIAL HIGHLIGHTS**

- The deficit of the West Virginia Worker's Compensation Old Fund (Old Fund), decreased by one hundred forty six million four hundred forty thousand dollars (\$146,440) during fiscal year 2011. At June 30, 2011 the deficit balance of the Old Fund measured nine hundred sixty four million five hundred eighty eight thousand dollars (\$964,588). This measurement marks the first time in history that the audited statements present the deficit balance of the Old Fund at less than one billion dollars, and constitutes a significant milestone in the state's goal to effectively manage these long term liabilities. The deficit reduction occurred because the revenue stream provided by Senate Bill 1004 remained stable while the payment stream declined as claim obligations were satisfied. Additional information regarding the deficit funding plan can be found in Note 6 of these financial statements.
  
- The West Virginia Offices of the Insurance Commissioner experienced an increase in the fair market value of its investments held during fiscal year 2011, recording an increase of eighty three million fifty-nine thousand dollars (\$83,059). This increase in fair market value, when combined with the yearly investment earnings of twenty six million three hundred twenty-four thousand dollars (\$26,324) yield a net investment income of one hundred nine million three hundred eighty-three thousand dollars (\$109,383) for fiscal year 2011.
  
- The Offices of the Insurance Commissioner continued an aggressive settlement program as part of the overall strategy to eliminate the Workers' Compensation Old Fund deficit during FY 2011. During the fiscal year, the OIC expended fifty million six hundred twenty eight thousand (\$50,628) in settlement payments made to execute full and final settlement agreements of Old Fund liabilities. It is anticipated that the settlement initiative will continue in FY 2012 and have a long term positive impact on the Old Fund debt.

FINANCIAL STATEMENTS

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
STATEMENT OF NET ASSETS  
JUNE 30, 2011  
(In Thousands)

	<u>Primary Government</u>		
	<u>Governmental Activities</u>	<u>Business-Type Activities</u>	<u>Total</u>
<b>Assets</b>			
<b>Current Assets</b>			
Cash and Cash Equivalents	\$ 59,240	\$ 1,232,074	\$ 1,291,314
Receivables, Net:			
Statutory Allocations	-	10,320	10,320
Assessments	881	135	1,016
Employer Surcharge	4,575	9,147	13,722
Premiums	-	21	21
Prepaid Assets	79	-	79
Other	-	1	1
Total Current Assets	<u>64,775</u>	<u>1,251,698</u>	<u>1,316,473</u>
<b>Noncurrent Assets</b>			
Prepaid Assets	51	-	51
Capital Assets, Net	<u>1,628</u>	<u>-</u>	<u>1,628</u>
Total Noncurrent Assets	<u>1,679</u>	<u>-</u>	<u>1,679</u>
Total Assets	<u>66,454</u>	<u>1,251,698</u>	<u>1,318,152</u>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	-	225,820	225,820
Compensated Absences	775	-	775
Accrued Expenses and Other Liabilities	670	157	827
OPEB Liability	<u>6,046</u>	<u>415</u>	<u>6,461</u>
Total Current Liabilities	<u>7,491</u>	<u>226,392</u>	<u>233,883</u>
<b>Noncurrent Liabilities</b>			
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	-	1,837,800	1,837,800
Compensated Absences	<u>277</u>	<u>-</u>	<u>277</u>
Total Noncurrent Liabilities	<u>277</u>	<u>1,837,800</u>	<u>1,838,077</u>
Total Liabilities	<u>7,768</u>	<u>2,064,192</u>	<u>2,071,960</u>
<b>Net Assets</b>			
Invested in Capital Assets, Net of Related Debt	1,628	-	1,628
Restricted for			
Coal Workers' Pneumoconiosis	-	125,709	125,709
Uninsured Fund	-	4,484	4,484
Self-Insured Funds	-	9,381	9,381
AccessWV	-	12,520	12,520
Unrestricted (Deficit)	<u>57,058</u>	<u>(964,588)</u>	<u>(907,530)</u>
Total Net Assets (Deficit)	<u>\$ 58,686</u>	<u>\$ (812,494)</u>	<u>\$ (753,808)</u>

*See accompanying notes to financial statements.*



WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
STATEMENT OF ACTIVITIES  
YEAR ENDED JUNE 30, 2011  
(In Thousands)

Functions/Programs	Expenses and Claims Provisions	Program Revenues		Net (Expense) Revenue and Changes in Net Assets	
		Charges for Services	Governmental Activities	Business-Type Activities	Totals
<b>Primary Government</b>					
<b>Governmental Activities</b>					
General Government	\$ 29,391	\$ 42,104	\$ 12,713	\$ -	\$ 12,713
Depreciation, unallocated	336	-	(336)	-	(336)
Total Governmental Activities	<u>29,727</u>	<u>42,104</u>	<u>12,377</u>	<u>-</u>	<u>12,377</u>
<b>Business-type Activities</b>					
Workers' Compensation	180,063	252,949	-	72,886	72,886
Access WV	6,714	6,565	-	(149)	(149)
Total Business-Type Activities	<u>186,777</u>	<u>259,514</u>	<u>-</u>	<u>72,737</u>	<u>72,737</u>
Total Primary Government	<u>\$ 216,504</u>	<u>\$ 301,618</u>	<u>12,377</u>	<u>72,737</u>	<u>85,114</u>
<b>General Revenues</b>					
Investment Earnings			6	109,377	109,383
Change in Net Assets (Deficit)			12,383	182,114	194,497
Net Assets (Deficit)-Beginning of Year			46,303	(994,608)	(948,305)
Net Assets (Deficit)-End of Year			<u>\$ 58,686</u>	<u>\$ (812,494)</u>	<u>\$ (753,808)</u>

*See accompanying notes to financial statements.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
BALANCE SHEET  
GOVERNMENTAL FUND  
JUNE 30, 2011  
(In Thousands)

	<u>Operating Fund</u>
<b>ASSETS</b>	
Cash and Cash Equivalents	\$ 59,240
Accounts Receivable - Assessments	881
Accounts Receivable - Employer Surcharge	<u>4,575</u>
Total assets	<u>\$ 64,696</u>
<b>LIABILITIES</b>	
Compensated Absences	\$ 775
Accrued Expenses and Other Liabilities	670
OPEB Liability	<u>6,046</u>
	7,491
<b>FUND BALANCE</b>	
Unassigned	<u>57,205</u>
Total Fund Balance	<u>57,205</u>
Total Liabilities and Fund Balances	<u>\$ 64,696</u>
Total Fund Balance	\$ 57,205
Amounts reported for governmental activities in the Statement of Net Assets are different because:	
Prepaid Assets will never convert to cash and therefore are not reported in the funds	130
Capital Assets used in governmental activities are not financial resources and therefore are not reported in the funds	1,628
Long term liabilities (compensated absences) are not due and payable in the current period and therefore are not reported in the funds.	<u>(277)</u>
Net assets of Governmental Activities	<u>\$ 58,686</u>

*See accompanying notes to financial statements.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE  
GOVERNMENTAL FUND  
FOR THE YEAR ENDED JUNE 30, 2011  
(In Thousands)

	<u>Operating Fund</u>
Revenues	
Fees and Assessments	\$ 42,104
Investment Earnings	<u>6</u>
Total Revenues	42,110
Expenditures	
General and Administrative	<u>29,560</u>
Total Expenditures	<u>29,560</u>
Excess of Revenues over Expenditures	12,550
Fund Balance - Beginning of Year	<u>44,655</u>
Fund Balance - End of Year	<u>\$ 57,205</u>
Net Change in Fund Balance – Total Governmental Funds	\$ 12,550
Amounts reported for governmental activities in the Statement of Activities are different because:	
Prepaid Assets do not convert to cash and therefore are expenditures in governmental funds. This is the net increase in prepaid assets in the current period.	30
Governmental funds report capital outlays as expenditures while governmental activities report depreciation expense to allocate those expenses over the life of the assets. This is the amount by which capital outlays exceeded depreciation in the current period.	(173)
Some expenses reported in the Statement of Activities do not require the use of current financial resources and therefore are not reported as expenditures in governmental funds.	<u>(24)</u>
Change in Net Assets of Governmental Activities	<u>\$ 12,383</u>

*See accompanying notes to financial statements.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
STATEMENT OF NET ASSETS  
PROPRIETARY FUNDS  
JUNE 30, 2011  
(In Thousands)

	<u>Workers'</u> <u>Compensation</u>	<u>AccessWV</u>	<u>Total</u>
<b>Assets</b>			
Current Assets			
Cash and Cash Equivalents	\$ 1,218,751	\$ 13,323	\$ 1,232,074
Receivables, Net			
Statutory Allocations	10,320	-	10,320
Assessments	135	-	135
Employer Surcharge	9,147	-	9,147
Premiums	21	-	21
Other	<u>1</u>	<u>-</u>	<u>1</u>
Total Current Assets	<u>1,238,375</u>	<u>13,323</u>	<u>1,251,698</u>
 Total Assets	 <u>1,238,375</u>	 <u>13,323</u>	 <u>1,251,698</u>
<b>Liabilities</b>			
Current Liabilities			
Estimated Liability for Unpaid Claims and Claim			
Adjustment Expense	225,100	720	225,820
OPEB Liability	393	22	415
Accrued Expenses and Other Liabilities	<u>96</u>	<u>61</u>	<u>157</u>
Total Current Liabilities	<u>225,589</u>	<u>803</u>	<u>226,392</u>
Noncurrent Liabilities			
Estimated Liability for Unpaid Claims and Claim			
Adjustment Expense	<u>1,837,800</u>	<u>-</u>	<u>1,837,800</u>
Total Noncurrent Liabilities	<u>1,837,800</u>	<u>-</u>	<u>1,837,800</u>
 Total Liabilities	 <u>2,063,389</u>	 <u>803</u>	 <u>2,064,192</u>
<b>Net Assets</b>			
Restricted for			
Coal Workers' Pneumoconiosis	125,709	-	125,709
Uninsured Fund	4,484	-	4,484
Self-Insured Funds	9,381	-	9,381
AccessWV	-	12,520	12,520
Unrestricted (Deficit)	<u>(964,588)</u>	<u>-</u>	<u>(964,588)</u>
Total Net Assets (Deficit)	<u>\$ (825,014)</u>	<u>\$ 12,520</u>	<u>\$ (812,494)</u>

*See accompanying notes to financial statements.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS  
PROPRIETARY FUNDS  
FOR THE YEAR ENDED JUNE 30, 2011  
(In Thousands)

	<u>Workers'</u> <u>Compensation</u>	<u>AccessWV</u>	<u>Total</u>
Operating Revenues			
Statutory Allocations	\$ 200,763	\$ -	\$ 200,763
Assessments and Employer Surcharges	49,815	1,057	50,872
Net Premium Revenue	1,046	5,366	6,412
Other Operating Revenue	<u>1,325</u>	<u>142</u>	<u>1,467</u>
Total Operating Revenue	<u>252,949</u>	<u>6,565</u>	<u>259,514</u>
Operating Expenses and Claims Provisions			
Claims and Claim Adjustment Provisions (See Note 5)	159,997	6,337	166,334
General and Administration	<u>20,066</u>	<u>377</u>	<u>20,443</u>
Total Operating Expenses and Claims Provisions	<u>180,063</u>	<u>6,714</u>	<u>186,777</u>
Operating Income	<u>72,886</u>	<u>(149)</u>	<u>72,737</u>
Nonoperating Revenues			
Investment Earnings	<u>109,061</u>	<u>316</u>	<u>109,377</u>
Total Nonoperating Revenues	<u>109,061</u>	<u>316</u>	<u>109,377</u>
Change in Net Assets (Deficit)	181,947	167	182,114
Total Net Assets (Deficit) - Beginning of Year	<u>(1,006,961)</u>	<u>12,353</u>	<u>(994,608)</u>
Total Net Assets (Deficit) - End of Year	<u>\$ (825,014)</u>	<u>\$ 12,520</u>	<u>\$ (812,494)</u>

*See accompanying notes to financial statements.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
STATEMENT OF CASH FLOWS-PROPRIETARY FUNDS  
YEAR ENDED JUNE 30, 2011  
(In Thousands)

	<u>Workers'</u> <u>Compensation</u>	<u>AccessWV</u>	<u>Totals</u>
Cash Flows from Operating Activities			
Receipts from Statutory Allocations, Fees and Assessments	\$ 249,682	\$ 1,057	\$ 250,739
Receipts from Employers and Policyholders	4,412	5,508	9,920
Payments to Claimants and Providers	(277,129)	(6,158)	(283,287)
Payments to Employees	(265)	(49)	(314)
Payments to Suppliers	<u>(20,900)</u>	<u>(366)</u>	<u>(21,266)</u>
Net Cash Provided (Used) by Operating Activities	<u>(44,200)</u>	<u>(8)</u>	<u>(44,208)</u>
Cash Flows from Investing Activities			
Investment Earnings	<u>109,061</u>	<u>316</u>	<u>109,377</u>
Net Cash Provided (Used) by Investing Activities	<u>109,061</u>	<u>316</u>	<u>109,377</u>
Net increase in Cash and Cash Equivalents	64,861	308	65,169
Cash and Cash Equivalents - Beginning of Year	<u>1,153,890</u>	<u>13,015</u>	<u>1,166,905</u>
Cash and Cash Equivalents - End of Year	<u>\$ 1,218,751</u>	<u>\$ 13,323</u>	<u>\$ 1,232,074</u>
Reconciliation of operating income (loss) to net cash provided (used) by operating activities			
Operating income (loss)	\$ 72,886	\$ (149)	\$ 72,737
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities			
Net change in assets and liabilities:			
Receivables, net	1,145	-	1,145
Estimated liability for claims and claim adjustment expenses	(117,200)	170	(117,030)
Accrued expenses and other liabilities	<u>(1,031)</u>	<u>(29)</u>	<u>(1,060)</u>
Net cash provided (used) by operating activities	<u>\$ (44,200)</u>	<u>\$ (8)</u>	<u>\$ (44,208)</u>

*See accompanying notes to financial statements.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2011  
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**1. Financial Reporting Entity**

The West Virginia Offices of the Insurance Commissioner (the Insurance Commissioner) is an agency of the State of West Virginia (the State) and, accordingly, is reported as a part of the primary government in the State's Comprehensive Annual Financial Report (CAFR). The mission of the Insurance Commissioner is to promote a competitive and solvent insurance market, with adequate consumer protection, by fairly and consistently administering the insurance laws of the State of West Virginia.

The Insurance Commissioner is responsible for the regulation and oversight of all insurance transactions conducted in the State. The Insurance Commissioner is also responsible for the administration and oversight of the remaining assets and liabilities of the former West Virginia Workers' Compensation Commission (WCC). West Virginia operated an exclusive state-managed workers' compensation insurance fund from 1913 until 2005, which provided for the payment of benefits to all employees sustaining personal injuries in the course of and as a result of their covered employment. The residual assets and liabilities of the former WCC are now reported in a fund known as the Workers' Compensation Old Fund.

The Coal Workers' Pneumoconiosis Fund (CWPF) was established in 1973 to comply with the Federal Coal Mine Health and Safety Act of 1969 to provide benefits to coal miners who are totally disabled or to beneficiaries of coal miners who die as a result of coal-workers' pneumoconiosis. The CWPF ceased operations as of December 31, 2005, and is also in run-off status under the administrative oversight of the Insurance Commissioner.

The Insurance Commissioner is responsible for certain proprietary funds established for the purpose of maintaining an effective workers' compensation system. Those funds consist of the Uninsured Employers' Fund and the Self-Insured Funds.

The Insurance Commissioner also administers the West Virginia Health Insurance Plan known as AccessWV, which is a high risk health insurance pool. AccessWV provides health insurance for medically uninsurable individuals and their dependents. Due to the federal government's March 23, 2010, enactment of the Patient Protection and Affordable Care Act (PPACA) insurance carriers will no longer be able to deny coverage to individuals with pre-existing health conditions beginning 2014. Accordingly, it is anticipated that AccessWV will cease to exist in 2014.

The Old Fund, the CWP Fund, the Uninsured Employers' Fund, and the Self-Insured Employers' Funds are combined to comprise the Workers' Compensation Fund. For financial statement purposes, only the Workers' Compensation Fund is considered a reporting fund, and the statutorily created "funds" that comprise it are considered components of the fund. The Workers' Compensation Fund and AccessWV combine to comprise the proprietary funds reported in the financial statements. The Insurance Commissioner also maintains an operating fund that is reported as the general fund for financial statements purposes.

WEST VIRGINIA  
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**1. Financial Reporting Entity (Continued)**

The financial statements of the Insurance Commissioner are intended to present the financial position and the changes in financial position and cash flows of only that portion of the financial reporting entity of the State of West Virginia that is attributable to the transactions of the Insurance Commissioner. They do not purport to, and do not, present the financial position of the State of West Virginia as of June 30, 2011, and the changes in its financial position and its cash flows for the year then ended.

West Virginia Code §23-2C-5 established the Industrial Council (the Council) to oversee the workers' compensation system and set forth eight specific duties for the Council to perform. Those duties include consultation with the Insurance Commissioner to establish operating guidelines and policies designed to ensure the effective administration of the workers' compensation insurance market in West Virginia. The Council is granted the authority to review and approve, reject or modify rules that are proposed by the Insurance Commissioner for operation and regulation of the workers' compensation insurance market before the rules are filed with the Secretary of State. The rule making ability of the Council is exempt from the legislative rule making process. The Council is also charged with the duty to establish and monitor performance standards and measurements to ensure the timeliness and accuracy of the activities performed under Chapter 23 of the WV Code and applicable rules. Other duties of the Council include the submission of a budget for the sufficient administrative resources and funding requirements necessary to carry out their duties under the statute and the duty to perform all record and information gathering functions necessary to carry out their duties under the Code. Every two years, the Council is to conduct an overview of the safety initiatives currently being utilized or which could be utilized in the workers' compensation insurance market and to report said findings to the joint committee on government and finance of the WV Legislature. The Council is to establish a method of indexing claims of injured workers that will make information concerning the injured workers of one insurer available to other insurers. Finally, the Council is to perform all other duties as specifically provided in Chapter 23 for the Industrial Council and those duties incidental thereto. Those duties include, but are not limited to: the rights to request, gather, and maintain information regarding employers from employers and other state agencies and all regulatory, oversight and document gathering authority necessary to regulate self-insured employers. The Industrial Council consists of five voting members appointed by the governor with the advice and consent of the Senate who meet the prescribed requirements and qualifications.

In order to address the substantial deficit in the workers' compensation fund, a special session of the West Virginia Legislature was convened in January 2005. During the special session, the West Virginia Legislature enacted Senate Bill 1004, effective January 29, 2005, that established a framework for the privatization of workers' compensation insurance in West Virginia and established a timeline for the transition to an open competitive market by July 1, 2008. Senate Bill 1004 also established a revenue stream dedicated to paying down the unfunded liability in the workers' compensation fund.



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**1. Financial Reporting Entity (Continued)**

The legislation defined the requirements for the formation of a domestic employers' mutual insurance company (the company) by January 1, 2006, as the successor to the WCC. As a result, BrickStreet Mutual Insurance Company was formed.

With the passage of Senate Bill 1004, several funds were established in the state treasury. Upon termination of the WCC, the administrative oversight of those funds transitioned to the West Virginia Offices of the Insurance Commissioner.

The Workers' Compensation Old Fund (Old Fund) consists of those funds transferred to it from the Workers' Compensation Fund, and remains the property of the state. Disbursements from the Old Fund are related to the liabilities and appropriate administrative expenses necessary for the administration of all claims, actual and incurred but not reported, for any claim with a date of injury on or before June 30, 2005.

The Uninsured Employer Fund (UEF) is the fund held by the West Virginia State Treasurer's Office consisting of those funds transferred to it from the workers' compensation fund and any other source, including assessments to carriers and employers. An injured worker may receive compensation from the UEF if: he or she meets all jurisdictional and entitlement provisions of Chapter 23 of the Code; he or she files a claim with the Insurance Commissioner; and he or she irrevocably assigns all of his or her rights to the Insurance Commissioner to recover money from a collateral source for the occurrence or exposure which resulted in the claimant's injury. The Insurance Commissioner has the right to recover all payments made on behalf of an employer that is found to be liable, including interest on any amounts paid. In addition, the Insurance Commissioner may impose an administrative fine of not more than ten thousand dollars against an employer if the employer fails to provide mandatory coverage.

The Self-Insured Guaranty Risk Pool is the fund held by the West Virginia State Treasurer's Office consisting of those funds transferred to it from the guaranty pool created pursuant to 85 CSR §19 (2004) and any future funds collected through continued administration of that exempt legislative rule as administered by the Insurance Commissioner. The fund covers claims liabilities of bankrupt or defaulted self-insured employers with dates of injury subsequent to July 1, 2004.

The Self-Insured Security Risk Pool is the fund held by the West Virginia State Treasurer's Office consisting of those funds paid into it through the Insurance Commissioner's administration of 85 CSR §19 (2004). The obligations of the fund will be for the claims liabilities of bankrupt or defaulted self-insured employers with dates of injury prior to July 1, 2004; provided that the liabilities of the self-insured security risk pool will be limited to those self-insured employers who default on their claims obligations after the termination of the WCC on December 31, 2005.

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**1. Financial Reporting Entity (Continued)**

With the passage of House Bill 4381, §23-2C-10 was modified to allow the Insurance Commissioner to designate a third party to develop and administer an adverse risk pooling arrangement. The Insurance Commissioner has appointed NCCI as the administrator of the state's workers' compensation adverse risk pooling arrangement. NCCI has the authority to develop premium levels designed to make the system self-sustaining and to assess carriers to cover any deficits that may arise in the pooling arrangement. The adverse risk pool became operational on January 1, 2009, six months after the market opened to competition. To qualify for adverse risk assignment, an employer must have been categorically declined coverage by at least two insurers that are not affiliated with each other. The employer will have the burden of establishing that at least two insurers are unwilling to provide coverage at any premium level that is reasonably related to the risk presented by the employer.

Pursuant to §23-2c-16 of the West Virginia State Code, BrickStreet served as the initial third-party administrator of the Old Fund, the Uninsured Employer Fund, the Self-Insured Guaranty Risk Pool, and the Self-Insured Security Risk Pool from the termination of the WCC on December 31, 2005, until December 31, 2007. Beginning January 1, 2008, third-party administrator responsibilities were divided among American Mining Claims Services Inc., Sedgwick CMS, and Wells Fargo Disability Management.

**2. Significant Accounting Policies**

**Basis of Presentation**

The Insurance Commissioner operates enterprise funds subject to Governmental Accounting Standards Board Statement 10 (GASB 10), "Accounting and Financial Reporting for Risk Financing and Related Insurance Issues," Governmental Accounting Standards Board Statement 30 (GASB 30), "Risk Financing Omnibus - An Amendment of GASB Statement No. 10," and Financial Accounting Standards Codification 944 (ASC 944), "Accounting and Reporting for Insurance Enterprises." An enterprise fund is used to account for the operations of state agencies providing goods or services to the general public on a user-charge basis, or for any activity whose principal revenue sources meet any of the following criteria: debt backed solely by fees and charges; legal requirement to recover cost; or policy decision to recover cost.

In September 1993, GASB issued Statement 20, "Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting." As permitted by the Statement, the Insurance Commissioner has elected not to adopt FASB pronouncements issued after November 30, 1989, unless the GASB specifically adopts such FASB pronouncements.

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**2. Significant Accounting Policies (Continued)**

The Insurance Commissioner is also subject to GASB Statement 40, "Deposits and Investment Risk Disclosures - an amendment of GASB 3" (GASB 40), and GASB Statement 46, "Net Assets Restricted by Enabling Legislation - an amendment to GASB 34" (GASB 46) and GASB Statement 45 "Other Post Employment Benefits" (GASB 45).

GASB 40 modifies disclosures to limit required disclosures to:

- Deposits that are not covered by depository insurance and are (a) uncollateralized, (b) collateralized with securities held by the pledging financial institution, or (c) collateralized with securities held by the pledging financial institution's trust department or agent but not in the depositor-government's name.
- Investment securities that are uninsured, are not registered in the name of the government, and are held by either (a) the counterparty or (b) the counterparty's trust department or agent but not in the government's name.

GASB 46 requires that limitations on the use of net assets imposed by enabling legislation be reported as restricted net assets. This Statement clarifies that a legally enforceable enabling legislation restriction is one that a party external to a government such as citizens, public interest groups, or the judiciary can compel a government to honor. GASB 46 states that the legal enforceability of an enabling legislation restriction should be reevaluated if any of the resources raised by the enabling legislation are used for a purpose not specified by the enabling legislation or if a government has other cause for reconsideration. This Statement also specifies the accounting and financial reporting requirements if new enabling legislation replaces existing enabling legislation or if legal enforceability is reevaluated. Finally, GASB 46 requires governments to disclose the portion of total net assets that is restricted by enabling legislation.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from management's estimates.

**Basis of Accounting**

The Insurance Commissioner uses the accrual basis of accounting for the government-wide financial statements and the enterprise funds. Under this method, revenues are recorded when earned and expenses are recorded when incurred.

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**2. Significant Accounting Policies (Continued)**

Governmental fund financial statements are reported using the modified accrual basis of accounting. Under this method, revenues are recognized when they become both measurable and available to pay liabilities of the current period. For this purpose, revenues are generally considered available if received in the first 60 days after year end. Expenditures are generally recorded when the related liability is incurred, as under accrual accounting.

**Budgetary Data**

Pursuant to §5A-2-12 of the West Virginia Code (the Code), the West Virginia Offices of the Insurance Commissioner submits a detailed budgetary schedule of administrative expenses to the Secretary of the Department of Administration prior to the beginning of each fiscal year. The budgetary schedule is prepared on the cash basis. All financial operations of the Insurance Commissioner, except for benefits and direct claims costs, are subject to a nonappropriated budget review and approval process in which the Insurance Commissioner submits a financial plan for approval in a manner authorized by statute.

**Cash and Cash Equivalents**

Cash on hand and held by the West Virginia State Treasurer for the benefit of the Insurance Commissioner on June 30, 2011, totaled \$61,361. Cash that is pooled with funds of other state agencies and invested by the West Virginia Investment Management Board (IMB) for the benefit of the Insurance Commissioner totals \$1,215,431 and cash pooled with funds of other state agencies and invested by the Board of Treasury Investments (BTI) was \$14,522. For purposes of the statement of cash flows, the Insurance Commissioner considers its share of the pooled deposits to be cash equivalents in accordance with GASB 9, "Reporting Cash Flows of Proprietary and Nonexpendable Trust Funds and Governmental Entities That Use Proprietary Fund Accounting."

In accordance with GASB 40, "Deposits and Investment Risk Disclosures - an amendment of GASB 3", the following risk disclosure information is provided for Insurance Commissioner funds being held by the IMB in the following investment pools:

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**2. Significant Accounting Policies (Continued)**

**West Virginia Investment Management Board (IMB) Investments**

**Large Cap Domestic**

The Pool holds equity securities of U.S. companies exchange traded stock index futures, and money market funds with the highest credit rating. These types of securities are not exposed to credit risk, interest rate risk, custodial credit risk, or foreign currency risk. Securities lending collateral that is reported in the Pool's Statement of Assets and Liabilities is invested in the lending agent's collateral reinvestment fund. At June 30, 2011, the Pool, in accordance with West Virginia statutes, did not hold securities of any one issuer in excess of 5 percent of the value of the Pool and is not exposed to concentration of credit risk.

**Non-Large Cap Domestic**

The Pool holds equity securities of U.S. companies and money market funds with the highest credit rating. These types of securities are not exposed to credit risk, interest rate risk, custodial credit risk, or foreign currency risk. Securities lending collateral that is reported in the Pool's Statement of Assets and Liabilities is invested in the lending agent's collateral reinvestment fund. At June 30, 2011, the Pool, in accordance with West Virginia statutes, did not hold securities of any one issuer in excess of 5 percent of the value of the Pool and is not exposed to concentration of credit risk.

**International Qualified**

The Pool invests in a collective trust fund that invests in equities denominated in foreign currencies. The value of this Pool investment at June 30, 2011, was \$883,266. This investment, although denominated in U.S. dollars, is exposed to foreign currency risk through the underlying investments. West Virginia statute limits the amount of international securities to no more than 30 percent of the total assets managed by the IMB. At June 30, 2011, the IMB was in compliance with this limitation. The Pool is not exposed to credit risk, interest rate risk, custodial credit risk, or concentration of credit risk.

**International Nonqualified**

The Pool invests in a collective trust fund that invests in equities denominated in foreign currencies. The value of this Pool investment at June 30, 2011, was \$68,084. This investment, although denominated in U.S. dollars, is exposed to foreign currency risk through the underlying investments. West Virginia statute limits the amount of international securities to no more than 30 percent of the total assets managed by the IMB. At June 30, 2011, the IMB was in compliance with this limitation. The Pool is not exposed to credit risk, interest rate risk, custodial credit risk, or concentration of credit risk.

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**2. Significant Accounting Policies (Continued)**

**International Equity**

The Pool is not exposed to credit risk, interest rate risk, or custodial credit risk. Securities lending collateral that is reported in the Statement of Assets and Liabilities is invested in the lending agent's collateral reinvestment fund. At June 30, 2011, the Pool, in accordance with West Virginia statutes, did not hold securities of any one issuer in excess of 5 percent of the value of the Pool. The Pool has both equity securities and cash that are denominated in foreign currencies and are exposed to foreign currency risks. West Virginia statute limits the amount of international securities to no more than 30 percent of the total assets managed by the IMB. At June 30, 2011, the IMB was in compliance with this limitation. The amounts at fair value of the securities and cash denominated in foreign currencies as of June 30, 2011 are as follows:

Currency	Equity Securities	Cash	Total
Australian Dollar	\$ 57,707	\$ 4	\$ 57,711
Brazil Cruzeiros Real	113,185	3,157	116,342
British Pound Sterling	185,203	407	185,610
Canadian Dollar	73,646	1,172	74,818
Czech Koruna	14,883	-	14,883
Danish Krone	9,198	4	9,202
Egyptian Pound	-	1	1
Euro Currency Unit	321,019	(24)	320,995
Hong Kong Dollar	145,395	1,722	147,117
Hungarian Forint	13,693	6	13,699
Indian Rupee	15,598	2	15,600
Indonesian Rupian	7,629	15	7,644
Israeli Shekel	16,949	140	17,089
Japanese Yen	186,089	1,456	187,545
Malaysian Ringgit	8,745	57	8,802
Mexican New Peso	30,641	200	30,841
New Taiwan Dollar	27,520	232	27,752
New Turkish Lira	22,980	449	23,429
Norwegian Krone	20,476	100	20,576
Pakistan Rupee	2,089	-	2,089
Philippines Peso	6,195	2	6,197
Polish Zloty	11,535	7	11,542
Singapore Dollar	21,338	67	21,405
South African Rand	44,669	167	44,836
South Korean Won	134,565	1,474	136,039
Swedish Krona	20,743	52	20,795
Swiss Franc	68,353	40	68,393
Thailand Baht	15,808	428	16,236
UAE Dirham	8,092	-	8,092
	\$ 1,603,943	\$ 11,337	\$ 1,615,280

This table excludes cash and securities held by the Pool that are denominated in U.S. dollars. The market value of the U.S. dollar denominated cash and securities is \$233,335.

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**2. Significant Accounting Policies (Continued)**

**Short-Term Fixed Income**

Credit Risk - The IMB limits the exposure to credit risk in the Pool by requiring all corporate bonds to be rated AA or higher. Commercial paper must be rated A1 by Standard & Poor's and P1 by Moody's. Additionally, the Pool must have at least 15 percent of its assets in United States Treasury issues.

The following table provides information on the weighted average credit ratings of the Pool's investments as of June 30, 2011.

<u>Security Type</u>	<u>Moody's</u>	<u>S&amp;P</u>	<u>Carrying Value</u>	<u>Percent</u>
Agency discount notes	P-1	A-1+	\$ 168,860	46.9%
Agency notes	Aaa	AAA	79,856	22.3
U.S. Treasury bills	Aaa	AAA	59,081	16.4
Commercial paper	P-1	A-1	50,493	14.0
U.S. Treasury notes	Aaa	AAA	1,504	0.4
Total rated investments			<u>\$ 359,794</u>	<u>100.0%</u>

This table includes securities received as collateral for repurchase agreements with a fair value of \$69,357 as compared to the amortized cost of the repurchase agreements of \$68,362.

Concentration of Credit Risk - West Virginia statutes prohibit the Pool from investing more than 5 percent of its assets in securities issued by a single private corporation or association. At June 30, 2011, the Pool did not have investments in any one private corporation or association that represented more than 5 percent of assets.

Custodial Credit Risk - At June 30, 2011, the Pool held no securities that were subject to custodial credit risk. Repurchase agreements are collateralized at 102 percent and the collateral is held in the name of the IMB. All remaining securities are held by the IMB's custodian in the name of the IMB.

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**2. Significant Accounting Policies (Continued)**

Interest Rate Risk - The weighted average maturity of the investments of the Pool is not to exceed sixty days. The maturity of floating rate notes is assumed to be the next interest rate reset date. The following table provides the weighted average maturities (WAM) for the various asset types in the Short-Term pool as of June 30, 2011.

<u>Security Type</u>	<u>Carrying Value</u>	<u>WAM (days)</u>
Agency discount notes	\$ 168,860	59
Repurchase agreements	68,362	1
U.S. Treasury bills	59,081	52
Commercial paper	50,493	25
Agency notes	10,499	133
U.S. Treasury notes	1,504	194
Total assets	<u>\$ 358,799</u>	47

Foreign Currency Risk - The Pool has no securities that are subject to foreign currency risk.

**Total Return Fixed Income**

Credit Risk - The IMB limits the exposure to credit risk in the Pool by maintaining at least an average rating of investment grade as defined by the Nationally Recognized Statistical Rating Organizations. The following table provides the weighted average credit ratings of the rated assets in the Pool as of June 30, 2011.

<u>Security Type</u>	<u>Moody's</u>	<u>S&amp;P</u>	<u>Fair Value</u>	<u>Percent of Assets</u>
Corporate bonds and notes	Baa2	BBB	\$ 699,706	29.9%
Agency mortgage backed securities	Aaa	AAA	443,640	19.0
U. S. Treasury bonds and notes	Aaa	AAA	367,385	15.7
Regulated investment companies	Aaa	AAA	227,854	9.7
Municipal bonds	A1	A	81,354	3.5
Agency collateralized mortgage obligations	Aaa	AAA	37,142	1.6
Corporate asset backed securities	Aa3	AA	32,194	1.4
Corporate collateralized mortgage obligations	B1	BB	31,137	1.3
Corporate preferred securities	NR	BB+	5,778	0.2
Agency discount notes	P-1	A-1+	3,403	0.1
Total rated investments			<u>\$ 1,929,593</u>	<u>82.4%</u>

Unrated securities include commingled investment pools valued at \$410,007 and option contract purchase valued at \$1,891. These unrated securities represent 17.6 percent of the fair value of the Pool's investments.



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**2. Significant Accounting Policies (Continued)**

Concentration of Credit Risk - West Virginia statutes prohibit the Pool from investing more than 5 percent of its assets in securities issued by a single private corporation or association. At June 30, 2011, the Pool did not have investments in any one private corporation or association that represented more than 5 percent of assets.

Custodial Credit Risk - At June 30, 2011, the Pool held no securities that were subject to custodial credit risk. Repurchase agreements, when held, are collateralized at 102 percent and the collateral is held in the name of the IMB. Investments in commingled funds are held in an account in the name of the IMB. All remaining securities are held by the IMB's custodian in the name of the IMB. Securities lending collateral that is reported in the Statement of Assets and Liabilities is invested in the lending agent's collateral reinvestment fund.

Interest Rate Risk - The IMB monitors interest rate risk of the Pool by evaluating the modified duration of the investments in the Pool. The following table provides the weighted average modified duration for the various asset types in the Pool as of June 30, 2011.

<u>Security Type</u>	<u>Fair Value</u>	<u>Modified Duration (years)</u>
Corporate bonds and notes	\$ 699,706	6.3
Agency mortgage backed securities	443,640	3.3
Commingled investment pools	410,007	2.0
U.S. Treasury bonds and notes	367,385	5.6
Regulated investment companies	227,854	0.0
Municipal bonds	81,354	14.6
Agency collateralized mortgage obligations	37,142	3.5
Corporate asset backed securities	32,194	16.2
Corporate collateralized mortgage obligations	31,137	5.4
Agency discount notes	3,403	0.5
Total assets	<u>\$ 2,333,822</u>	4.6

The Pool invests in commercial and residential mortgage-backed securities, asset-backed securities, and collateralized mortgage obligations. The cash flows from these securities are based on the payment of the underlying collateral. The modified duration and yield to maturity of these securities are dependent on estimated prepayment assumptions that consider historical experience, market conditions and other criteria. Actual prepayments may vary with changes in interest rates. Rising interest rates often result in a slower rate of prepayments while declining rates tend to lead to faster prepayments. As a result, the fair values of these securities are highly sensitive to interest rate changes. At June 30, 2011, the Pool held \$544,113 of these securities. This represents approximately 23 percent of the value of the Pool's securities.

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**2. Significant Accounting Policies (Continued)**

Foreign Currency Risk - None of the notes, bonds, asset backed securities, mortgage backed securities, collateralized mortgage obligations or money market fund held by the Pool are exposed to foreign currency risk. However, the Pool does have foreign exchange forward contracts. Additionally, the Pool has indirect exposure to foreign currency risk through its ownership interests in certain of the commingled investment pools. Approximately \$124,230, or 30 percent, of the commingled investment pools hold substantially all of their investments in foreign currencies. West Virginia statute limits the amount of international securities to no more than 30 percent of the total assets managed by the IMB. At June 30, 2011, the IMB was in compliance with this limitation.

**Core Fixed Income**

Credit Risk - The IMB limits the exposure to credit risk in the Pool by maintaining at least an average rating of investment grade as defined by the Nationally Recognized Statistical Rating Organizations. The following table provides the weighted average credit ratings of the rated assets in the Pool as of June 30, 2011.

<u>Security Type</u>	<u>Moody's</u>	<u>S&amp;P</u>	<u>Fair Value</u>	<u>Percent of Assets</u>
U. S. Treasury bonds and notes	Aaa	AAA	\$ 312,308	26.1%
Agency collateralized mortgage obligations	Aaa	AAA	286,297	24.0
Corporate bonds and notes	A2	A	200,540	16.8
Agency mortgage backed securities	Aaa	AAA	173,704	14.5
Corporate collateralized mortgage obligations	A1	AAA	140,595	11.8
Regulated investment companies	Aaa	AAA	40,883	3.4
Corporate asset backed securities	Aa1	AAA	24,084	2.0
Agency bonds and notes	Aaa	AAA	14,060	1.2
Municipal bonds	Aa3	AA-	2,201	0.2
Total rated investments			<u>\$ 1,194,672</u>	<u>100.0%</u>

Concentration of Credit Risk - West Virginia statutes prohibit the Pool from investing more than 5 percent of its assets in securities issued by a single private corporation or association. At June 30, 2011, the Pool did not have investments in any one private corporation or association that represented more than 5 percent of assets.

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**2. Significant Accounting Policies (Continued)**

Custodial Credit Risk - At June 30, 2011, the Pool held no securities that were subject to custodial credit risk. All securities are held by the IMB's custodian in the name of the IMB. Securities lending collateral that is reported in the Statement of Assets and Liabilities is invested in the lending agent's collateral reinvestment fund.

Interest Rate Risk - The IMB monitors interest rate risk of the Pool by evaluating the modified duration of the investments in the Pool. The following table provides the weighted average modified duration for the various asset types in the Pool as of June 30, 2011.

<u>Security Type</u>	<u>Fair Value</u>	<u>Modified Duration (years)</u>
U. S. Treasury bonds and notes	\$ 312,308	6.1
Agency collateralized mortgage obligations	286,297	3.6
Corporate bonds and notes	200,540	5.6
Agency mortgage backed securities	173,704	7.1
Corporate collateralized mortgage obligations	140,595	3.6
Regulated investment companies	40,883	0.0
Corporate asset backed securities	24,084	1.6
Agency bonds and notes	14,060	5.3
Municipal bonds	2,201	14.6
Total assets	<u>\$ 1,194,672</u>	5.0

The Pool invests in commercial and residential mortgage-backed securities, asset-backed securities, and collateralized mortgage obligations. The cash flows from these securities are based on the payment of the underlying collateral. The modified duration and yield to maturity of these securities are dependent on estimated prepayment assumptions that consider historical experience, market conditions and other criteria. Actual prepayments may vary with changes in interest rates. Rising interest rates often result in a slower rate of prepayments while declining rates tend to lead to faster prepayments. As a result, the fair values of these securities are highly sensitive to interest rate changes. At June 30, 2011, the Pool held \$624,680 of these securities. This represents approximately 52 percent of the value of the Pool's securities.

Foreign Currency Risk - None of the securities held by the Pool are exposed to foreign currency risk.

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2. **Significant Accounting Policies (Continued)**

**Treasury Inflation Protected Securities (TIPS)**

Credit Risk – The IMB limits the exposure to credit risk in the Pool by maintaining at least an average rating of investment grade as defined by the Nationally Recognized Statistical Rating Organizations. The following table provides the weighted average credit ratings of the rated assets in the Pool as of June 30, 2011.

<u>Security Type</u>	<u>Moody's</u>	<u>S&amp;P</u>	<u>Fair Value</u>	<u>Percent of Assets</u>
U. S. Treasury issues	Aaa	AAA	\$ 891,182	100.0%
Money market funds	Aaa	AAA	<u>259</u>	<u>0.0</u>
Total rated investments			<u>\$ 891,441</u>	<u>100.0%</u>

Concentration of Credit Risk – West Virginia statutes prohibit the Pool from investing more than 5 percent of its assets in securities issued by a single private corporation or association. At June 30, 2011, the Pool did not have investments in any one private corporation or association that represented more than 5 percent of assets.

Custodial Credit Risk – At June 30, 2011, the Pool held no securities that were subject to custodial credit risk. All securities are held by the IMB's custodian in the name of the IMB. Securities lending collateral that is reported in the Statement of Assets and Liabilities is invested in the lending agent's collateral investment fund.

Interest Rate Risk – The IMB monitors interest rate risk of the Pool by evaluating the modified duration of the investments in the Pool. The following table provides the weighted average modified duration for the various asset types in the Pool as of June 30, 2011.

<u>Security Type</u>	<u>Fair Value</u>	<u>Modified Duration (years)</u>
U. S. Treasury issues	\$ 891,182	7.6
Money market funds	<u>259</u>	<u>0.0</u>
Total assets	<u>\$ 891,441</u>	<u>7.6</u>

Foreign Currency Risk – None of the securities held by the Pool are exposed to foreign currency risk.

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**2. Significant Accounting Policies (Continued)**

**Hedge Fund**

The Pool holds shares in various commingled institutional funds and shares of a money market fund with the highest credit rating. The commingled institutional funds are not rated by any of the nationally recognized statistical rating agencies and thus any credit risk cannot be accurately reported. The Pool is not exposed to interest rate risk, custodial credit risk, or concentration of credit risk. The Pool is indirectly exposed to foreign currency risk as certain of the funds have investments denominated in foreign currencies. At June 30, 2011, approximately \$457,406 or 46 percent, of the market value of the Pool's funds were held in foreign currencies.

**Administrative**

At June 30, 2011, all of the IMB Administrative Fund's cash equivalents were invested in an institutional Treasury Money Market fund. This investment fund is rated Aaa by Moody's and AAA by Standard & Poor's and has no significant custodial credit risk or interest rate risk. The investment fund invests in U.S. Treasuries and is not exposed to a concentration of credit risk or any foreign currency risk. Cash balances are held in a FDIC insured bank account, the balance of which is below the \$250,000 insurance limit at all times.

**Board of Treasury (BTI) Investments**

The West Virginia Board of Treasury Investments (the "BTI") is charged with managing the individual investment pools and accounts of the Consolidated Fund under authority of West Virginia State Code Chapter 12, Article 6C, West Virginia Treasury Investments Act. The 2005 West Virginia Legislature established the BTI, effective July 8, 2005, as a public corporation of the State of West Virginia, to make short-term operating funds of the State more accessible to state government and to allow the West Virginia Investment Management Board (the "IMB"), which had managed the Consolidated Fund, to focus on the state's long-term trust investments. The BTI operates on a fiscal year that begins July 1 and ends June 30.

The Consolidated Fund provides for the investment of moneys not currently needed to fund state governmental operations, as well as providing the opportunity for local governments to participate in large investment pools, and for those funds statutorily required to be invested in the Consolidated Fund. The West Virginia State Treasurer's Office provides direct administrative and management services to the BTI. The BTI does not employ a staff, but reimburses the Treasurer's Office for all personnel expenses of Treasury employees assigned to administer and manage the BTI.

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**2. Significant Accounting Policies (Continued)**

The BTI is authorized by West Virginia Code Chapter 12, Article 6C, Section 9, to invest in United States government and agency obligations, commercial paper, corporate bonds, repurchase agreements, asset-backed securities, and investments in accordance with the Linked Deposit Program, which is a program using financial institutions in the state to reduce loan costs to small businesses by offsetting interest reductions on the loans with certificates of deposit, loans approved by the Legislature, and any other programs authorized by the Legislature. In addition to the restrictions in investment types, at no time shall more than seventy-five percent of the Consolidated Fund be invested in any bond, note, debenture, commercial paper or other evidence of indebtedness of any private corporation or association and at no time shall more than five percent be invested in securities issued by a single private corporation or association. Further, no less than fifteen percent of the Consolidated Fund shall be invested in any direct obligation of or obligation guaranteed by the United States government.

The BTI has adopted an investment policy in accordance with the "Uniform Prudent Investor Act." The "prudent investor rule" guides those with responsibility for investing the money for others. Such fiduciaries must act as a prudent person would be expected to act, with discretion and intelligence, to seek reasonable income, preserve capital, and, in general, avoid speculative investments. The BTI's investment policy to invest assets in a manner that strives for maximum safety, provides adequate liquidity to meet all operating requirements, and achieves the highest possible investment return consistent with the primary objectives of safety and liquidity. The BTI recognizes that risk, volatility, and the possibility of loss in purchasing power are present to some degree in all types of investments. Due to the short-term nature of the Consolidated Fund, the BTI believes that it is imperative to review and adjust the investment policy in reaction to interest rate market fluctuations/trends on a regular basis and has adopted a formal review schedule. Investment policies have been established for each investment pool and account of the Consolidated Fund.

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The two BTI pools currently utilized by the Insurance Commissioner, the WV Money Market and WV Government Money Market Pools, have been rated AAAM by Standard & Poor's. A fund rated "AAAM" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAM" is the highest principal stability fund rating assigned by Standard & Poor's. As these Pools have been rated, specific information on the credit ratings of the underlying investments have not been provided.

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**2. Significant Accounting Policies (Continued)**

The BTI limits the exposure to credit risk in the WV Money Market Pool by requiring all corporate bonds to be rated AA- by Standard & Poor's (or its equivalent) or higher. Commercial paper must be rated at least A-1 by Standard & Poor's and P1 by Moody's. The pool must have at least 15 percent of its assets in U.S. Treasury issues. At June 30, 2011 the WV Money Market Pool investments had a total carrying value of \$3,018,560.

The BTI limits the exposure to credit risk in the WV Government Money Market Pool by limiting the pool to U.S. Treasury issues, U.S. government agency issues, money market funds investing in U.S. Treasury issues and U.S. government agency issues, and repurchase agreements collateralized by U.S. Treasury issues and U.S. government agency issues. The pool must have at least 15 percent of its assets in U.S. Treasury issues. At June 30, 2011 the WV Government Money Market Pool investments had a total carrying value of \$262,692.

**Receivables and Allowance for Doubtful Accounts**

Net Receivables at the balance sheet date represent management's best estimate of the net realizable value of taxes, fees, assessments, premiums and related revenue due as of June 30, 2011. All premiums receivable balances due to the West Virginia Offices of the Insurance Commissioner consist of past premiums due from defaulted employers for periods of coverage prior to June 30, 2005, from the former Workers' Compensation Commission. Due to the age of these remaining premium receivables, only the actual subsequent receipts are recognized in the financial statements unless the employer has entered into a bona fide repayment agreement with the State or if the employer is subject to a court ordered restitution agreement. The Insurance Commissioner also recognizes a receivable for fines assessed against and claims reimbursements amounts billed to uninsured employers.

The net receivable also includes the current receivable due from other state agencies and from insurance carriers for the statutory transfers due and owing pursuant to the debt reduction provisions found in Senate Bill 1004.

**Capital Assets**

Capital assets are stated at cost. Depreciation for office equipment and furniture are computed using the straight-line method over the estimated economic useful lives which typically range from 3 to 15 years.

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**2. Significant Accounting Policies (Continued)**

**Estimated Liability for Unpaid Claims and Claim Adjustment Expenses**

The liability for unpaid claims and claim adjustment expense represents management's estimate, developed in conjunction and with the assistance of the Insurance Commissioner's consulting actuary, of the Insurance Commissioner's ultimate net cost of all unpaid claims and claim adjustment expenses incurred as of the balance sheet date. Changes in estimates of such costs are recognized in results of operations in the period in which the changes in estimates are made.

Management believes the estimate of the discounted liability for unpaid claims and claim adjustment expenses is adequate. However, due to the inherent variability of the assumptions used to estimate this liability, the Insurance Commissioner's actual incurred losses and loss adjustment expenses may vary significantly from the estimated amount included in the Insurance Commissioner's financial statements.

**Compensated Absences and Other Post Employment Benefits**

Employees fully vest in all earned but unused vacation, and the Insurance Commissioner accrues for obligations that may arise in connection with compensated absences for vacation at the current rate of employee pay. Under the provision of §5-16-13 of the West Virginia Code, Insurance Commissioner employees, upon retirement, may apply their accumulated annual and/or sick leave toward extending their health care insurance coverage. Under the provisions of the same statute, employees may alternatively choose to apply their accumulated annual and/or sick leave toward additional credited service in the computation of their retirement benefits. The Insurance Commissioner accounts for compensated absences in accordance with the provisions of GASB Statement No. 16, *Accounting for Compensated Absences*. This statement requires entities to accrue for employees' rights to receive compensation for vacation leave, or payments in lieu of accrued vacation or sick leave, as such benefits are earned and payment becomes probable.



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**2. Significant Accounting Policies (Continued)**

Effective July 1, 2007, the Insurance Commissioner adopted GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other than Pensions*. This statement provided standards for the measurement, recognition, and display of other postemployment benefit ("OPEB") expenditures, assets, and liabilities, including applicable note disclosures and required supplementary information. During fiscal year 2006, House Bill No. 4654 was established to create a trust fund for postemployment benefits for the State of West Virginia (the "State"). Effective July 1, 2007, the Insurance Commissioner was required to participate in this multiple employer cost-sharing plan sponsored by the State of West Virginia. Details regarding this plan can be obtained by contacting Public Employees Insurance Agency ("PEIA"), State Capitol Complex, Building 5, Room 1001, 1900 Kanawha Boulevard, East, Charleston WV 25305-0710 or <http://www.wvpeia.com>.

The Insurance Commissioner's full-time employees earn up to two vacation leave days for each month of service and are entitled to compensation for accumulated, unpaid vacation leave upon termination. Full-time employees also earn 1-1/2 sick leave days for each month of service and are entitled to extend their health or life insurance coverage upon retirement in lieu of accumulated, unpaid sick leave. Generally, two days of accrued sick leave extend health insurance for one month of single coverage and three days extend health insurance for one month of family coverage. For employees hired after 1988, the employee shares in the cost of the extended benefit coverage to the extent of 50 percent of the premium required for the extended coverage. Employees hired July 1, 2001, or later will no longer receive sick leave credit toward insurance premiums when they retire. The liability is now provided for under the multiple employer cost-sharing plan sponsored by the State.

For the year ended June 30, 2011, with the adoption of GASB Statement No. 45, OPEB costs are accrued based upon invoices received from PEIA based upon actuarial determined amounts. At June 30, 2011, the current liability related to OPEB costs was \$6,461.

**Other Operating Revenue**

Other operating revenue is comprised of monies received on bankruptcy recoveries, post audit payments, interest on premiums collected from reinstated accounts, certain penalties, and any other miscellaneous operating fees and revenue.

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**2. Significant Accounting Policies (Continued)**

**Statutory Allocations Proceeds**

The Insurance Commissioner recognized two hundred million seven hundred sixty three thousand dollars (\$200,763) of revenues allocated to Old Fund Debt Reduction during fiscal year 2011. The allocations are comprised of ninety four million three hundred sixty three thousand dollars (\$94,363) in severance tax proceeds, ninety five million four hundred thousand dollars (\$95,400) in personal income tax proceeds and eleven million dollars (\$11,000) from West Virginia Lottery proceeds.

**Net Assets**

As required by GASB 34, the Insurance Commissioner displays net assets in three components, if applicable: invested in capital assets, net of related debt; restricted, and unrestricted.

Invested in capital assets, net of related debt - This component of net assets consists of capital assets, including restricted capital assets (if any), net of accumulated depreciation and reduced by the outstanding balances of any bonds, mortgages, notes or other borrowings that are attributable to the acquisition, construction, or improvement of those assets.

Restricted net assets - Restricted net assets should be reported when constraints placed on the net assets use are either externally imposed (for instance, by creditors, laws or grantors) or imposed by law through constitutional provisions or enabling legislation. Such constraints limit the Insurance Commissioner's ability to use the resources to pay current liabilities. In accordance with the respective enabling legislation, net assets accumulated for Old Fund, CWP Fund, Uninsured Employers' Fund, and Self-Insured Funds are restricted for payment of related expenses.

Unrestricted net assets - Unrestricted net assets consist of net assets that do not meet the definition of "restricted" or "invested in capital assets, net of related debt." In the governmental environment, net assets are often *designated* to indicate that management does not consider them to be available for general operations. These types of constraints on resources are internal and management can remove or modify them. Such internal designations are not reported on the face of the statement of net assets.

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**2. Significant Accounting Policies (Continued)**

**Fund Balance**

GASB Statement No. 54 "Fund Balance Reporting and Governmental Fund Type Definitions," establishes the standards of accounting and financial reporting that are intended to improve the clarity and consistency of the fund balance information provided to financial report users. The fund balance classifications are based primarily on the extent to which the Insurance Commissioner is bound to honor constraints on the specific purposes for which the amounts in those funds can be spent. Fund balances may be categorized in the following categories:

- Nonspendable fund balances include amounts that cannot be spent because they are in a nonspendable form, such as inventory, or prepaid expense amounts, or they are legally or contractually required to be maintained intact, such as the corpus of a permanent fund.
- Restricted fund balances are restricted due to legal restrictions from creditors, grantors, or laws and regulations of other governments or by legally enforceable enabling legislation or constitutional provisions.
- Committed fund balances are amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the highest level of decision-making authority, which for the Insurance Commissioner is the Commissioner. Committed fund balance also incorporates contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.
- Assigned fund balances are constrained by the intent to use funds for specific purposes, but are neither restricted nor committed.
- Unassigned fund balance is the residual classification for the general operating fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund. In other funds, any negative fund balances would be unassigned.

**Subsequent Events**

In preparing these financial statements, the Insurance Commissioner has evaluated events and transactions for potential recognition or disclosure through October 14, 2011, the date the financial statements were available for issuance.

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### 3. Cash and Cash Equivalents

The Insurance Commissioner is permitted by the Code to invest certain funds in excess of current disbursement needs with the IMB. Investments are reported by the IMB at fair value and are accounted for by the Insurance Commissioner accordingly. Such funds are available to the Insurance Commissioner with overnight notice, and are considered cash equivalents. Earnings for the IMB investment pools are determined monthly and distributed to pool participants at the beginning of the next month based on their pro rata participation in the pools.

During fiscal year 2011, stock holdings were limited to 20 percent of the Old Fund portfolio. The equity allocation was also limited to 20 percent of the Coal Worker's Pneumoconiosis Fund. Because the assets are held in the pools, no other disclosure related to credit or market risk is required. However, market risk exists as the assets of the pools may decline in value because of an increase in interest rates or a decline in stock prices. Such market risk is borne by the participants in the pools.

Invested assets of both the Worker's Compensation Uninsured Fund and the Self- Insured Guaranty Risk Pool were invested 20% in equity securities and 80% in fixed income securities during fiscal year 2011. During fiscal year 2011, the investments of the Access WV Health Plan with the IMB were allocated 100% percent to fixed income in anticipation of the plans closure in 2014.

### 4. Leases

The Insurance Commissioner has lease agreements for its current central office building and various hearing and field offices throughout West Virginia. The Insurance Commissioner's current central office building is accounted for as an operating lease with the lease payments recorded as rent expense as they become payable.

All State agencies are required to have language in their lease agreements that allow termination by either party with 30 days notice. The Insurance Commissioner has entered into several such agreements for the use of property and equipment. The Insurance Commissioner has no current plans to terminate any leases prior to their full term and, therefore, has provided the same disclosures for these "operating" leases as would be required if they were noncancelable. These leases are accounted for as operating leases with the lease payments recorded as rent expense as they become payable.

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**4. Leases (Continued)**

Future minimum scheduled rentals under operating leases at June 30, 2011, were as follows:

2012	\$	874
2013		420
2014		342
2015		255
2016		163
Thereafter		<u>259</u>
Total minimum lease payments	\$	<u>2,313</u>

Rental expense was \$1,611 for the year ended June 30, 2011.

**5. Estimated Liability for Unpaid Claims and Claim Adjustment Expenses**

GASB standards state “the practice of presenting claims liabilities at the discounted present value of estimated future cash payments (discounting) is neither mandated nor prohibited.” GASB standards provide that, if discounting is used, the pool should use a rate that is determined by giving consideration to such factors as the pool’s expected settlement rate for those liabilities and its expected investment yield rate. Based on the expected investment yields on the Insurance Commissioner’s investment portfolio, the estimated liability for unpaid claims and claim adjustment expenses (claims liability) has been discounted using a rate of 5.0 percent at June 30, 2011.

On July 1, 2003, West Virginia Senate Bill 2013 was enacted into law. This new law made significant changes to Chapter 23 (Workers’ Compensation) of the West Virginia State Code with the purpose of strengthening the financial position of the former Workers’ Compensation Fund. At June 30, 2005, Workers’ Compensation Commission management had recognized all of the readily quantifiable expected savings from the provisions of the legislation.

On January 29, 2005, Senate Bill 1004 was enacted into law with the purpose of ceasing the state’s participation as a provider of workers’ compensation insurance. Senate Bill 1004 also identified sources of revenue to fund the unfunded liabilities remaining from the former workers’ compensation fund. Senate Bill 1004 did not contain any type of benefit reform provisions and, accordingly, no impact on the actuarial estimates has been recognized. It is anticipated that the indirect effects of privatization, such as the implementation of industry standard claims management practices, will have a positive impact on the ultimate costs of the state’s workers’ compensation related liabilities. Any future anticipated savings will be recognized in the liability estimates as the downward payment trending occurs.

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**5. Estimated Liability for Unpaid Claims and Claim Adjustment Expenses (Continued)**

At June 30, 2011, the total undiscounted claims liability for the Insurance Commissioner's Workers' Compensation Funds approximated \$3.30 billion, and the undiscounted claims liability for the Old Fund approximated \$3.05 billion. The total discounted claims liability for the Insurance Commissioner's Workers' Compensation Funds approximated \$2.06 billion, and the discounted claims liability for the Old Fund approximated \$1.92 billion. Invested assets of the Old Fund are not sufficient at current investment rates to retire the claims liability and the Old Fund has a significant deficit. If discounting of the Old Fund claims liability were limited to anticipated investment income, the Insurance Commissioner's Workers' Compensation Funds total discounted claims liability would have increased by approximately \$1.01 billion to a claims liability of approximately \$3.07 billion and the Old Fund's discounted claims liability would have increased to a claims liability of approximately \$2.93 billion. The Insurance Commissioner's Workers' Compensation Funds total deficit would increase to approximately \$1.83 billion, and the Old Funds' deficit would increase to approximately \$1.97 billion at June 30, 2011.

The following schedule represents the reconciliation of the unpaid claims liability for the Insurance Commissioner's Workers' Compensation Funds discounted at 5.0 percent at June 30, 2011, including an analysis of changes in aggregate liabilities for claims and claim adjustment expenses for the six month period. Losses include claim adjustment expenses.

Unpaid claims and claim adjustment expenses at beginning of year	<u>\$ 2,180,100</u>
Claims and claim adjustment expenses	
Provision for insured events of the current fiscal year	420
Changes in provision for insured events of prior fiscal years	57,417
Amortization of discount	<u>102,160</u>
Total claims and claim adjustment expenses	<u>159,997</u>
Payments	
Claims and claim adjustment expenses attributable to insured events of the current fiscal year	(33)
Claims and claim adjustment expenses attributable to insured events of prior fiscal years	<u>(277,164)</u>
Total payments	<u>(277,197)</u>
Total unpaid claims and claim adjustment expenses at end of the year	<u>\$ 2,062,900</u>

Cash payments shown in the Statement of Cash Flows may differ from these totals depending on the release dates of the payments.

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**5. Estimated Liability and Unpaid Claims and Claim Adjustment Expenses (Continued)**

The following schedule represents the reconciliation of the unpaid claims liability for AccessWV at June 30, 2011, including an analysis of changes in aggregate liabilities for claim and claim adjustment expenses for the fiscal year. This is the fifth year of operation for AccessWV, a high risk health insurance program.

Unpaid claims and claim adjustment expenses at beginning of year	\$ 550
Claims and claim adjustment expenses:	
Provision for insured events of the current fiscal year	6,337
Payments:	
Claims and claim adjustment expenses attributable to insured events of the current fiscal year	<u>(6,167)</u>
Total unpaid claims and claim adjustment expenses at end of the year	<u>\$ 720</u>

**6. Deficit Funding Plan**

Due to a history of recurring losses and a significant accumulated deficit, legislative reforms for collection of premiums and awarding of claims have been enacted over the past fifteen years. The West Virginia Legislature enacted Senate Bill 2013, which made major changes to the Workers' Compensation laws that became effective in fiscal year 2004. The passage and implementation of Senate Bill 2013 has resulted in the most significant reduction in the net cash outflows from the Old Fund.

In order to provide a permanent solution to address the substantial deficit in the state's workers' compensation fund and to identify sources of revenue to achieve long-term solvency of the fund, the legislature passed Senate Bill 1004 on January 29, 2005 which provided a plan for privatization of the state's workers' compensation system.

With the passage of Senate Bill 1004 a Workers' Compensation Old Fund (Old Fund) was established. Disbursements from the old fund are related to the liabilities and appropriate administrative expenses necessary for the administration of all claims, actual and incurred but not reported, for any claim with a date of injury on or before June 30, 2005.

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(In Thousands, Unless Otherwise Noted)

**6. Deficit Funding Plan (Continued)**

Senate Bill 1004 also established a workers' compensation debt reduction fund in the state treasury for the deposit of monies received after June 30, 2005, including certain funds designated in Code §4-11a-2(d): \$30 million to be received annually until 2025 from the tobacco master settlement agreement. On March 10, 2007, Senate Bill 185 ceased the tobacco settlement payments to the debt reduction fund and replaced those revenues with \$50.4 million dollars in annual personal income tax proceeds. These personal income tax proceeds dedicated in §4-11A-18 are in addition to the income tax proceeds already dedicated to the debt reduction fund. Other Old Fund revenue sources currently include: Code §29-22A-10,10b: an estimated \$11 million to be received annually from the video lottery income, and Code §11-13V-4: new and additional severance taxes imposed estimated to yield approximately \$94.2 million annually, Code §11-21-96: personal income tax proceeds of approximately \$45 million annually, and Code §23-2C-3(f)(3): monthly premium surcharges to be collected for all WV employers expected to yield approximately \$46 million annually. The net proceeds from collection of these monies are to be dedicated to paying the unfunded liability in the workers' compensation fund until fully paid or paying debt service on bonds sold to raise funds to pay the unfunded liability in the workers' compensation fund.

**7. Pension Plan**

**Plan Description.** - The Insurance Commissioner contributes to the West Virginia Public Employees Retirement System (PERS), a cost-sharing multiple-employer defined benefit pension plan administered by the West Virginia Consolidated Public Retirement Board (CPRB). PERS provides retirement, disability and death benefits to plan members and beneficiaries. Chapter 5, Article 10 of the West Virginia Code assigns the authority to establish and amend benefit provisions to the PERS Board of Trustees. CPRB issues a publicly available financial report that includes financial statements and required supplementary information for PERS. That report can be obtained by writing to CPRB, Capitol Complex, Building 5 Room 1000, Charleston, West Virginia 25305.

**Funding Policy.** - Plan members are required to contribute 4.5 percent of their annual covered salary and the Insurance Commissioner was required to contribute 12.5 percent for the current fiscal year. Effective July 1, 2011, the Insurance Commissioner will be required to contribute 14.5%. The contribution requirements of plan members and the Insurance Commissioner are established and may be amended by the PERS Board of Trustees, subject to limitations set by the West Virginia Legislature. The Insurance Commissioner's contributions to PERS for the year ended June 30, 2011 were \$1,676 which was equal to the required contributions for the year.



WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2011  
(In Thousands, Unless Otherwise Noted)

## 8. Commitments and Contingencies

### Contingent Liability for Self-Insured Employers

An employer who has been granted self-insured status for workers' compensation insurance coverage must post security with the Insurance Commissioner for an actuarially determined amount of their liabilities incurred with dates of injury prior to July 1, 2004. Payments made for claims of employees of defaulted self-insured employers for injuries prior to July 1, 2004, will be made from the Self-Insured Security Pool established by Senate Bill 1004. The assets of the Security Pool consist of the proceeds received from the security held by the Insurance Commissioner and any necessary assessments made to active self-insured employers for the default of a self-insured employer.

Payments for the injuries of defaulted self-insured employers incurred after July 1, 2004, will be made by the Self-Insured Guaranty Pool; however, any self-insured employer who fails the analytical financial review will also be required to post security to the Guaranty Pool on any workers' compensation liabilities incurred after July 1, 2004. The Self-Insured Guaranty Pool is funded through quarterly assessments to self-insured employers and the proceeds received from the security held.

To the extent a self-insured employer cannot meet its obligations under the Law, the two self-insured pools discussed above remain contingently liable for all policy benefits. The only sources of revenue permitted under the Law to fund the Security Pool and the Guaranty Pool must be obtained from self-insured employers. Self-insured employers are considered joint and severally liable for the obligations of a defaulted self-insured employer. The amount has not been included in the estimated liabilities for unpaid claims and claim adjustment expenses because the likelihood of future self-insurer defaults has not been estimated.

### Risk Management

The Insurance Commissioner is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; injuries to and illnesses of employees; and natural disasters.

The Insurance Commissioner has obtained health coverage for its employees through its participation in the Public Employees Insurance Agency (PEIA). In exchange for the payment of premiums to PEIA, the Insurance Commissioner has transferred its risk related to health coverage for employees. Additionally, the Insurance Commissioner obtained coverage for job-related injuries through the purchase of workers' compensation insurance from BrickStreet Mutual Insurance Company during fiscal year 2010. Effective October 1, 2011, worker's compensation insurance for all state agencies will be purchased from Zurich Insurance Co.

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2011  
(In Thousands, Unless Otherwise Noted)

**8. Commitments and Contingencies (Continued)**

The Insurance Commissioner participates in the West Virginia State Board of Risk and Insurance Management (WVBRIM), a public entity risk pool, to obtain coverage for general liability and property damage. WVBRIM is a State agency established by the Legislature in 1957 to provide property and liability insurance coverage for state and local governmental entities including the Insurance Commissioner. This coverage is offered in exchange for an annual premium. There have been no claim settlements exceeding the Insurance Commissioner's general liability insurance coverage.

During the normal course of operations, the Insurance Commissioner incurs certain routine claims. The legal counsel for the Insurance Commissioner has evaluated the potential loss for these claims and has determined that the insurance coverage provided by WVBRIM is adequate to cover any potential losses from these claims.

The OIC is actively defending the Old Fund against claims from three self-insured employers who have requested refunds for overpayments made on self-insured claims. Pre Senate Bill 2013 law did permit self-insured employers to seek reimbursement from the former WCC for overpayments made on claims, and then permitted the former WCC to in turn seek reimbursement from the claimant. This section of the WV code was eliminated effective July 1, 2003 when self-insured employers were given the right to administer their own claims. It is important to note that if these employers are successful, their success could generate a number of requests from other self-insured employers with similar requests. The OIC cannot express a probability of outcome of this litigation, nor can it make a reasonable estimate of the total amount of cash that would become impaired if the self-insured employers would prevail in litigation on this matter.

**Premium Advance Deposits**

Unclaimed property on deposit with or held by state agencies comes under the purview of the West Virginia State Treasurer's Office who sees that proceeds from such property are deposited in the state's general revenue fund. In March 1999, the West Virginia State Legislature adopted legislation that states that advance deposits by employers with no activity for a period of five years are presumed abandoned and are subject to the custody of the state as unclaimed property. However, these funds are to be held by the West Virginia State Treasurer's Office in an account separate from other unclaimed property funds. They become the property of and owned exclusively by the West Virginia Offices of the Insurance Commissioner ninety days after the West Virginia State Treasurer's Office has advertised the property and they remain unclaimed.

REQUIRED SUPPLEMENTARY INFORMATION - UNAUDITED

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Supplemental Revenue and Reserve Development Information  
(Unaudited)

GASB standards require the presentation of ten years supplemental revenue and reserve development information, if available. The table on the following page illustrates how the Insurance Commissioner's earned revenues and investment income compare to related costs of loss and other expenses assumed (on a discounted basis) as of the end of each of the last 10 years, as available.

The rows of the table are defined as follows:

- (1) This line shows the total of each fiscal year's total income.
- (2) This line shows each fiscal year's other operating costs.
- (3) This line shows incurred claims (both paid and accrued) as originally reported at the end of the first year in which the event that triggered coverage under the contract occurred (called policy year).
- (4) This section of 10 rows shows the cumulative amounts paid as of the end of successive years for each policy year.
- (5) This section of 10 rows shows how each policy years' incurred claims increased or decreased as of the end of successive years. This annual re-estimation results from new information received on known claims, re-evaluation of existing information on known claims, emergence of new claims not previously known, as well as amortization of discount.
- (6) This line compares the latest re-estimated incurred claims amount to the amount originally established (line 3) and shows whether this latest estimate of claims cost is greater or less than originally thought.

As data for individual policy years mature, the correlation between original estimates and re-estimated amounts is commonly used to evaluate the accuracy of incurred claims currently recognized in less mature policy years. The columns of the table show data for successive policy years.

The supplemental revenue and reserve development information has been prepared by the Insurance Commissioner's consulting actuary using assumptions and other data furnished by the Insurance Commissioner. Such information has not been audited and is presented on the basis discussed above, which may differ from the form of presentation used in the financial statements.

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Supplemental Revenue and Reserve Development Information  
Workers' Compensation Fund, Coal Workers' Pneumoconiosis Fund,  
Uninsured Employer Fund, Self Insured Funds  
(Unaudited)  
As of June 30, 2011  
(Dollars in Millions)

Fiscal and Policy Year

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Operating Revenues	\$ 600.2	\$ 568.7	\$ 678.8	\$ 736.0	\$ 194.0	\$ 262.2	\$ 282.7	\$ 279.8	\$ 249.1	\$ 252.9
Investment income (loss)	<u>(23.7)</u>	<u>47.3</u>	<u>23.8</u>	<u>74.1</u>	<u>4.4</u>	<u>109.0</u>	<u>(5.2)</u>	<u>(89.2)</u>	<u>129.9</u>	<u>109.0</u>
Total income (1)	576.5	616.0	702.6	810.1	198.4	371.2	277.5	190.6	379.0	361.9
Other expenses (2)	59.5	61.2	66.0	73.8	51.3	23.5	24.6	20.0	20.2	20.0
Original incurred loss (3)	428.7	410.4	352.4	305.8	0.6	2.7	0.7	1.0	1.5	0.4
Cumulative payments (4):										
Year 1	88.7	87.1	70.9	72.6	0.0	0.2	0.1	0.1	0.1	0.0
Year 2	220.5	194.1	152.0	141.7	0.4	0.7	0.3	0.2	0.4	
Year 3	291.2	244.1	181.4	169.5	0.6	1.1	0.4	0.3		
Year 4	327.0	265.1	196.6	180.1	0.9	1.3	0.4			
Year 5	343.3	278.1	203.7	187.2	1.2	2.2				
Year 6	353.9	286.1	211.5	194.5	1.5					
Year 7	361.2	295.4	218.4	200.1						
Year 8	369.3	304.0	223.5							
Year 9	375.7	310.3								
Year 10	381.3									
Re-estimated incurred claims and expenses (5):										
Year 1	428.7	410.4	352.4	305.8	0.6	2.7	0.7	1.0	1.5	0.4
Year 2	488.5	470.3	315.6	301.3	3.1	1.9	0.6	0.6	0.9	
Year 3	512.5	385.4	305.9	277.4	3.2	3.8	0.5	0.6		
Year 4	429.2	378.9	301.9	243.7	3.8	4.7	0.5			
Year 5	439.0	370.9	261.7	247.0	3.6	5.3				
Year 6	423.1	337.7	267.1	252.9	1.6					
Year 7	412.6	352.8	275.5	248.6						
Year 8	425.0	371.4	274.1							
Year 9	439.2	367.9								
Year 10	436.7									
Increase (decrease) in estimated incurred claims and expense from end of policy year (6)	8.0	(42.5)	(78.3)	(57.2)	1.0	2.6	(0.2)	(0.4)	(0.6)	0.4

*See accompanying independent auditors' report*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Supplemental Reconciliation of Claims Liabilities by Type of Contract Information  
(Unaudited)  
(In Thousands)

The table below presents Old Fund, CWPF, Uninsured Employers Fund, and Self Insured Funds changes in claims liabilities discounted at 5.0 percent as of June 30, 2011. Losses include claim adjustment expenses.

	June 30, 2011				
	<u>WCF</u>	<u>CWPF</u>	<u>UEF</u>	<u>Self Insured Funds</u>	<u>Total</u>
Unpaid claims and claim adjustment expenses at beginning of year	\$ 2,022,700	\$ 151,500	\$ 5,400	\$ 500	\$ 2,180,100
Claims and claim adjustment expenses					
Provision for insured events of the current fiscal year	-	-	420	-	420
Changes in provision for insured events of prior fiscal years	70,050	(12,503)	(135)	5	57,417
Amortization of discount	<u>94,578</u>	<u>7,318</u>	<u>240</u>	<u>24</u>	<u>102,160</u>
Total claims and claim adjustment expenses	<u>164,628</u>	<u>(5,185)</u>	<u>525</u>	<u>29</u>	<u>159,997</u>
Payments					
Claims and claim adjustment expenses attributable to insured events of the current fiscal year	-	-	(33)	-	(33)
Claims and claim adjustment expenses attributable to insured events of prior fiscal years	<u>(265,528)</u>	<u>(10,415)</u>	<u>(1,192)</u>	<u>(29)</u>	<u>(277,164)</u>
Total payments	<u>(265,528)</u>	<u>(10,415)</u>	<u>(1,225)</u>	<u>(29)</u>	<u>(277,197)</u>
Total unpaid claims and claim adjustment expenses at end of the year	<u>\$ 1,921,800</u>	<u>\$ 135,900</u>	<u>\$ 4,700</u>	<u>\$ 500</u>	<u>\$ 2,062,900</u>

*See accompanying independent auditors' report.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Supplemental Revenue and Reserve Development Information  
Access WV  
(Unaudited)  
As of June 30, 2011  
(Dollars in Thousands)

	Fiscal and Policy Year		
	<u>2009</u>	<u>2010</u>	<u>2011</u>
Premium	\$ 3,893	\$ 4,619	\$ 5,366
Investment Income	128	(18)	316
Total income (1)	4,021	4,601	5,682
Other expenses (2)	365	325	377
Original incurred loss (3)	3,165	4,238	6,337
Fiscal Year payments (4):	3,155	3,998	6,167

*See accompanying independent auditors' report.*

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Supplemental Reconciliation of Claims Liabilities by Type of Contract Information  
Access WV  
(Unaudited)  
(In Thousands)

The table below presents AccessWV changes in claims liabilities as of June 30, 2011. Losses include claim adjustment expenses.

	June 30, 2011
	<u>AccessWV</u>
Unpaid claims and claim adjustment expenses at beginning of year	\$ 550
Claims and claim adjustment expenses	
Provision for insured events of the current fiscal year	6,337
Payments	
Claims and claim adjustment expenses attributable to insured events of the current fiscal year	<u>(6,167)</u>
Total unpaid claims and claim adjustment expenses at end of the year	<u>\$ 720</u>

*See accompanying independent auditors' report.*



WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Required Supplementary Information  
Budgetary Comparison Schedule  
Operating Fund  
Year Ended June 30, 2011  
(In Thousands)

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance with</u> <u>Final Budget</u>
	<u>Original</u>	<u>Final</u>	<u>Amounts</u> <u>Budgetary</u> <u>Basis</u>	
<b>Budgetary Fund Balance, July 1</b>				
Resources (inflows):				
Beginning Balance 07/01/10	\$ 60,494	\$ 60,494	\$ 44,114	\$ (16,380)
2011 FY Gross Revenue	-	-	43,226	43,226
Revenue Refunds	-	-	(136)	(136)
13 <sup>th</sup> Month Expenditures - Last PFY	-	-	(663)	(663)
Estimated Revenue FY 2011	<u>72,220</u>	<u>72,220</u>	-	<u>(72,220)</u>
<b>Amounts available for appropriation</b>	<b><u>132,714</u></b>	<b><u>132,714</u></b>	<b><u>86,541</u></b>	<b><u>(46,173)</u></b>
Charges to appropriations (outflows)				
Personal Services	17,484	17,484	13,923	3,561
Employee Benefits	7,284	7,284	4,782	2,502
Contractual and Professional	4,074	4,074	1,782	2,292
Claims	77	77	-	77
Fund Transfers	-	-	263	(263)
Other Expenses	<u>11,817</u>	<u>11,817</u>	<u>6,555</u>	<u>5,262</u>
<b>Total Charges to Appropriations</b>	<b><u>40,736</u></b>	<b><u>40,736</u></b>	<b><u>27,305</u></b>	<b><u>13,431</u></b>
<b>Budgetary Fund Balance, June 30, 2011</b>	<b><u>\$ 91,978</u></b>	<b><u>\$ 91,978</u></b>	<b><u>\$ 59,236</u></b>	<b><u>\$ (32,742)</u></b>

*See accompanying independent auditors' report.*

OTHER FINANCIAL INFORMATION



INDEPENDENT AUDITORS' REPORT ON  
OTHER FINANCIAL INFORMATION

West Virginia Offices of the Insurance Commissioner  
Charleston, West Virginia

We have audited and reported separately herein on the basic financial statements and required supplementary information of the West Virginia Offices of the Insurance Commissioner as of and for the year ended June 30, 2011. Our audit was made for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements of the West Virginia Offices of the Insurance Commissioner. The information on pages 57 through 65 is presented for purposes of additional analysis of the financial statements. The Workers' Compensation information on pages 57 through 59 has been subjected to the auditing procedures applied in our audit of the financial statements and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole. The budgetary comparison schedules on pages 60 through 65 have not been subjected to the auditing procedures applied in the audit of the basic financial statements and accordingly, we express no opinion on them.

*Suttle & Stalnaker, PLLC*

Charleston, West Virginia  
October 14, 2011

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
SCHEDULE OF NET ASSETS  
WORKERS' COMPENSATION INFORMATION  
JUNE 30, 2011  
(In Thousands)

	WC Old Fund <u>Debt Reduction</u>	Coal Workers' <u>Pneumoconiosis</u>	Uninsured <u>Fund</u>	Self-Insured <u>Funds</u>	<u>Total</u>
Assets:					
Current Assets					
Cash and Cash Equivalents	\$ 938,210	\$ 261,609	\$ 9,049	\$ 9,883	\$ 1,218,751
Receivables, Net:					
Statutory Allocations	10,320	-	-	-	10,320
Assessments	-	-	135	-	135
Employer Surcharge	9,147	-	-	-	9,147
Premiums	21	-	-	-	21
Other	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1</u>
Total Current Assets	<u>957,699</u>	<u>261,609</u>	<u>9,184</u>	<u>9,883</u>	<u>1,238,375</u>
Total Assets	<u>957,699</u>	<u>261,609</u>	<u>9,184</u>	<u>9,883</u>	<u>1,238,375</u>
Liabilities:					
Current Liabilities:					
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	213,000	11,500	600	-	225,100
OPEB Liability	393	-	-	-	393
Accrued Expenses and Other Liabilities	<u>94</u>	<u>-</u>	<u>-</u>	<u>2</u>	<u>96</u>
Total Current Liabilities	<u>213,487</u>	<u>11,500</u>	<u>600</u>	<u>2</u>	<u>225,589</u>
Noncurrent Liabilities:					
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	<u>1,708,800</u>	<u>124,400</u>	<u>4,100</u>	<u>500</u>	<u>1,837,800</u>
Total Noncurrent Liabilities	<u>1,708,800</u>	<u>124,400</u>	<u>4,100</u>	<u>500</u>	<u>1,837,800</u>
Total Liabilities	<u>1,922,287</u>	<u>135,900</u>	<u>4,700</u>	<u>502</u>	<u>2,063,389</u>
Net Assets:					
Restricted for:					
Coal Workers' Pneumoconiosis	-	125,709	-	-	125,709
Uninsured Fund	-	-	4,484	-	4,484
Self-Insured Fund	-	-	-	9,381	9,381
Unrestricted (Deficit)	<u>(964,588)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(964,588)</u>
Total Net Assets (Deficit)	<u>\$ (964,588)</u>	<u>\$ 125,709</u>	<u>\$ 4,484</u>	<u>\$ 9,381</u>	<u>\$ (825,014)</u>

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
SCHEDULE OF REVENUES, EXPENSES, AND CHANGE IN FUND NET ASSETS  
WORKERS' COMPENSATION INFORMATION  
YEAR ENDED JUNE 30, 2011  
(In Thousands)

	<u>WC Old Fund Debt Reduction</u>	<u>Coal Workers' Pneumoconiosis</u>	<u>Uninsured Fund</u>	<u>Self-Insured Funds</u>	<u>Total</u>
Operating Revenues					
Statutory Allocations	\$ 200,763	\$ -	\$ -	\$ -	\$ 200,763
Assessments	-	-	655	-	655
Employer Surcharge	47,964	-	-	1,196	49,160
Net Premium Revenue	690	-	356	-	1,046
Other Operating Revenue	<u>1,325</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,325</u>
Total Operating Revenue	<u>250,742</u>	<u>-</u>	<u>1,011</u>	<u>1,196</u>	<u>252,949</u>
Operating Expenses and Claims Provision					
Claims and Claim Adjustment Provision (See Note 5)	164,628	(5,185)	525	29	159,997
General and Administration	<u>19,951</u>	<u>17</u>	<u>8</u>	<u>90</u>	<u>20,066</u>
Total Operating Expenses and Claims Provision	<u>184,579</u>	<u>(5,168)</u>	<u>533</u>	<u>119</u>	<u>180,063</u>
Operating Income (Loss)	<u>66,163</u>	<u>5,168</u>	<u>478</u>	<u>1,077</u>	<u>72,886</u>
Nonoperating Revenues					
Investment Earnings	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Total Nonoperating Revenues	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Change in Net Assets (Deficit)	146,440	32,980	906	1,621	181,947
Total Net Assets (Deficit) - Beginning of Year	<u>(1,111,028)</u>	<u>92,729</u>	<u>3,578</u>	<u>7,760</u>	<u>(1,006,961)</u>
Total Net Assets (Deficit) - End of Year	<u>\$ (964,588)</u>	<u>\$ 125,709</u>	<u>\$ 4,484</u>	<u>\$ 9,381</u>	<u>\$ (825,014)</u>

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
SCHEDULE OF CASH FLOWS  
WORKERS' COMPENSATION INFORMATION  
YEAR ENDED JUNE 30, 2011  
(In Thousands)

	WC Old Fund Debt <u>Reduction</u>	Coal Workers' Pneumoconiosis	Uninsured Fund	Self-Insured Funds	<u>Total</u>
Cash Flows from Operating Activities					
Receipts from Statutory Allocations, Fees and Assessments	\$ 248,667	\$ -	\$ 1,015	\$ -	\$ 249,682
Receipts from Employers	3,245	-	(69)	1,236	4,412
Payments to Claimants and Providers	(265,396)	(10,415)	(1,225)	(93)	(277,129)
Payments to Employees	(265)	-	-	-	(265)
Payments to Suppliers	(20,784)	(17)	(8)	(91)	(20,900)
Net Cash Provided (Used) by Operating Activities	<u>(34,533)</u>	<u>(10,432)</u>	<u>(287)</u>	<u>1,052</u>	<u>(44,200)</u>
Cash Flows from Investing Activities					
Investment Earnings	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Net Cash Provided (Used) by Investing Activities	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Net Increase in Cash and Cash Equivalents	45,744	17,380	141	1,596	64,861
Cash and Cash Equivalents - Beginning of Year	<u>892,466</u>	<u>244,229</u>	<u>8,908</u>	<u>8,287</u>	<u>1,153,890</u>
Cash and Cash Equivalents - End of Year	<u>\$ 938,210</u>	<u>\$ 261,609</u>	<u>\$ 9,049</u>	<u>\$ 9,883</u>	<u>\$ 1,218,751</u>
Reconciliation of operating income (loss) to net cash provided (used) by operating activities					
Operating Income (Loss)	\$ 66,163	\$ 5,168	\$ 478	\$ 1,077	\$ 72,886
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:					
Net change in assets and liabilities					
Receivables, net	1,170	-	(65)	40	1,145
Estimated liability for claims and claim adjustment expenses	(100,900)	(15,600)	(700)	-	(117,200)
Accrued expenses and other liabilities	(966)	-	-	(65)	(1,031)
Net cash provided (used) by operating activities	<u>\$ (34,533)</u>	<u>\$ (10,432)</u>	<u>\$ (287)</u>	<u>\$ 1,052</u>	<u>\$ (44,200)</u>

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Other Financial Information  
Budgetary Comparison Schedule  
Old Fund/Debt Reduction  
Year Ended June 30, 2011  
(In Thousands)

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance with</u> <u>Final Budget</u>
	<u>Original</u>	<u>Final</u>	<u>Amounts</u> <u>Budgetary</u> <u>Basis</u>	
<b>Budgetary Fund Balance, July 1</b>				
Resources (inflows):				
Beginning Balance 07/01/10	\$ 799,148	\$ 799,148	\$ 888,536	\$ 89,388
2011 FY Gross Revenue	-	-	493,277	493,277
Revenue Refunds	-	-	(424)	(424)
13 <sup>th</sup> Month Expenditures - Last PFY	-	-	(599)	(599)
Estimated Revenue FY 2011	<u>843,088</u>	<u>843,088</u>	<u>-</u>	<u>(843,088)</u>
<b>Amounts available for appropriation</b>	<u><b>1,642,236</b></u>	<u><b>1,642,236</b></u>	<u><b>1,380,790</b></u>	<u><b>(261,446)</b></u>
Charges to appropriations (outflows)				
Employee Benefits Expense	-	-	105	(105)
Contractual and Professional	25,808	25,808	20,936	4,872
Claims	523,995	523,995	265,463	258,532
Fund Transfers	288,088	288,088	152,602	135,486
Other Expenses	<u>197</u>	<u>197</u>	<u>8</u>	<u>189</u>
<b>Total Charges to Appropriations</b>	<u><b>838,088</b></u>	<u><b>838,088</b></u>	<u><b>439,114</b></u>	<u><b>398,974</b></u>
<b>Budgetary Fund Balance, June 30, 2011</b>	<u><b>\$ 804,148</b></u>	<u><b>\$ 804,148</b></u>	<u><b>\$ 941,676</b></u>	<u><b>\$ 137,528</b></u>

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
Other Financial Information  
Budgetary Comparison Schedule  
Coal Workers' Pneumoconiosis  
Year Ended June 30, 2011  
(In Thousands)

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance with</u> <u>Final Budget</u>
	<u>Original</u>	<u>Final</u>	<u>Amounts</u> <u>Budgetary</u> <u>Basis</u>	
<b>Budgetary Fund Balance, July 1</b>				
Resources (inflows):				
Beginning Balance 07/01/10	\$ 221,866	\$ 221,866	\$ 244,075	\$ 22,209
2011 FY Gross Revenue	-	-	29,283	29,283
Estimated Revenue FY 2011	<u>12,000</u>	<u>12,000</u>	<u>-</u>	<u>(12,000)</u>
<b>Amounts available for appropriation</b>	<u>233,866</u>	<u>233,866</u>	<u>273,358</u>	<u>39,492</u>
Charges to appropriations (outflows)				
Contractual and Professional	-	-	17	(17)
Claims Expenses	<u>12,000</u>	<u>12,000</u>	<u>10,415</u>	<u>1,585</u>
<b>Total Charges to Appropriations</b>	<u>12,000</u>	<u>12,000</u>	<u>10,432</u>	<u>1,568</u>
<b>Budgetary Fund Balance, June 30, 2011</b>	<u>\$ 221,866</u>	<u>\$ 221,866</u>	<u>\$ 262,926</u>	<u>\$ 41,060</u>



WEST VIRGINIA  
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Uninsured Employers  
Year Ended June 30, 2011  
(In Thousands)

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance with</u> <u>Final Budget</u>
	<u>Original</u>	<u>Final</u>	<u>Amounts</u> <u>Budgetary</u> <u>Basis</u>	
<b>Budgetary Fund Balance, July 1</b>				
Resources (inflows):				
Beginning Balance 07/01/10	\$ 8,588	\$ 8,588	\$ 8,905	\$ 317
2011 FY Gross Revenue	-	-	1,453	1,453
Revenue Refunds	-	-	(38)	(38)
Estimated Revenue FY 2011	<u>27,000</u>	<u>27,000</u>	-	<u>(27,000)</u>
<b>Amounts available for appropriation</b>	<u>35,588</u>	<u>35,588</u>	<u>10,320</u>	<u>(25,268)</u>
Charges to appropriations (outflows)				
Contractual and Professional	1,350	1,350	8	1,342
Claims	<u>25,650</u>	<u>25,650</u>	<u>1,225</u>	<u>24,425</u>
<b>Total Charges to Appropriations</b>	<u>27,000</u>	<u>27,000</u>	<u>1,233</u>	<u>25,767</u>
<b>Budgetary Fund Balance, June 30, 2011</b>	<u>\$ 8,588</u>	<u>\$ 8,588</u>	<u>\$ 9,087</u>	<u>\$ 499</u>

WEST VIRGINIA  
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Self Insureds  
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(In Thousands)

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance with</u> <u>Final Budget</u>
	<u>Original</u>	<u>Final</u>	<u>Amounts</u> <u>Budgetary</u> <u>Basis</u>	
<b>Budgetary Fund Balance, July 1</b>				
Resources (inflows):				
Beginning Balance 07/01/10	\$ 6,969	\$ 6,969	\$ 8,286	\$ 1,317
2011 FY Gross Revenue	-	-	1,829	1,829
Revenue Refunds	-	-	(1)	(1)
Estimated Revenue FY 2011	<u>15,000</u>	<u>15,000</u>	<u>-</u>	<u>(15,000)</u>
<b>Amounts available for appropriation</b>	<b><u>21,969</u></b>	<b><u>21,969</u></b>	<b><u>10,114</u></b>	<b><u>(11,855)</u></b>
Charges to appropriations (outflows)				
Contractual and Professional	750	750	72	678
Claims	14,250	14,250	102	14,148
Other Expenses	<u>-</u>	<u>-</u>	<u>9</u>	<u>(9)</u>
<b>Total Charges to Appropriations</b>	<b><u>15,000</u></b>	<b><u>15,000</u></b>	<b><u>183</u></b>	<b><u>14,817</u></b>
<b>Budgetary Fund Balance, June 30, 2011</b>	<b><u>\$ 6,969</u></b>	<b><u>\$ 6,969</u></b>	<b><u>\$ 9,931</u></b>	<b><u>\$ 2,962</u></b>

WEST VIRGINIA  
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Access WV  
Year Ended June 30, 2011  
(In Thousands)

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance with</u> <u>Final Budget</u>
	<u>Original</u>	<u>Final</u>	<u>Amounts</u> <u>Budgetary</u> <u>Basis</u>	
<b>Budgetary Fund Balance, July 1</b>				
Resources (inflows):				
Beginning Balance 07/01/10	\$ 11,697	\$ 11,697	\$ 13,022	\$ 1,325
2011 FY Gross Revenue	-	-	6,881	6,881
Revenue Refunds	-	-	(12)	(12)
Estimated Revenue FY 2011	<u>9,000</u>	<u>9,000</u>	-	<u>(9,000)</u>
<b>Amounts available for appropriation</b>	<u><b>20,697</b></u>	<u><b>20,697</b></u>	<u><b>19,891</b></u>	<u><b>(806)</b></u>
Charges to appropriations (outflows)				
Personal Services	105	105	31	74
Employee Benefits	41	41	15	26
Contractual and Professional	254	254	316	(62)
Claims	8,392	8,392	6,187	2,205
Other Expenses	<u>14</u>	<u>14</u>	<u>24</u>	<u>(10)</u>
<b>Total Charges to Appropriations</b>	<u><b>8,806</b></u>	<u><b>8,806</b></u>	<u><b>6,573</b></u>	<u><b>2,233</b></u>
<b>Budgetary Fund Balance, June 30, 2011</b>	<u><b>\$ 11,891</b></u>	<u><b>\$ 11,891</b></u>	<u><b>\$ 13,318</b></u>	<u><b>\$ 1,427</b></u>

WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
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Consolidated Federal Funds  
Year Ended June 30, 2011  
(In Thousands)

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance with</u>
	<u>Original</u>	<u>Final</u>	<u>Amounts</u> <u>Budgetary</u> <u>Basis</u>	
<b>Budgetary Fund Balance, July 1</b>				
Resources (inflows):				
Beginning Balance 07/01/10	\$ -	\$ -	\$ -	\$ -
2011 FY Gross Revenue	-	-	109	109
Revenue Refunds	-	-	-	-
Estimated Revenue FY 2011	4,200	4,200	-	(4,200)
<b>Amounts available for appropriation</b>	<b>4,200</b>	<b>4,200</b>	<b>109</b>	<b>(4,091)</b>
Charges to appropriations (outflows)				
Personal Services	101	101	13	88
Employee Benefits	40	38	5	33
Contractual and Professional	2,896	2,896	65	2,831
Claims	200	200	-	200
Other Expenses	963	965	26	939
<b>Total Charges to Appropriations</b>	<b>4,200</b>	<b>4,200</b>	<b>109</b>	<b>4,091</b>
<b>Budgetary Fund Balance, June 30, 2011</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**West Virginia Code §5A-3-10a states:** No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

**EXCEPTION:** The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (*West Virginia Code §61-5-3*), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

**WITNESS THE FOLLOWING SIGNATURE**

Vendor's Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_, to-wit:

Taken, subscribed, and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission expires \_\_\_\_\_, 20\_\_.

**AFFIX SEAL HERE**

**NOTARY PUBLIC** \_\_\_\_\_

# State of West Virginia **VENDOR PREFERENCE CERTIFICATE**

Certification and application\* is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

- 1. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**  
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**  
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or,**
- 2. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**
- 3. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**
- 4. **Application is made for 5% resident vendor preference for the reason checked:**  
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or,**
- 5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or,**
- 6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

**Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.**

**Bidder:** \_\_\_\_\_ **Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Title:** \_\_\_\_\_

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.