



Quarterly Report Summary - - July 1, 2012 to September 30, 2012

Court System Funding Needlessly Antiquated and Complicated

The Commonwealth's funding of its Court System is an antiquated and complicated maze of state and local tax revenues and fines and costs with little connection to service delivery. The lack of funding transparency makes determining overall accountability nearly impossible. Further, the division of responsibility for expenses between the Commonwealth and localities comes more from historical tradition than from funding sources or accountability. (pages 1 and 2)

E-911 Board Resolves Cash Management Issues and Other Matters

In fiscal year 2010, the E-911 Services Board (Board) ended the year with negative net assets because of poor cash management and did not ensure that sufficient funds were available to pay all Public Safety Answering Point (PSAP) grants. The Board reduced PSAP grant awards to \$896,692 in fiscal year 2011, which was approximately \$14.8 million less than what was awarded in the prior year. The reduction in fiscal year 2011 PSAP grant awards allows the Board to use cash on hand to pay current and prior year outstanding grant payments. (pages 2 and 3)

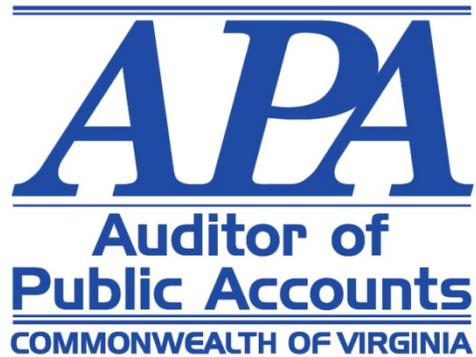
VITA Addresses Prior Findings, but Should Improve Contracting

VITA addressed the four findings and recommendations concerning inventory and billing accuracy, billing and collection procedures, and the oversight of technology procurements since our last audit.

VITA entered into a two-year contract with the original vendor in November 2005 to provide IT staff augmentation and extend the contract for three one-year extensions. In 2010, VITA was transitioning from the original vendor to a new contract with a different vendor. However, VITA terminated the contract for non-performance and issued an emergency contract extension until December 31, 2011 with the original vendor until December 31, 2013. The Commonwealth paid approximately \$20 million under this contract in fiscal year 2011 and an additional \$26.5 million during the first three quarters in fiscal year 2012.

As of May 2012, VITA indicates that limited resources may again delay the rebidding process. This may require VITA to invoke the one-year optional extension until December 31, 2014 to allow sufficient time to rebid the contract and transition staff. (pages 4 and 5)

We will be happy to provide you any reports in their entirety, or you can find all reports listed in this document at our website <http://www.apa.virginia.gov/reports.cfm>. We welcome any comments concerning this report or its contents.



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Commonwealth of Virginia Court Operations

HIGHLIGHTS AND SUMMARY

The Commonwealth's funding of its Court System is an antiquated and complicated maze of state and local tax revenues and fines and costs with little connection to service delivery. The lack of funding transparency makes determining overall accountability nearly impossible. Further, the division of responsibility for expenses between the Commonwealth and localities comes more from historical tradition than from funding sources or accountability. *See our Observations.*

The charts below show total collections and operating expenses for Circuit and District Courts during fiscal year 2011.

Commonwealth Perspective 2011

State collections	\$ 562,926,381
Clerk's fees	50,420,032
Commissions	12,696,115
Less excess fees	<u>(8,884,618)</u>
Net state collections	<u>617,157,910</u>
Less total state expenses	<u>(268,219,892)</u>
Commonwealth Revenue	\$ 348,938,018

Locality Perspective 2011

Total local and town collections	\$ 275,909,066
Plus excess fees	<u>8,884,618</u>
Net local collections	<u>284,793,684</u>
Less total local expenses	<u>(203,942,578)</u>
Locality Revenue	\$ 80,851,106

In the fiscal year 2011, the Virginia Court System netted the Commonwealth approximately \$349 million and its localities approximately \$80.8 million, which is an increase of six percent for the Commonwealth and a decrease of four percent for localities from fiscal year 2010. This report provides a comprehensive overview of the fiscal operations of

Observations

- ❖ Counties and cities provide court facilities and, in some cases, staffing beyond that funded by the Commonwealth. Should the Commonwealth share in the cost of these expenses? If so, how?
- ❖ Should counties and cities continue to have the authority to adopt parallel ordinances to state statutes and retain the fines, fees, and costs; and if so, should that funding be restricted to either education or the court system?
- ❖ Why do towns continue to have the ability to assess and collect fines and fees?
- ❖ Should the Compensation Board continue to calculate excess fees and share this funding with the locality?
- ❖ Should the Commonwealth continue to fund a portion of the Circuit Court Clerk functions; if so, what services should this funding cover?
- ❖ Should the Clerks of the Circuit Courts continue to receive a commission for simply depositing the Commonwealth and individual locality's collections with the appropriate Treasurer?
- ❖ If the Commonwealth alters the funding for court services in the Circuit Court Clerk's office, should the administrative responsibility for this funding move from the Compensation Board to the Supreme Court?

the Commonwealth's Circuit and District Courts. We have compiled this information from various sources to show both the Courts' collections and their general operating expenses.

Collections for both Circuit and District Courts have decreased significantly since 2007. While Circuit and District Court fines, fees, and costs have increased slightly over time it was not enough to offset the large decrease in recordation taxes. Expenses in the court system have remained relatively stable from 2007 to 2011 due to funding cuts relating to the District Courts, as well as judge vacancies.

During our compilation of this report, as well as during our *Local Ordinances and the Funding of Courts* report preparation, we noticed several observations that the General Assembly may wish to address. The Commonwealth needs to address these observations and develop a holistic approach to the funding of its Court System. These observations are listed above and also discussed in detail in our *Local Ordinances and the Funding of Courts* report.

E-911 Services Board

STATUS OF PRIOR YEAR FINDINGS

Improve Cash Management Practices - Resolved

In fiscal year 2010, the E-911 Services Board (Board) ended the year with negative net assets because of poor cash management. The Board did not ensure that sufficient funds were available to pay all Public Safety Answering Point (PSAP) grants awarded in the current and prior years. If the Board continued to award grants at the same rate as in prior fiscal years, they would continue to encounter future cash flow problems.

The Board reduced PSAP grant awards to \$896,692 in fiscal year 2011. This is approximately \$14.8 million less than what was awarded in the prior year. The reduction in fiscal year 2011 PSAP grant awards allows the Board to use cash on hand to pay current and prior year outstanding grant payments.

The Board also failed to pay Verizon Wireless (Verizon) \$3.8 million for services rendered in fiscal year 2010. The Board, on behalf of the collective PSAPs (generally consisting of local governments and sheriff departments), historically contracts with Verizon to provide basic E-911 call routing services. The Board has contracted with Verizon every year since its inception for this service and is the billing agent to the PSAPs. During fiscal year 2010, the Board allowed the Verizon contract to lapse. However, Verizon continued to provide the services without a signed contract.

The Attorney General's office reviewed the Verizon contractual matter during fiscal year 2011. Through this review and negotiations with Verizon, the Board and Verizon agreed in fiscal year 2012 to pay \$1.8 million for services rendered in fiscal year 2010, which is about 50 percent less than initially owed to Verizon.

Determine Accuracy of PSAP Data – Partially Resolved

During the prior year audit, the Board did not validate the Public Safety Answering Point (PSAP) call and expense data submissions to determine funding allocations. The Board uses this data to complete the annual allocation of PSAP reimbursements for E-911 Fund supported operating costs. The prior year audit also found that a number of PSAPs that submitted call and expense data had large fluctuations from prior periods. However, management did not research these variances before allocating funds to the PSAPs.

As a result, the City of Portsmouth may have received more than \$900,000 in excess funding for fiscal year 2010. We recommended that the Board validate call and expense data received from PSAPs to ensure that they receive the correct percentage of the fund for reimbursement.

During the current year, the Board began validating fiscal years 2009 and 2010 call and expense data submitted by PSAPs, and used this data to compile fiscal years 2010 and 2011 reimbursement rates, respectively. The Board bases the reimbursement rates on the prior fiscal year's call and expense data. The Board's validation process found the following.

Fiscal Year	Error Rate	No. of PSAPs Overpaid/(Underpaid)	Total Amount of Overpayment/(Underpayment)
2010	100%	55/(70)	\$2,336,461/(\$2,336,461)
2011	67%	37/(47)	\$1,355,047/(\$1,355,047)

For fiscal year 2010, the Board overpaid 55 PSAPs \$2.3 million that resulted in 70 PSAPs being underpaid \$2.3 million. For fiscal year 2011, the Board overpaid 37 PSAPs \$1.3 million that resulted in 47 PSAPs being underpaid \$1.3 million. The Board will begin collecting the overpayments in fiscal year 2013 and redistribute the funds to the appropriate underpaid PSAPs.

The 2011 General Assembly session amended Section 56-484.17 of the Code of Virginia to ensure proper accounting for E-911 revenue and to reflect our 2009 audit recommendation. The revised section requires the Department of Taxation (Taxation) to collect all E-911 surcharges and distribute reimbursements beginning in fiscal year 2013.

Additionally, the 2012 General Assembly session amended the same code section to calculate PSAP reimbursement rates on a five-year pro rata average, rather than basing the rate on only the previous year cost and call load data. Therefore, Taxation will base the reimbursement rate for fiscal years 2013 through 2017 on each PSAP's average pro-rated distribution from the Wireless E-911 Fund for fiscal years 2007-2012.

The Board and Taxation have agreed to delay transitioning E-911 distribution activities to Taxation until January 2013 to allow the Board to collect the overpayments found during the validation process.

Virginia Information Technologies Agency (VITA)

Our audit had two purposes.

1. To follow-up on our last audit of VITA's inventory and billing processes, and oversight of technology procurement.
2. To review VITA's system of internal controls and compliance with state and applicable federal financial matters and determine whether financial transactions are properly recorded in applicable financial systems.

Since our last audits of VITA and the Partnership, there have been no significant changes in the Partnership or within VITA's management. Our previous audit noted that Northrop Grumman manages the Commonwealth's IT infrastructure per the Comprehensive Infrastructure Agreement (CIA). As prescribed by the CIA, VITA and Northrop Grumman use a fee-for-service billing model, which entails a specific price for each service related to the management of IT infrastructure regardless of the consumer.

On March 31, 2010, VITA and Northrop Grumman signed Amendment 60 to the CIA. This amendment established adjusted baseline quantities of statewide resource unit usage and the corresponding Northrop Grumman prices per unit of usage, otherwise known as the contract-adjusted baseline. The amendment also adjusted the contractual spending cap corresponding to the adjusted baseline at \$234.2 million annually for the next nine years. However, it is possible for the Commonwealth to exceed this spending cap through the acquisition of additional services above the baseline or outside the scope of the CIA.

Our prior audit included four findings and recommendations concerning inventory and billing accuracy, billing and collection procedures, and the oversight of technology procurements. We found during the course of our audit that VITA has resolved all prior findings. A summary of those resolved findings are in Appendix A at the end of that report.

AUDIT FINDING AND RECOMMENDATION

Review Statewide IT Contracts

The Virginia Information Technologies Agency (VITA) maintains some standing contracts with various vendors to provide services to state agencies and institutions. One of VITA's service contracts is a contract for IT staff augmentation. The contract is with a vendor who provides access to IT staff augmentation services from a network of subcontractors. This allows agencies and institutions to employ the subcontractors' staff to provide in-house application development, maintenance and other IT services without hiring staff.

VITA entered into a two-year contract with the original vendor in November 2005 to provide IT staff augmentation services to the Commonwealth of Virginia. The terms of the contract allowed VITA to extend the contract for three one-year extensions without rebidding the contract. VITA

extended the contract in 2007, in 2008, and finally in 2009. The contract expired on November 22, 2010.

In 2010, VITA was in the process of transitioning the state's IT staff augmentation services from the original vendor to a newly awarded contract with a different vendor. However, within nine months VITA terminated the contract with the new vendor for non-performance. Because the contract with the original vendor had not yet expired and to cause the least amount of disruption to agency IT projects, VITA began transitioning services back to the original vendor. VITA issued an emergency contract extension until December 31, 2011 to allow for sufficient time to transition staff and rebid the expiring original vendor's contract.

However, in April 2011, VITA determined that it could not complete the transition and rebidding process by December 31, 2011. VITA extended the contract without competitive bidding for another two years, expiring on December 31, 2013 with the option of one one-year renewal thereafter.

The Commonwealth paid approximately \$20 million for work performed under this contract in fiscal year 2011. During the first three quarters in fiscal year 2012, the Commonwealth paid an additional \$26.5 million. This increase does not indicate that the emergency extension is used to only complete projects already undertaken, as required by the Virginia Public Procurement Act.

As of May 2012, VITA indicates that limited resources may again delay the rebidding process. This may require VITA to invoke the one-year optional extension until December 31, 2014 to allow sufficient time to rebid the contract and transition staff. That extension will take the contract three years past its original emergency extension without competitive rebidding or negotiation.

We recommend that VITA allocate the necessary resources to perform timely reviews, solicitations, and negotiations of the Commonwealth's Information Technology contracts per the requirements of the Virginia Public Procurement Act.

SUMMARY OF REPORTS ISSUED

The following reports on audit were released by this Office during the period July 1, 2012, to September 30, 2012. Those reports which included findings in the area of internal controls or compliance are indicated by an (*) asterisk.

Judicial Branch

Virginia's Judicial System for the year ended June 30, 2011*

Independent Agencies

State Lottery Department "Decades of Dollars"—Report on Applying Agreed-Upon Procedures for the period February 3, 2011 through March 31, 2012

State Lottery Department "Mega Millions"—Report on Applying Agreed-Upon Procedures for the period April 1, 2011 through March 31, 2012

State Lottery Department "Megaplier"—Report on Applying Agreed-Upon Procedures for the period January 18, 2011 through March 31, 2012

State Lottery Department "Power Ball"—Report on Applying Agreed-Upon Procedures for the period April 1, 2011 through March 31, 2012

State Lottery Department "Power Play"—Report on Applying Agreed-Upon Procedures for the period April 1, 2011 through March 31, 2012

State Lottery Department "Win for Life"—Report on Applying Agreed-Upon Procedures for the period April 1, 2011 through March 31, 2012

Virginia State Lottery Department for the year ended June 30, 2012*

Virginia Workers' Compensation Commission for the years ended June 30, 2010 and June 30, 2011*

Executive Departments

Agriculture and Forestry

Department of Agriculture and Consumer Services, and the Virginia Agriculture Council for the years ended June 30, 2010 and June 30, 2011*

Department of Forestry for the year ended June 30, 2012

Commerce and Trade

Virginia Racing Commission for the year ended June 30, 2012*

Colleges and Universities

The College of William and Mary in Virginia for the year ended June 30, 2011*

University of Mary Washington for the year ended June 30, 2011*

Virginia Community College System for the year ended June 30, 2011*

Health and Human Resources

Virginia Foundation for Healthy Youth for the year ended June 30, 2012

Natural Resources

Department of Conservation and Recreation, Virginia Land Conservation Foundation, Chippokes

Plantation Farm Foundation for the years ended June 30, 2010 and June 30, 2011

Department of Game and Inland Fisheries for the year ended June 30, 2011*

Public Safety

Department of Forensic Science for the period July 1, 2009 through June 30, 2012

Technology

Virginia Information Technologies Agency for the year ended June 30, 2011*

Wireless E911 Services Board for the year ended June 30, 2011*

Special Reports

Commonwealth of Virginia Court Operations for the year ended June 30, 2011

Report to the Joint Legislative Audit and Review Commission for the quarter April 1, 2012 through June 30, 2012*

Clerks of the Circuit Courts

Cities:

City of Charlottesville (Turnover) – January 1, 2011 through December 31, 2011

City of Danville – January 1, 2011 through March 31, 2012*

City of Fredericksburg (Turnover) – April 1, 2011 through December 31, 2011

City of Martinsville – January 1, 2011 through June 30, 2012*

City of Radford – January 1, 2011 through March 31, 2011*

City of Richmond – April 1, 2010 through March 31, 2012

City of Salem – April 1, 2011 through March 31, 2012*
City of Staunton – January 1, 2011 through March 31, 2012*
City of Winchester – April 1, 2011 through March 31, 2012

Counties:

County of Albemarle – January 1, 2011 through December 31, 2011*
County of Arlington – April 1, 2011 through March 31, 2012*
County of Augusta – July 1, 2011 through June 30, 2012
County of Brunswick – April 1, 2011 through March 31, 2012*
County of Clarke – April 1, 2011 through March 31, 2012
County of Craig – January 1, 2011 through March 31, 2012*
County of Frederick – April 1, 2011 through March 31, 2012
County of Gloucester – January 1, 2011 through March 31, 2012
County of Goochland – April 1, 2011 through March 31, 2012
County of Grayson – January 1, 2011 through June 30, 2012
County of Greensville – April 1, 2011 through March 31, 2012*
County of Henrico – April 1, 2011 through June 30, 2012*
County of Loudoun – January 1, 2011 through March 31, 2012*
County of Lunenburg – January 1, 2011 through March 31, 2012
County of Madison – January 1, 2011 through June 30, 2012
County of Mathews – April 1, 2011 through March 31, 2012
County of Middlesex (Turnover) as of August 31, 2012
County of New Kent – July 1, 2011 through June 30, 2012
County of Orange – April 1, 2011 through March 31, 2012*
County of Page – April 1, 2011 through March 31, 2012
County of Pittsylvania – January 1, 2011 through June 30, 2012
County of Richmond – January 1, 2011 through March 31, 2012
County of Southampton – April 1, 2011 through March 31, 2012
County of Stafford – April 1, 2011 through March 31, 2012
County of Washington – January 1, 2011 through June 30, 2012

State Accounts

Cities:

City of Bedford for the year ended June 30, 2012
City of Chesapeake for the year ended June 30, 2012*
City of Falls Church for the year ended June 30, 2012*
City of Lexington for the year ended June 30, 2012
City of Lynchburg for the year ended June 30, 2012
City of Manassas Park for the year ended June 30, 2012
City of Martinsville for the year ended June 30, 2012
City of Norfolk for the year ended June 30, 2012
City of Portsmouth for the year ended June 30, 2012
City of Roanoke for the year ended June 30, 2012*

City of Suffolk for the year ended June 30, 2012*
City of Winchester for the year ended June 30, 2012

Counties:

County of Augusta for the year ended June 30, 2012*
County of Bedford for the year ended June 30, 2012
County of Campbell for the year ended June 30, 2012
County of Dickenson for the year ended June 30, 2012
County of Fauquier for the year ended June 30, 2012
County of Franklin for the year ended June 30, 2012*
County of Frederick for the year ended June 30, 2012
County of Hanover for the year ended June 30, 2012
County of Henrico for the year ended June 30, 2012
County of Highland for the year ended June 30, 2012
County of Loudoun for the year ended June 30, 2012
County of Page for the year ended June 30, 2012
County of Rappahannock for the year ended June 30, 2012*
County of Russell for the year ended June 30, 2012
County of Smyth for the year ended June 30, 2012
County of Wythe for the year ended June 30, 2012

*Denotes management control finding