

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER

**H. Carl McCall
STATE COMPTROLLER**



DEPARTMENT OF MOTOR VEHICLES

**CONTRACT C-000498 – MOTORCYCLE
ASSOCIATION OF NEW YORK STATE, INC.**

2000-R-3

**DIVISION OF MANAGEMENT AUDIT AND
STATE FINANCIAL SERVICES**

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H. Carl McCall
STATE COMPTROLLER

Report 99-N-3

Mr. Raymond P. Martinez
Commissioner
NYS Department of Motor Vehicles
Empire State Plaza
6 Swan Street
Albany, NY 12228

Dear Mr. Martinez:

The following is our audit report on State Contract C-000498 between the Department of Motor Vehicles and the Motorcycle Association of New York State, Inc. for the period August 4, 1998 through December 29, 2000.

We did this audit according to the State Comptroller's authority as set forth in Article V, Section 1 and Article X, Section 5 of the State Constitution, and Article II, Section 8 of the State Finance Law. We list major contributors to this report in Appendix A.

*Office of the State Comptroller
Division of Management Audit
and State Financial Services*

November 16, 2001

Division of Management Audit and State Financial Services

A.E. SMITH STATE OFFICE BUILDING ♦ ALBANY, NEW YORK 12236
123 WILLIAM STREET ♦ NEW YORK, NEW YORK 10038

EXECUTIVE SUMMARY

DEPARTMENT OF MOTOR VEHICLES

CONTRACT C-000498 – MOTORCYCLE ASSOCIATION OF NEW YORK STATE, INC.

SCOPE OF AUDIT

In 1997, the New York State Legislature enacted the Motorcycle Safety Account to establish a statewide motorcycle operator and instructor training program to be administered by the Commissioner of the Department of Motor Vehicles (Department). The account is financed by fees generated from the registration of motorcycles and the issuance/renewal of motorcycle operator licenses. The Department has contracted with the Motorcycle Association of New York State, Inc. (Association) to provide the mandated services. Association training sites offer a 16-hour Motorcycle Rider Course. Students who successfully complete the course are eligible for the motorcycle road test waiver and PIRP (point and insurance reduction program) benefits. The Association does not provide the training courses itself, but oversees the activities of several independent training sites. Association responsibilities include operator and instructor training, as well as program promotion. The Department has appointed a Program Manager to serve as liaison with the Association and to monitor the Association's compliance with contract requirements.

Our audit addressed the following questions relating to Association operations, and the Department's oversight thereof, for the period August 4, 1998 through December 29, 2000:

- Is the Association complying with the fiscal and performance requirements of the contract?
- Is the Department providing adequate oversight of contractor operations?

AUDIT OBSERVATIONS AND CONCLUSIONS

We determined that the Department is due a refund of \$205,643 for the period reviewed. We also identified several other improvement opportunities regarding the Association's compliance with the contract's fiscal requirements. Regarding the performance requirements, we found that the Association is complying with some and working towards compliance with others.

We conclude, overall, that the Department needs to enhance its oversight of contractor operations.

We found the need for improvement in various fiscal areas. For example, the Association has collected and retained \$155,238 in fees from students without the required Department approval. These fees were not reported to the Department in any of the Association's budget documents, and were not used to reduce the Department's funding of the program's budget. We also reviewed the accuracy of the student data and PIRP fees submitted by the Association to the Department, and identified several errors related to this information. (See pp. 5-8)

We selected a sample of expenses from various expenditure categories to determine whether they were properly supported and appropriate to program operations, in accordance with the terms of the contract. We found that the Association is overpaying for some services and products. For example, we noted that the Association made a number of payments to two accounting firms and a law firm without having proper support to identify the specific services performed or billing rates changed. As a result of our inquiries, the law firm agreed to credit the Association's account for \$45,732 in what the firm categorized as "billings for services to be rendered in the future." The accounting firms have not provided us with sufficient information about their billings to allow us to determine their appropriateness. (See pp. 8-11)

Regarding performance requirements, we found that the Association is working towards establishing the contractually-required number of training sites and is complying with other important contract mandates. We noted, however, the need for the Association's Administrator to make more visits to the training sites to ensure the instructors are teaching the course in accordance with established industry standards. In addition, the Department needs to work with the Association to ensure an appropriate amount of money is budgeted and spent on advertising and public relations. (See pp. 13-14)

COMMENTS OF DEPARTMENT OFFICIALS

Department officials believe that the audit "downplays" the Program's success, but acknowledged the improvement opportunities noted in the report.

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Summary of Audit Disallowances

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Response of Department Officials

INTRODUCTION

Background

In 1997, the New York State Legislature enacted the Motorcycle Safety Account to establish a statewide motorcycle operator and instructor training program to be administered by the Commissioner of the Department of Motor Vehicles (Department). The account, under the joint custody of the State Comptroller and the Commissioner of Taxation and Finance, is financed by fees generated from the registration of motorcycles and the issuance/renewal of motorcycle operator licenses. The Department has contracted with the Motorcycle Association of New York State, Inc. (Association) to provide the mandated services. The Association does not provide the training courses itself, but oversees the activities of several independent training sites. The Association was granted a five-year, \$4.1 million dollar contract commencing August 1998. As of December 29, 2000, Department reimbursements to the Association totaled \$1.7 million. Association responsibilities include operator and instructor training, as well as program promotion and public awareness. The following table illustrates the Association's financial activities for three fiscal years ended March 31, 1998, 1999, and 2000.

<i>Association's Financial Activities for the Fiscal Years 1998-2000</i>			
Support and Revenues:	1998 ¹	1999 ¹	2000 ²
Governor's Traffic Safety Committee (GTSC)	\$120,782	\$ 35,156	\$ -0-
State of New York DMV Grant	73,948	359,885	687,684
Student Fees	36,347	50,841	60,371
Motorcycle Rental Fees	-0-	6,215	N/A
Other Income	629	3,018	536
Total	\$231,706	\$455,115	\$748,591
Expenses:			
Rider Education	\$121,650	\$306,417	*
General & Administrative	70,256	151,244	*
Total	\$191,906	\$457,661	\$767,643

¹ Figures obtained from the Association's Certified Financial Statements.

² Figures obtained from the Association's General Ledger (audited Financial Statements for this period were not finalized as of this writing).

* Expense categories not summarized.

The Association, under the umbrella of the Motorcycle Safety Foundation (MSF) - which sets the national standards for motorcycle training - has been involved with motorcycle training in New York State since 1993. The Association is managed by a five-member Board, including an Administrator who runs the Association's day-to-day operations, along with two office-based staff. The Department has appointed a Program Manager to serve as liaison with the Association and to monitor the Association's compliance with contract requirements.

Association training sites offer MSF's Motorcycle Rider Course, a minimum 16-hour course that includes both classroom and riding components. Students who successfully complete the course are eligible to select the motorcycle road test waiver, and/or the PIRP (point and insurance reduction program) benefits. Students who elect the PIRP benefits receive a credit of up to four points on their driving record and a minimum 10 percent reduction in the base rate of their auto and motorcycle liability and collision insurance premiums for three consecutive years.

Audit Scope, Objectives and Methodology

We audited Association operations, and the Department's oversight thereof, for the period August 1, 1998 through December 29, 2000. The objectives of our financial-related and performance audit were to determine whether the Association is complying with the fiscal requirements and performance objectives of the contract, and whether the Department is providing adequate oversight of contractor operations. To achieve our objectives, we reviewed the contract and associated documents, as well as the Association's audited financial statements, income and expense-related documents, student training files, and contract payment information. We also interviewed relevant Department and Association officials and staff.

We performed our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess the contract-related operations included in our audit scope. Further, these standards require that we understand the Department's and Association's respective internal control structures, and their compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting

transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those operations identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, we devote little audit effort to reviewing operations that may be relatively efficient or effective. This report, therefore, highlights those areas needing improvement.

Internal Control and Compliance Summary

Our consideration of the Department's and Association's respective internal control structures over contract operations found that they are sufficient to capture and record relevant contract-related transactions. However, some improvements are necessary to help ensure greater compliance with contract terms and to maximize use of Department funding. We provide details of these matters throughout this report.

Response of Department Officials

Draft copies of this report were provided to Department and Association officials for their review and comment. Their comments have been considered in preparing this report, and are included as Appendix B. Where appropriate, we made changes to the text of the report.

Department officials believe that the audit "downplays" the Program's success, but acknowledged the improvement opportunities noted in the report.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Motor Vehicles shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the

recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

COMPLIANCE WITH FISCAL REQUIREMENTS

As detailed in Exhibit A, we determined that the Department is due a refund of \$205,643 for the period reviewed. We also identified several other improvement opportunities regarding the Association's compliance with the contract's fiscal requirements. As a result, the Department needs to enhance its oversight of contractor operations in the following areas.

Student Fees

The contract stipulates that the Department is the sole funding entity for all of the Association's operating and administrative costs. The Association cannot accept any additional forms of reimbursement for such costs or services, unless specifically authorized to do so by the Department.

The Association is authorized as the sponsoring agency to collect a \$2 fee on behalf of the Department for PIRP. However, we found that contrary to contract terms, the Association charges a \$20 fee at each of the training sites for each student processed for PIRP in addition to the tuition each student pays to the subcontractor-trainer. Of this additional fee, \$2 is collected for PIRP on behalf of, and is subsequently remitted to, the Department; while the remaining \$18 is retained for Association use. For students who do not select the PIRP option, the Association collects and retains the entire \$18 fee. Over the audit period, the Association has collected and retained \$155,238 in student fees. We also identified an additional \$23,860 in such fees recorded on the Association's accounts receivable account.

These fees were collected without formal written Department approval and were not included in any of the Association's budget documents. Further, these moneys were not used to reduce the Department's funding of the program's budget.

According to Association officials, they started collecting these fees prior to the inception of Department funding, when the fees were used to finance Association operations. However, we noted that the Association has continued to collect these fees

even though the Association has been precluded by contract from doing so since 1998.

Department officials responded that they have always known about the student fee collections and that they are confident that they have only been used for Program purposes. They added, however, that they will work with Association officials to identify and recover the fees collected since the inception of the contract.

Student Data Processing and Reporting

Pursuant to contract terms, the Association is responsible for providing the Department with the information necessary to evaluate program effectiveness, and to fulfill the Department's annual reporting requirements to the Legislature. As such, it is imperative that accurate records are maintained of student enrollment/course completion information to facilitate reporting about the PIRP course participants and the number of students trained.

The Association relies on its various training sites to provide much of the program-related information that is eventually forwarded to the Department.

Once the necessary student information (e.g., name, address, date of birth, social security number, gender, permit/license number, road test waiver and/or PIRP benefit selection, test results, and attendance) is received from the training sites, the Association manually enters it into its Card and Student Tracking System (CASTS) database. The Association then retrieves this data from CASTS and sends it to the Department on diskettes, accompanied by a check representing the corresponding PIRP fees. During the audit period, the Association submitted \$18,246 in PIRP fees, along with 9,123 student records.

From the CASTS database, the Association generates statistical reports summarizing the above information by training site. The Department receives the information, including the number of students trained, and presents it in its Motorcycle Safety Program Annual Report.

We reviewed the accuracy of the student data and PIRP fees maintained on the CASTS database, and submitted by the Association to the Department for the period ended October 1,

2000, and identified several errors that may affect the accuracy of the reported information. For example, the CASTS People file, which contains general student information, contained 9,979 student records; while the CASTS StudentClass file, which records the students' road test waiver and/or PIRP option and other course completion information, contained 10,424 student records - a net difference of 445 records. Upon further analysis, we determined that the StudentClass file contained 460 duplicate records, indicating that some students' identification numbers and course completion information had been recorded more than once.

We also determined that 45 of the students listed in the StudentClass file were not recorded in the People file. In addition, 60 student records listed in the People file were not listed on the StudentClass file. Further, we found several data entry errors, such as the misspelling of a student name, and incorrect/missing social security numbers. As a result, the Association transmitted 171 duplicate records for students selecting the PIRP option.

The Department reportedly notifies the Association when inaccurate data is rejected by its computer system and requires the Association to make necessary corrections prior to resubmission. For example, in October 2000, the Association submitted 4,363 student records to the Department along with \$8,726 (\$2 per student record) in PIRP fees. Of these records, 650 were rejected by the Department's computer system due to invalid, conflicting, and/or missing information, and were left unreconciled.

We believe these data errors and inconsistencies could be avoided by the enhanced Association review of student data before it is remitted to the Department. In addition, the unreconciled discrepancies could result in students not being credited on their license documents for the PIRP benefit, for which they had paid, and the reporting of inaccurate revenue data.

In response to our preliminary report, Department officials noted that, in November 1999, a representative of their computer manufacturer caused their system to crash, which resulted in the duplicate records in the CASTS database. The Association has attempted to recover all of the lost information. It is also currently attempting to reconcile the 650 fee-related data discrepancies we noted. Department and Association officials

told us they are working together to limit the number of future discrepancies.

Association Expenditures

We selected a sample of expenses from various expenditure categories to determine whether they were properly supported and appropriate to program operations, in accordance with the terms of the contract. We found that the Association is overpaying for some services and products as follows.

Professional Fees

During the period covering August 4, 1998 to July 31, 2000, the Association paid a total of \$143,717 in professional fees to outside firms: \$76,411 was paid to two accounting firms, and \$67,306 was paid to a law firm. The Association made a number of these payments without having proper support to identify the specific services performed (i.e., a detailed listing of hours billed by firm staff and a description of the work performed), or without support for the billing rates charged.

Subsequent to our inquiries regarding its billings, the law firm agreed to credit the Association's account for \$45,732 for what they categorized as "billings for services to be rendered in the future." The accounting firms have not provided us with sufficient information to allow us to determine the appropriateness of their billings.

In response to our preliminary report, Department officials stated that they are working with the Association to ensure better documentation of the services provided by these firms and the associated billings.

Salary and Travel Expenses

We note that the Association paid one of its Chief Instructors \$4,673 during the audit period for salary and travel expenses incurred prior to August 4, 1998, the effective date of this contract. As a result, these expenses are not eligible contract-related expenses. After our discussion with Association officials, this overpayment was recovered.

Investment in Computer System

During the audit period, the Association paid one vendor \$21,565 for the development of the CASTS software and other computer system-related services. Based on the sub-contract with the vendor, the initial costs included \$8,100 for the software installation and configuration, user training at the central office, and a \$300 fee per training site. In addition, the Association paid another vendor \$11,000 for a server and \$15,663 for additional computer equipment and technical support. The objective of the additions and enhancements was to establish a Local Area Network (LAN) system. The purpose of the system is to minimize the manual data entry done by the Association's central office by having each site enter the student-data directly entered into CASTS database, and for the training sites to have the option to transfer the student data by remote access via phone line using a modem. As a result, the Association would then have online, real-time reporting of the course completion information from the various training sites, and timely issuance of the course completion cards. However, as of December 21, 2000, despite this financial investment, the Association continued to perform manual data entry.

In response to our preliminary report, Association officials stated that having an operational LAN system connected to field locations was a future, not an immediate, objective of this purchase. If this is the case, Association officials need to revisit this sub-contract to determine whether it overpaid for the actual equipment and services received to this point, since the Association has yet to take advantage of this advanced computerization.

Compensation to Board Members

We note that the Association pays its nonemployee Board members \$500 each quarter, in return for their contributions to the Association, including their attendance at the Association's Board meetings. We noted that the Association has been paying the \$500 quarterly stipends to Board members whether or not they attend Board meetings. For example, four Board members were paid a combined total of \$4,000 for two meetings that were to be held on September 30, 1999 and June 30, 2000, which never took place. There was no documentation of other meetings they may have attended in lieu of these during this period.

According to Department officials, the Board members may each be paid an annual \$2,000 stipend whether or not they attend Board meetings since they are paid for their availability and expertise, rather than their attendance at Board meetings. We note that the purpose of a Board is to hold periodic meetings to discuss, and when necessary, vote on various issues regarding (in this case) Association operations. If formal Board meetings are not held, or if Board members do not attend these meetings, the Association does not receive the benefits of their collective discussions, leaving us to question the merit of the annual (paid quarterly) stipend(s).

Motorcycle Maintenance and Accountability

The Association subcontracted with a New York City - based contractor for the delivery and pickup of its motorcycles to and from the various training sites at the beginning and end of each training season, and to provide motorcycle maintenance as necessary for all statewide training sites. We question whether the logistics of the statewide training sites are conducive to the motorcycle maintenance portion of this arrangement and whether the maintenance could be performed more efficiently and cost effectively by local mechanics.

The terms of the current contract call for the Association to pay the subcontractor an annual base fee of \$35,000, a mileage rate of \$.72 per mile, in addition to per diem food and lodging fees at the State rate. For example, during the audit period, the Association paid \$23,633 for the maintenance contractor's travel and lodging related expenses.

Our inquiries of selected training site administrators identified concerns about the availability of maintenance services under this subcontract in that it could sometimes take weeks for the mechanic to arrive due to his other obligations. In addition, the Association's administrator had delegated his motorcycle inventory responsibilities to this subcontractor. Thus, the Association was relying on this subcontractor to accurately account for its motorcycles. However, the subcontractor was not keeping the Association apprised of its inventory locations. For example, when we attempted to locate the motorcycles reportedly assigned to two training sites, we were unable to account for all of the listed motorcycles, which range in price from \$1,700 to \$2,917 each. Although we were subsequently able to locate each of the bikes, which were in either repair or storage, the Association should be readily aware of its entire

motorcycle inventory at any point in time. Upon completion of our fieldwork, we were informed that the Association's Administrator has taken control of the Association's inventory control system.

Personnel Issues

As the recipient of State monies through the award of a State contract, the Association is required to ensure an open competitive hiring process that promotes equal opportunity, secures qualified personnel, and prevents the appearance of favored hiring practices. Further, to support contractor billings, the Association must maintain a comprehensive record of the hours worked by each of its employees. We note that formal personnel files describing the various job duties and respective qualifications of the Association's three administrative, office-based employees - whose collective salaries exceed \$139,778 annually - are not maintained. In addition, detailed records of attendance for these employees do not exist to document their actual hours worked. We further note that two of these employees are related to each other which, in the absence of such controls, may give the appearance of favored hiring and personnel practices.

Recommendations

1. Obtain a refund of \$205,643 from the Association.
2. Require the Association to discontinue collecting student fees, or use such fees to reduce future Department funding of the program. Recover any such additional fees collected from outstanding accounts receivable.
3. Revisit the Association's CASTS database and associated software programs considering the inaccuracies noted in this report, and make program corrections as necessary.
4. Implement a disaster recovery plan to protect and recover information in the event of a situation that can result in the loss of data.

Recommendations

5. Require the Association's contracted professional firms to maintain sufficient documentation to support all billings. Discontinue payments to the Association's accounting firms until they can support all contract-related billings.
6. Revisit the computer hardware and software documents supporting the LAN system to assess whether the Association received the goods and services paid for. Take corrective action as appropriate.
7. Discontinue stipends to Association Board members if there is no formal documentation of their contributions to Association operations (e.g., attendance at Board meetings).
8. Upon expiration of the current motorcycle maintenance contract, study the benefits of using local repair shops for the training sites.
9. Ensure that the Association maintains an accurate inventory control system.
10. Establish formal job specifications for each Association position.
11. Establish an open competitive hiring process that would satisfy State law.
12. Develop and maintain detailed time and attendance records for all Association personnel to document the hours worked to support contractor billings.

COMPLIANCE WITH PERFORMANCE REQUIREMENTS

We found that the Association is complying with some of the performance requirements of the contract, and working towards compliance with others.

The contract requires the Association to establish, by August 2003, a minimum of 24 training sites. The Association increased the number of training sites from 13 in 1999 to 18 by the end of our fieldwork in December 2000. Association officials told us that they would be able to establish the minimum required 24 sites by opening three additional sites in each of the remaining contract years. However, they have not provided us with any formal plans for meeting this contract obligation.

Department officials responded that the demographic summary prepared by the MSF and included in the Department's contract with the Association acts as a plan to meet the contract goal of 24 training sites. This summary sets out the needs for such training sites geographically throughout the State. We note however, that this demographic summary does not include implementation milestones or the methodologies to be used to establish the actual sites.

To assess the Association's compliance with contract requirements, we visited 5 of the 14 training sites (Troy, Rochester, Syracuse, Yonkers, and Farmingdale/Upton) in operation at the time of our sample selection to determine whether: the training sites actually existed; the minimum number of motorcycles were on hand; records were available to verify student attendance; and course instructors possessed the required qualifications. The sites were selected on the basis of location in order to cover all major geographic areas of the State. We determined that the Association has been complying in each of these areas.

The Association's standards require that instructors provide each student with a minimum of sixteen hours of classroom instruction and hands-on motorcycle riding instruction conducted on a closed outdoor range. The Association's Administrator is responsible for monitoring the various training

sites to ensure that the instructors are teaching the course in accordance with industry standards. However, the Association's Administrator has visited only 4 of the 13 sites in operation during 1999, and 6 of 18 sites in operation during 2000, for monitoring purposes. As a result, the Administrator does not have adequate assurance that all instructors have been complying with the standards.

In response to our preliminary report, the Administrator acknowledged the need for the Association to improve its monitoring activities. As such, he said he has recently hired additional chief instructors to perform the necessary on-site inspections.

In addition, the Association is required to inform the public of the existence, benefits, availability and location of its motorcycle training courses throughout the State. We note that the Association had budgeted approximately \$224,000 for advertising and public relations for the two-year period ended July 2000. However, the Association's actual expenditures related to advertising and public relations for this period totaled \$135,453, or just 61 percent of its two-year budget. Much of this amount was spent on designing and printing items for distribution at motorcycle trade shows held during the same period, and on establishing a website. There is no indication that the Department's Program Manager has identified and followed up on this variance, nor has he worked with the Association to evaluate whether sufficient outreach is being done and why its allocated budget was not fully utilized.

Department officials responded that the audit team did not review the Program Manager's Program monitoring files which would have evidenced his own field site visits and periodic Program evaluations. They also stated that, based on past experience, too much Program promotion would have overwhelmed the various training site personnel. We note that the Program Manager has not submitted a formal analysis of the actual promotional expense/budget-based activities. In addition, our report discusses the need for the Association's Administrator to enhance his monitoring efforts.

Recommendations

13. Enhance program monitoring efforts to ensure continuing contractor compliance with all contract terms including, but not limited to, establishing the minimum number of training sites, periodic monitoring of each training site, and Program promotion.
14. Work with the Association to ensure that an appropriate amount of money is budgeted and spent on advertising and public relations.

**SUMMARY OF AUDIT DISALLOWANCES
CONTRACT C-000498
MOTORCYCLE ASSOCIATION OF NEW YORK STATE, INC.
FOR THE PERIOD AUGUST 4, 1998 TO DECEMBER 29, 2000**

	<u>Amount Reimbursed</u>	<u>Audited Amount</u>	<u>Disallowed</u>
Expenses	\$1,742,916 ³	\$1,692,511	\$ 50,405 ¹
Offsetting Revenues	<u> -0-</u>	<u> 155,238</u>	<u> 155,238 ²</u>
Total Due State	<u>\$1,742,916</u>	<u>\$1,537,273</u>	<u>\$205,643</u>

¹ Unsupported Legal Services (\$45,732) and pre-contract salary and travel expenses (\$4,673)

² Credit for student fees.

³ In response to our draft report, Department officials stated that the Association was reimbursed \$1,679,183 for the audit period. However, according to the bank deposit records, \$1,742,916 was reimbursed.

MAJOR CONTRIBUTORS TO THIS REPORT

William Challice
Frank Patone
Aaron Fruchter
Zenaida Bhuiyan
Kezia Chacko
Helen Crick
John Lang
Ricardo Pimental
Altagracia Rodriquez
Adrian Wiseman
Emma Wohlberg
Paul Bachman



**STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES
6 EMPIRE STATE PLAZA
ALBANY, NY 12228**

RAYMOND P. MARTINEZ
Commissioner

GREGORY J. KLINE
Deputy Commissioner
For Administration

October 5, 2001

Mr. William P. Challice
Audit Director
Office of the State Comptroller
Division of Management Audit & State Financial Services
123 William Street – 21st Floor
New York, NY 10038

Dear Mr. Challice:

We have received and reviewed the draft audit on State Contract C-000498 between the Department of Motor Vehicles (Department) and the Motorcycle Association of New York State, Inc. (Association) for the reported period August 1, 1998 through December 29, 2001. We appreciate the resources that the Comptroller has applied to the audit effort and the recommendations to improve the operation of the motorcycle safety program.

The Department has identified motorcycle safety as a priority for improving traffic safety in New York. With the enabling legislation signed by Governor George Pataki in 1997, New York became the 46th state to establish a legislated motorcycle safety program. This program was long overdue for a state that is ranked 6th nationally in the number of registered motorcycles.

The primary purpose of the motorcycle safety program is to have rider education accessible and affordable throughout New York State. Key to the success of the program is this five-year contract with the Association. It should be noted that the Association is a not-for-profit corporation whose sole purpose is the promotion of motorcycle safety, primarily through rider education. The contract with the Association was bid and let in accordance with the enabling legislation.

While there are always improvement opportunities in the administration of any large program, the audit downplays the success of the motorcycle safety program in a simple statement that the Association has been complying with performance requirements of the contract. In fact, we are exceedingly pleased with the progress made by the Association toward its primary goal to provide quality rider education. In the third year of a five year contract, the Association is well

ahead of schedule in meeting its requirement to have 24 training sites open by 2003 – needing to open only two more training sites in each of the next two years to meet the contract obligation.

In 1997, there were nine training sites providing Motorcycle Safety Foundation (MSF) rider training. Currently, there are 20 training sites offering services throughout the state. In 1997, there were 89 MSF instructors. Currently, there are 191 MSF instructors certified to teach in New York. Through the efforts of the Association, the motorcycle safety program is growing at a steady and appropriate pace.

Most importantly, of the approximately 15,000 motorcycle licenses issued in 2000, almost 3,400 or about 23% were issued through this program. The education and training that has been provided to those motorcyclists will most assuredly result in fewer crashes, injuries prevented, and lives saved.

The Comptroller focused on the efficiency and effectiveness of the Association's operations. The Association operates with a limited staff and, only as needed, hires additional professional assistance to provide expert services. In 1999, the last full fiscal year reviewed, the Association's total administrative expenditures were only \$151,244. The report shows that eight field auditors and four supervisors participated in the review and much time and effort has been spent in assisting the auditors in their task. We commend the Association for their prudent use of limited resources in complying with the audit while maintaining its contract responsibilities.

The audit cites a disallowance of \$205,643 accumulated over the 2 ½ years under review. The largest portion of the disallowance concerns offsetting revenues for fees collected by the Association. These fees were collected and spent solely for the benefit of the motorcycle safety program. The fees were collected with the Department's knowledge and understanding that the funds would continue to be used to enhance the program.

Although the Department will obtain a refund for the disallowed amount, the refund does not represent a savings to the state, but merely a reassignment of resources, since the funds will be reallocated to the motorcycle safety program. In the future, we will take additional steps to ensure that all revenues are properly accounted for and that the funds continue to be dedicated to the purposes of the motorcycle safety program.

We find that there are several inconsistencies, misstatements and factual errors in the body of the report. We will address each of these items and provide additional comments before responding to the recommendations. The draft report states that our comments to the preliminary reports were considered. In fact, there are several instances where those comments and additional documentation did not seem to be taken into consideration in preparation of this draft audit report. We will reiterate our comments as appropriate. There were also issues and terminology in this draft report that were not presented in the preliminary audit findings that need to be clarified in this response.

INTRODUCTION

In the section entitled, "Scope of Audit", the report identifies the audit period as August 1, 1998 through December 21, 2000. The contract with the Association began August 4, 1998. Other sections of the audit report identify the audit period ending December 29, 2000. The audit engagement letter stated that the audit scope period will cover the two contract years ended August 3, 2000. At the request of the auditors, the Department has provided a letter of management representation for the audit period prescribed as August 4, 1998 to October 12, 2000. This inconsistency in identifying the audit period has also effected the accuracy of the funds reported for expenditures and the computation of disallowances as determined by the audit.

In the third paragraph of the "Background" section, the report describes the point and insurance reduction program (PIRP) benefit as a subtraction of up to four points on one's driving record. While it is not pertinent to the audit, we feel it is important to correct this misconception that the program subtracts points from the driving record. As quoted from the Department's pamphlet on PIRP (C-32A), "**Important: Completion of a course under the "Point & Insurance Reduction Program" does not remove, delete, subtract, or erase any violation, conviction, or notice of original number of points from your driving record.**" "Point reduction" means the Department will not count up to four points against your driving record toward revocation or suspension of your driving license. The word "subtraction" was not used in the preliminary findings. We feel that the Comptroller's audit report should not misrepresent the program benefits.

COMPLIANCE WITH FISCAL REQUIREMENTS

Student Fees

In the "Student Fees" section, the report misstates the conditions for student fee collections and charges imposed by the Department for processing the point and insurance reduction program (PIRP) benefit. As required by regulation, sponsoring agencies must remit \$2 to DMV for each motorist record processed for the PIRP benefit. The Association did not collect the \$20 fee for every student enrolled. This fee was assessed against the training sites for each student requesting the state benefits. Since 1994, this fee was used by the Association to support their efforts in organizing the rider education initiative. The Department was aware that the Association continued collecting the fee after the contract began. The Department was also aware that these revenues were used by the Association to supplement their operation and to reduce the costs of the state-funded motorcycle safety program.

The Department will work with the Association to identify fees collected after the contract began. These revenues should also be offset by expenses incurred by the Association in support of the motorcycle safety program. We will assure that all revenues and expenses are properly accounted for by the Association to the benefit of the motorcycle safety program.

Student Data Processing and Reporting

The Association has taken steps to improve the collection and reporting of student data. In the section titled, "Student Data Processing and Reporting" in the eighth paragraph, the audit cites one result of data errors would be the reporting of inaccurate revenue and data to the Legislature. While student enrollment data is important, the matter of PIRP fees paid to the Department by the Association (revenue) is not a subject of report to the Legislature for the motorcycle program. The revenue item was not presented in this manner in the preliminary reports.

Association Expenditures

Under the heading, "Compensation to Board Members", the Draft report indicated that "the Association has been paying the \$500 quarterly stipends to Board members whether or not they attended Board meetings." Our response to the preliminary report stated that the payment is based upon the members' availability at any given time contingent upon the needs of the corporation. The Association's board members are readily available and frequently consulted by the Administrator on issues involving the operation of the organization. The Association has documentation of board meetings and activities held on October 30, 1999 and February 28, March 16, May 22 and September 19, 2000.

Personnel Issues

In the Personnel Issues section, the Draft Audit reports that the three Association employees are related to each other. We repeat our response to the preliminary findings that two of the Association's employees are married and the other is not a blood relative. We also responded that the Association's hiring process has met and exceeded the contractual requirement for employing minorities and women.

In the section titled "Compliance with Performance Requirements", the audit report discusses the contract requirements to establish a minimum of 24 training sites by August 2003. The reports states that the Association had not provided any formal plans for meeting this contract obligation. Contrary to this statement, Exhibit 7 in the contract with the Association is a demographic summary of the training needs in New York State, a formal plan for the development of training sites. This demographic summary was prepared by the Motorcycle Safety Foundation (MSF) for New York. Using the expertise and experience of the MSF, the summary has identified those areas where the Association needed to develop training sites to best meet the needs of New York's motorcyclists.

In our response to the preliminary findings, we provided the auditors with the demographic summary that identifies the target areas for expansion. This study has been updated each year, showing the progress that has been made and identifying and refining the future goals. We could not be more specific to potential service providers in any particular area without having an impact on the negotiation for these new sites and without precluding other potential training providers.

As the program expands the demographic summary has been updated and the Association is ahead of the contract schedule. The program continues to expand according to plans and currently there are 20 training sites statewide. The Association is well ahead of schedule and will need to open only four more training sites in the next two years to meet the contract obligation. The Association continues to pursue site expansion in accordance with the summary. We expect that the Association will exceed the goals set forth in the contract.

COMPLIANCE WITH PERFORMANCE REQUIREMENTS

We recognized the importance of quality controls and effective program monitoring. The primary focus has been on training site development. As the program becomes established, there will be a shift of emphasis from site development to site maintenance and quality control. We will continue our efforts to monitor the program operations and to promote motorcycle safety.

In the fifth paragraph of the "Compliance with Performance Requirements" section, the audit report cites the Association's public information efforts, an underexpenditure of funds budgeted for public information and the Department's oversight to those efforts. Other than a brief interview with the Department's Program Manager, the auditors did not review the Program Manager's activities or files regarding monitoring or any other program activities. While the information was available, the auditors did not conduct a complete examine of the Program Manager's files and documentation of program reviews, monthly reports, reports of field visits, travel logs, e-mail files or any other pertinent information concerning the activities of the motorcycle safety program or oversight of the Association's operations.

In regards to the program promotion and an evaluation of the outreach, a simple survey of the training sites would have found that in 1999 and 2000 the program had been sufficiently promoted. The Association's and the Department's efforts were successful in promoting the rider training program to new and experienced motorcyclists. These efforts went beyond motorcycle shows and web site initiatives. The Association also promoted and maintained a toll free telephone number (1-888-4NY-RIDE) that directed callers to the training sites.

The Association has worked with the Department to promote the safety program in venues where new motorcyclists would most likely learn about the training program. This promotion includes motorcycle shows, motorcycle dealers and local training providers. The Association handled referrals from the Department: from the Department offices, the NYS Driver's Manual and Motorcycle Operator's Manual and the Department's Internet Office (www.nysdmv.com). We would be interested in any recommendations that the Comptroller would have as to how to more effectively reach New York's novice motorcyclists.

In 1999, the Association also managed the responses from a direct mail campaign to 35,000 unlicensed motorcycle registrants. The response to this campaign overwhelmed the training providers. The success of this effort was recognized by the Motorcycle Safety Foundation in 2000 with a national award for "RiderCourse Promotion".

With these promotional efforts, there is a risk of an over-promotion of the program whereby training sites could not keep up with the demand for training services. We feel that for 1999 and 2000 there were sufficient expenditures for program promotion. While additional funds were budgeted, it would have been an inefficient use of state funding to expand promotion of a program that had reached its maximum capacity merely to reach a budget amount. Since the audit, the Association has spent up to its budgeted allocation for program promotion and the training sites continue to report student enrollments at or near capacity

Exhibit A shows total expenses as \$1,742,916. The preliminary findings had not summarized total expenses reviewed under this contract. Our records show the Comptroller's Office has reimbursed the Association \$1,679,183 for costs incurred under this contract through December 31, 2000.

1 Response to Recommendations

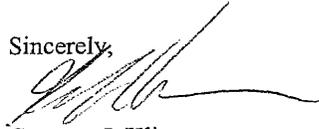
The following are responses to the recommendations in the order numbered in the draft report:

1. The Department will work with the Association to more accurately identify fees collected within the contract period and to account for their use within the purposes of the motorcycle safety program. The Department will also assure that all costs charged against the program are appropriate and allowable.
2. The Department will require that the Association discontinue collecting additional student fees after the conclusion of the 2001 training season. This will provide a reasonable and equitable cutoff point to account for fees and will allow the training sites to adjust their tuition charges and processes beginning with the 2002 training season.
3. The Department will review the Association's database and processes to assure that student data is accurate.
4. The Association has implemented a plan to protect and recover program information. This plan includes regularly scheduled file back-up procedures and off-site storage of back-up files.
5. The Department will require that the Association's contracted professional firms maintain sufficient documentation to support billings. The Department will review the billings and services to assure that services have been properly provided and reimbursed.
6. The Department has determined that computer services have been appropriately provided with the exception of the noted LAN connection to training sites. We are reviewing alternatives to provide for an accurate and appropriate transfer of information.

7. The Association and the motorcycle safety program benefit from the services and expertise provided by the Board of Directors. The Association will document all board meetings and activities and reimburse its members as appropriate.
8. The Association is reassessing the process and procedures for maintaining motorcycles. This study will examine several alternatives includes an analysis of the cost effectiveness of using local services.
9. The Association has revised its procedures for maintaining the motorcycle inventory records to assure that information is current and accurate.
10. The Association has updated its written job specifications for each Association position.
11. The Association has agreed to establish an open competitive hiring process for future job openings. The Association will continue its efforts to employ women and minorities in accordance with the contract requirements.
12. The Association has established policy and procedure for all its employees to keep appropriate time and attendance records. The Department will periodically review the Association records to assure compliance with these policies and procedures.
13. The Department has in the past and will continue to work with the Association to meet the program's goals and to ensure compliance with the contract.
14. The Association and the Department will keep up their public information efforts. We believe that the Association is spending an appropriate amount of resources for program promotion.

If you have any questions or concerns relative to this reply, you may contact Marcel E. Chevalier, Director of Internal Audit and Quality Control at (518) 474-0881.

Sincerely,



Gregory J. Kline