



New York State Department of Transportation

Drawdown of Federal Funds

Report 2009-S-52



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

July 1, 2010

Mr. Stanley Gee
Acting Commissioner
Department of Transportation
50 Wolf Road
Albany, NY 12232

Dear Mr. Gee:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Department of Transportation's *Drawdown of Federal Funds*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

The objective of our audit was to determine whether the Department of Transportation (Department) obtains Federal funds reimbursements in a timely manner and in a manner which recovers all eligible costs.

Audit Results - Summary

In many of its programs, the Department may obtain Federal reimbursement for State expenditures. For the period April 1, 2007 through August 31, 2009, the Department received a total of about \$4 billion in such reimbursements. We examined the reimbursements from the Federal Highway Administration (\$3.9 billion) and the Federal Transit Administration (\$68.3 million). We found that the Department does not always obtain these reimbursements in a timely manner, and in some instances, is unable to recover all eligible costs.

The Department submits reimbursement requests to the Federal Highway Administration (FHWA) once a week. However, the Department is allowed to submit the requests more often. Some states submit their requests twice a week, and if the Department did this during periods when reimbursable expenses were particularly high, such as during the construction season, it would receive hundreds of millions of dollars in reimbursements sooner. This would improve New York State's cash flow, increase its interest income, and better enable the State to meet its financial obligations in a timely manner. We therefore recommend the Department submit FHWA reimbursement requests more frequently than once a week during periods of high expenditures.

The FHWA may reject portions of a reimbursement request because of system interface errors during the electronic submission process. Such rejections must be corrected and resubmitted. We examined whether such rejections are resubmitted in a timely manner and found that they usually are. However, in some instances, the rejections are not resubmitted in a timely manner. For example, we identified two rejections totaling \$3 million that took between one and two months to correct and resubmit. The Department does not monitor the status of rejected reimbursement requests to ensure that they are corrected and resubmitted in a timely manner. We recommend the Department perform such monitoring.

When the Department works with the Federal Transit Administration (FTA), its goal is to receive its reimbursements within 23 business days from the end of the month in which the expenditure

was initially made. However, when we reviewed a sample of reimbursed expenditures, we found that the Department was not achieving its goal, as it was generally being reimbursed about one month later than intended. The delays were due to Department delays in submitting reimbursement requests to the FTA. Department officials attributed these delays to the time-consuming manual process for submitting FTA requests and certain other constraining factors. We recommend the Department investigate and analyze alternatives for automating the FTA reimbursement process, within the existing constraints, to increase its efficiency.

We examined all \$5 million in Department reimbursement requests disallowed by the FHWA during our audit period to determine whether any corrective actions were taken by the Department to prevent such disallowances in the future. We found that the Department had taken such corrective actions and had recovered \$1.6 million of the disallowed costs through appeals with the FHWA. However, when we reviewed \$257 million in unresolved FHWA disallowances and ineligible costs from prior years, we found that the Department had not adequately documented either the reasons for the disallowances or identified any actions taken to try to recover the costs and prevent such disallowances in the future. We recommend that the Department take actions to recover disallowed costs and maintain documentation of the reasons for the disallowance and actions taken to avoid future disallowances.

We also found that the Department has not properly accounted for the \$257 million in disallowances, because its accounting records incorrectly show that most of the funds are still pending reimbursement, even though Department officials acknowledge that none of the \$257 million will be reimbursed by the FHWA. As a result of this error, currently the deficit balance in the State's Dedicated Highway and Bridge Trust Fund is understated by about \$204 million and the Federal Highway Capital Projects deficit balance is overstated by an equal amount as of November 2009. Thus, there is even less funding available for highway and bridge repairs than shown by Fund records.

Our report contains six recommendations for improving the Department's drawdown of Federal funds. Department officials generally agreed with most of our recommendations and have taken steps to implement changes.

This report, dated July 1, 2010, is available on our web site at: <http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or

Office of the State Comptroller

Division of State Government Accountability

110 State Street, 11th Floor

Albany, NY 12236

Introduction

Background

The New York State Department of Transportation (Department) plans, maintains and regulates various types of transportation systems, and in so doing, oversees numerous construction projects. Many of the activities funded by the Department are supported by Federal funding. Generally, the Department must first use State funds when incurring expenses on these activities and later request reimbursement of some or all of the expenses from the appropriate Federal agency. Once the Federal agency approves the reimbursement request, the Department can electronically “draw down” the funds from the appropriate Federal account.

For the period April 1, 2007 through August 31, 2009, the Department received a total of about \$4 billion in Federal reimbursements. About \$3.9 billion was received from the Federal Highway Administration (FHWA); \$68.3 million was received from the Federal Transit Administration (FTA); \$4.8 million was received from the Federal Aviation Administration (FAA); and \$11,620 was received from the Environmental Protection Agency (EPA).

When the Department submits claims for reimbursement, the claims are subject to review by the respective Federal agency, and in some cases, costs can be disallowed for a number of reasons. In such cases, the Department can appeal the disallowance with the Federal agency. During our audit period, the Department had .15 full-time equivalent employees assigned to draw down FHWA funds and 1.2 full-time equivalent employees assigned to draw down other Federal funds.

Audit Scope and Methodology

We audited the Department’s drawdowns of Federal funds for the period April 1, 2007 through August 31, 2009. To accomplish our objective, we interviewed Department officials and reviewed Department records. We reviewed laws, regulations, policies and procedures for drawing down Federal funds, and surveyed other states to determine the frequency of their Federal drawdowns. Our audit focused on reimbursements from the FHWA and FTA (due to their large dollar amounts); it did not address reimbursements from other Federal agencies.

We analyzed the frequency and size of FHWA and FTA drawdowns to determine how long State funds had been expended before they were reimbursed. In addition, as is explained in detail in the body of the report, we selected judgmental samples of FHWA and FTA drawdowns for review, examining a total of \$657 million in FHWA drawdowns and \$2.4 million in FTA drawdowns. We also examined all the Department reimbursement

requests disallowed by the FHWA during our audit period to determine why the costs were disallowed and whether any corrective actions were taken by the Department, and examined the realignment plan for FHWA disallowances from the March 18, 2008 State Division of the Budget letter and any actions taken by the Department as a result of the plan.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements A draft copy of this audit report was provided to Department officials for their review and comment. Their comments were considered in preparing this final audit report, and are attached in their entirety at the end of this report. Department officials generally agree with our recommendations and indicate steps they have taken to implement them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Transportation 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 why.

Contributors to the Report Major contributors to this report include Carmen Maldonado, Stephen Goss, Deb Spaulding, Bruce Brimmer, Carmine J. Berghela, Michael Luft, Michael Affinito, and Dana Newhouse.

Audit Findings and Recommendations

Timeliness of Federal Drawdowns

We found that the Department could improve the timeliness of its Federal reimbursement process by submitting reimbursement requests more frequently during the construction season and other periods of high disbursements. We also found that the Department needed to monitor the status of reimbursement requests which were rejected due to errors to ensure that they were resubmitted and reimbursed timely, and needed to investigate and analyze alternatives for automating the FTA reimbursement process, within the existing constraints, to increase its efficiency.

FHWA Reimbursements

The Department's FHWA reimbursement process is fully automated. The Department electronically submits reimbursement requests to the FHWA once a week, and the FHWA usually approves or rejects the requests on the day they are submitted (the requests may subsequently be audited to determine whether any costs should be disallowed). When a request is approved, the Department receives reimbursement from the U.S. Treasury on the same day. For the period April 1, 2007 through August 31, 2009, the Department submitted a total of 124 weekly reimbursement requests to the FHWA and received a total of 124 weekly drawdowns totaling \$3.9 billion.

The Department's expenditures on FHWA projects fluctuate throughout the year, but the expenditures are usually highest during the construction season. Accordingly, the Department's weekly reimbursement requests, and corresponding drawdowns, fluctuate throughout the year. For example, when we analyzed the 124 FHWA drawdowns that were made during our audit period, they ranged from a low of \$7.8 million to a high of \$110.9 million. Moreover, the 18 largest drawdowns exceeded \$40 million each and totaled \$913 million, nearly 24 percent of the total amount drawn down during the 29-month period.

The Department is only required by the FHWA to submit its reimbursement requests at least weekly to maximize the interest it earns on unpaid reimbursement. It may submit them more often (e.g., twice a week, as is done in 2 of the 28 states we surveyed). If the Department had submitted its reimbursement requests twice a week during the 18 weeks with the largest drawdowns, it could have recouped half of the money (about \$456.5 million) two to three days sooner. This would have improved the State's cash flow, increased its interest income, and better enabled the State to meet its financial obligations in a timely manner. We recommend the Department

submit FHWA reimbursement requests more frequently than once a week during periods of high expenditures.

Department officials stated that they used to draw down FHWA reimbursements twice a week, but changed to weekly in 2003 due to staff reductions. While we acknowledge the need to modify operations when staffing is reduced, the more frequent drawdowns would only be needed during part of the year. We recommend the Department formally evaluate its drawdown activity and establish criteria (such as a dollar threshold) for more frequent drawdowns during periods of high expenditures.

The FHWA may reject portions of a reimbursement request because of errors in the Department's submission (this is not a disallowance of costs claimed for reimbursement). In such cases, the Department must correct the errors and resubmit the rejected portion of the reimbursement request. Department staff told us it is a priority to correct the high-dollar errors first. However, the Department does not formally track the status of such resubmissions to ensure that high-dollar errors are corrected first and the resubmissions are timely.

To determine whether rejected reimbursement requests were being corrected and resubmitted in a timely manner, we reviewed a sample of such rejections. We selected a judgmental sample of 14 of the 124 drawdowns during our audit period. We reviewed all 27 rejected portions from those 14 reimbursement requests. The 27 rejections totaled \$5.5 million. We found that 20 of the 27 rejections were corrected and resubmitted within 10 business days. However, it took up to 40 business days to correct and resubmit the remaining seven rejections, including two rejections totaling \$3 million that took between one and two months to correct and resubmit. Such delays affect the overall timeliness of the reimbursement process.

Department officials stated that most of the rejected expenditures are corrected and resubmitted within five days, and the resubmissions are included in the next week's reimbursement request. However, as a result of our audit, the Department has implemented a monitoring system to track rejected expenditures and their resolution.

FTA Reimbursements

The Department's FTA reimbursement process is not automated. Rather, the Department manually submits reimbursement requests to the FTA. The requests are often submitted monthly, but sometimes are submitted more or less frequently, and the FTA usually reviews the requests within one or two days of submission. For the period April 1, 2007 through August 31, 2009,

the Department submitted a total of 60 reimbursement requests to the FTA and received a total of \$68.3 million in reimbursements.

The manual reimbursement process contains numerous steps and is much more time-consuming than the automated FHWA reimbursement process. For example, for each reimbursable project, the Department must manually compare two hardcopy expenditure reports from two different databases by project number to determine the amount of reimbursement to request. FTA reimbursements must be requested by FTA grant number, and according to Department officials, there are, on average, 100 project numbers per grant.

The Department's goal is to receive FTA reimbursements within 23 business days (about one month) of the end of the month in which the expenditure was initially made. To determine whether the Department was achieving its goal, we reviewed a sample of nine invoices totaling \$2.4 million from FTA projects that were initially paid with State funds and subsequently reimbursed by the FTA.

We found that the Department was not achieving its goal, as it was generally being reimbursed about one month later than intended. Specifically, we determined that the nine invoices in our sample were reimbursed, on average, 63 business days after they were initially paid. Thus, even if each invoice was paid at the beginning of the month (which contains about 22 business days), they were still reimbursed an average of 41 business days after the end of that month, or 18 business days (nearly one month) later than intended by the Department. Eight of the nine invoices took more than 50 business days to reimburse, including one that took 104 business days to reimburse.

We found no indication that the delays in reimbursement were caused by the FTA. However, we did find indications that the Department's reimbursement requests were often delayed. For example, Department officials stated that FTA drawdowns were done on a monthly basis. However, we found that no reimbursement requests were submitted for 7 of the 29 months in our audit period. We asked Department officials how much had been spent, and not promptly reimbursed, in those seven months, but they were unable to provide an answer. In fact, there was even a two-month period in which no reimbursement requests were submitted.

Department officials stated that they should be submitting monthly requests for FTA reimbursement. The officials told us that the manual reimbursement process, staff turnover and staff shortages in the Grants Unit contributed to the delays in submitting reimbursement requests.

The delays in FTA reimbursement negatively affect the State's cash flow and can result in lost interest. Drawing down FTA funds at least monthly, and more frequently during period of high expenditures, would improve the State's cash flow and thus increase the State's ability to meet its financial obligations in a timely manner. We estimate that the State could have earned about \$57,000 in additional interest if the Department drew down FTA funds twice each month during the period April 2007 through August 2009.

Department officials indicated that it is not practical to routinely submit FTA reimbursement requests more than once a month, because it can take about a month to compile the drawdown data after the monthly accounting system reports are received. The officials also stated that to do so would double staff workload at a time when the Department is short staffed. The officials further stated that they have taken a number of actions in an effort to expedite the FTA reimbursement process, such as automating the comparison of the two databases and realigning certain staff duties. However, they cannot upload reimbursement request files and must enter reimbursement requests by grant because the FTA's process is not as advanced as FHWA.

We recommend that Department officials formally investigate and analyze the alternatives that can be implemented.

Recommendations

1. Formally evaluate FHWA drawdown activity and establish criteria for more frequent drawdowns during periods of high expenditures.

(Department officials replied to our draft audit report that they agree with the intent of the recommendation, but at this time it is not feasible to conduct more frequent FHWA drawdowns. They note that due to the low interest rates, the benefit of more frequent drawdowns would be offset by the increased resource costs. However, they will attempt to identify high disbursement volume grants on a daily basis and if economic conditions change, they will consider the recommendation.)

2. Monitor the status of expenditures that are rejected for reimbursement to ensure that they are promptly corrected and resubmitted.

(Department officials agree and have taken action to implement the recommendation.)

3. Monitor the FTA reimbursement process to determine whether the Department's 23-day goal is being met, and take corrective action when it is not met.

(Department officials agree and indicate that personnel changes and process improvements were implemented. As of January 2010 FTA drawdowns have been completed within 23 business days.)

4. Formally investigate and analyze alternatives to improve, and possibly automate, the FTA reimbursement process, within the existing constraints, to increase efficiency and allow claims to be filed monthly, if not more frequently.

(Department officials replied to our draft audit report and they agree with the recommendation. They have identified more efficient methods of downloading information from the databases to excel spreadsheets which resulted in improved timeliness. As resources allow, the Department will continue to assess the possibility of doing more frequent drawdowns.)

Disallowed Costs

We examined all the Department reimbursement requests disallowed by the FHWA during our audit period to determine why the costs were disallowed and whether any corrective actions were taken by the Department. The FHWA disallowed a total of \$5 million on five projects during this period. The Department appealed the disallowances for three projects, and agreed with the disallowances for the remaining two projects.

The Department recovered \$1.6 million through appeals, and is pursuing recovery from third parties for about \$530,000 in disallowed costs. The Department deems the remaining \$2.87 million in disallowances as unrecoverable; as a result, these costs, which were initially paid by State funds, will not be reimbursed by Federal funds.

We found that the Department took certain corrective action to address the problem responsible for about \$2.6 million of the disallowances. Specifically, the Department implemented a system to identify all projects that have not progressed to construction within seven years to ensure that the Department meets the FHWA's 10-year requirement to complete the Preliminary Engineering phase and advance a project to the right-of-way or construction phase. The Department also took corrective action to address the problem responsible for the remaining disallowances, as it more clearly defined its expectations for construction inspection and supervision for locally administered projects.

We note that the Department has also taken other steps to help prevent such disallowances. In 2007, the Department's Internal Audit Unit became involved in reviewing disallowances, and in September 2008, the Department issued a draft procedure to address disallowances. The procedure made program units responsible for determining whether to appeal a disallowance and the Department's Internal Audit Unit responsible for reviewing any appeals and ensuring that appeals are filed on time.

However, there are a number of unresolved disallowances and ineligible costs from prior years were not adequately documented by the Department. These disallowances, which total \$257 million, and in one case date as far back as the 1970s, have accumulated in the Department's Federal Fund. According to a March 2008 letter from the State Division of the Budget, the Department was supposed to actively pursue all opportunities for reconsideration of Federal eligibility for previously denied project costs. However, Department officials did not take any action to pursue these funds. Instead, they stated that the \$257 million will not be reimbursed by the FHWA.

We requested documentation regarding the reasons for the disallowances and any actions taken to recover any eligible costs. The Department provided documentation for about \$91 million, but could not provide details for the remaining \$166 million in disallowances. For example, \$43 million was disallowed for New York City's share of certain costs in the Westway highway project, which dates back to the 1970s. However, the Department could not demonstrate why State funds were used for New York City's share of the costs and why the Department did not seek reimbursement from New York City for the costs. While the Department received \$20 million as part of a settlement with Amtrak for the High Speed Rail Project this is not a result of the Department's efforts to recoup Federal or other funds to the extent possible. We recommend the Department take action to monitor costs to ensure they are eligible for Federal reimbursement and take prompt action when they are notified of disallowances. In addition, the Department needs to maintain documentation regarding these activities.

We also found that the \$257 million in disallowances has not been properly accounted for by the Department, because much of this amount is still shown in the Department's Federal Fund as pending reimbursements that are to be paid to the Department. Since Department officials acknowledge that the \$257 million will not be reimbursed by the FHWA, the full \$257 million receivable should have been removed from the balance sheet of the Federal Fund and charged against the related State fund (the Dedicated Highway and Bridge Trust Fund, which finances highway and bridge construction projects).

Department officials told us that this was not done because of the low balance in the Highway and Bridge Trust Fund (an October 2009 Comptroller's report notes that the Highway and Bridge Trust Fund does not have sufficient revenues to meet its obligations and must be subsidized by the State's General Fund). Instead, in March 2008, a plan was implemented by the Department and the State Division of the Budget to account for the \$257 million in disallowed reimbursements gradually over a nine-year period ending March 31, 2016. As of November 2009, \$52.9 million of the

disallowed reimbursements had been accounted for, and the balances in the Department's Federal Fund and the State's Highway and Bridge Trust Fund had been adjusted accordingly.

Such improper accounting gives the incorrect impression that there is more FHWA reimbursement to be received than is actually available, and may provide misleading information to decision-makers regarding the State's potential revenues. It also overstates the amount of funding available for highway and bridge repair projects. We recommend the Department immediately account for the full \$257 million in disallowed reimbursements, and reduce the balance in its Federal Fund accordingly.

- Recommendations**
5. Monitor and control disallowed costs including the reason for the disallowance, any action taken to recoup the costs and any corrective action taken to prevent such disallowances in the future. Retain documentation of all actions taken regarding disallowances.

(Department officials replied to our draft audit report they agree with the recommendation and have taken corrective action. As part of their ongoing efforts, the staff will monitor disallowed costs and proactively take action to prevent similar occurrences. They will maintain records of corrective actions.)

6. Immediately account for the full \$257 million in disallowed FHWA reimbursements, and reduce the balance in the Department's Federal Fund accordingly.

(Department officials replied to our draft audit report they are transferring project costs which have been disallowed or declared ineligible to the Dedicated Highway and Bridge Trust Fund in accordance with the multi-year plan developed by the Division of the Budget in March 2008. To date, \$86.4 million has been transferred, with about \$170 million remaining. The plan is to complete those transfers by SFY 2015-16.)

Auditors' Comments:

While the Department is following the plans developed by the Division of the Budget, this plan does not correct the problem of misstated fund balances. To date, only \$86.4 million has been properly accounted for, leaving the balances in the Highway Bridge and Trust Fund and the Federal Fund misstated by about \$170 million each.

Agency Comments



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DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232
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STANLEY GEE
ACTING COMMISSIONER

DAVID A. PATERSON
GOVERNOR

May 25, 2010

Ms. Carmen Maldonado
Office of the State Comptroller
Division of State Government Accountability
123 William Street – 21st Floor
New York, NY 10038

Re: Draft Report 2009-S-52
Federal Drawdowns

Dear Ms. Maldonado:

Thank you for the opportunity to respond to the subject report. Below is the New York State Department of Transportation's (NYSDOT) response.

Report Comments

Page 7, fourth paragraph: "*FHWA may reject portions of the reimbursement request because of errors in submission.*" This statement leads one to believe there was an error on the part of either NYSDOT or FHWA, when in fact these are system interface errors between NYSDOT's Integrated Accounting System and the FHWA's Financial Management Information System.

Page 7, last paragraph: "...within 23 business days of..." This sentence should state "...within 23 business days *from* the end of the month...."

Page 8, second paragraph: "...\$257 million in unresolved FHWA disallowances from prior years..." This wording is not entirely accurate. The \$257 million referenced is a combination of disallowances and ineligible costs from prior years.

*
Comment

* State Comptroller's Comment: The report was revised to reflect information in the Department's response.

Page 11, paragraph 4: "...required by the FHWA to submit its reimbursement requests at least weekly." This wording is not entirely accurate. The Code of Federal Regulations (31 CFR Part 205.16) indicates that if a state does not request funds at least weekly, Federal Interest Liability will not accrue prior to the day the State submits a request for funds.

Page 15, paragraph 2: "...FHWA's 10-year requirement for project completion." This wording is not accurate. NYSDOT has 10 years to complete the Preliminary Engineering phase of a project and advance the project to the Right-of-Way or Construction phase.

*

Comment

Recommendations

Recommendation 1: *Formally evaluate FHWA drawdown activity and establish criteria for more frequent drawdowns during periods of high expenditures.*

Response: While NYSDOT agrees with the intent of this recommendation, at this time it is not feasible for NYSDOT to conduct more frequent FHWA drawdowns. During these times of lower interest rates, the benefits of more frequent drawdowns would be offset by the increased resource costs. NYSDOT will, however, attempt to identify high disbursement volume in the Federal Grants - Capital Projects fund on a daily basis and if economic conditions change, we will reconsider this recommendation.

Recommendation 2: *Monitor the status of expenditures that are rejected for reimbursement to ensure that they are promptly corrected and resubmitted.*

Response: NYSDOT agrees with the recommendation. In September 2009, the Accounting Bureau implemented a process for tracking and monitoring the interface errors, which will assist in timely resolution. It is important to understand that an error will not necessarily result in a lack of Federal-aid billing; for instance, some errors are attempts to give FHWA a credit while others are dependent upon FHWA for correction.

Recommendation 3: *Monitor the FTA reimbursement process to determine whether the Department's 23-day goal is being met, and take corrective action when it is not met.*

Response: NYSDOT agrees with the recommendation. In October 2009, supervision of the grants unit changed and process improvements were implemented. As of January 2010, FTA drawdowns have been completed within the 23 business days from the end of the month in which the expenditure shows up in the ledger reports.

*State Comptroller's Comment: The report was revised to reflect information in the Department's response.

Recommendation 4: *Formally investigate and analyze alternatives to improve, and possibly automate, the FTA reimbursement process, within the existing constraints, to increase efficiency and allow claims to be filed monthly, if not more frequently.*

Response: NYSDOT agrees with the recommendation. Analysis of the reimbursement process began immediately after the above-mentioned change in supervision. More efficient methods of downloading information from databases to excel spreadsheets has already been implemented and resulted in improved timeliness of the overall drawdown process. As resources allow, NYSDOT will continue to assess the possibility of doing more frequent drawdowns; however, in our current business environment information necessary for the drawdowns is only available after the end of each month.

Recommendation 5: *Monitor and control disallowed costs including the reason for the disallowance, any action taken to recoup the costs and any corrective action taken to prevent such disallowances in the future. Retain documentation of all actions taken regarding disallowances.*

Response: NYSDOT agrees with the recommendation. As indicated in the report, NYSDOT does have a process in place to minimize and control disallowed costs. Disallowed costs are analyzed to ensure that the disallowances are appropriate; NYSDOT appeals any costs that appear to be incorrectly disallowed. In addition, NYSDOT takes action to recover costs, which were deemed ineligible as a result of a third party's non-compliance with Federal rules. As part of NYSDOT's ongoing effort, the staff will monitor disallowed costs and proactively take action to prevent similar occurrences in the future. NYSDOT will track these instances and maintain documentation of corrective actions.

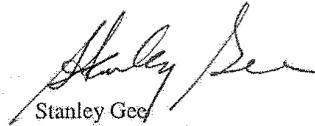
Recommendation 6: *Immediately account for the full \$257 million in disallowed FHWA reimbursements, and reduce the balance in the Department's Federal Fund accordingly.*

Response: The various project costs in the Federal Grants - Capital Projects Fund that have been disallowed or declared ineligible by the FHWA are being transferred to the Dedicated Highway and Bridge Trust Fund in accordance with a multi-year plan developed by the Division of the Budget in March 2008. To date, \$86.4 million has been transferred, with approximately \$170 million remaining. Transfers are done once a year, in March. The plan calls for NYSDOT to transfer \$33.5 million per year until the remainder of the ineligible costs are removed from the Federal Grants - Capital Projects Fund. The plan is to complete these transfers by SFY 2015-16.

Ms. Carmen Maldonado
May 25, 2010
Page 4

Should you need further information, please contact Michael J. Fazioli, Director of Accounting, at 518-457-9767.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Gee", written in a cursive style.

Stanley Gee
Acting Commissioner