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STATE COMPTROLLER



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September 1, 1998

Mr. Michael Urbach
Commissioner
Department of Taxation & Finance
Building 9
W.A. Harriman State Office Campus
Albany, NY 12227

Re: 98-F-37

Dear Mr. Urbach:

Pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law, we have reviewed the actions taken by officials of the Department of Taxation and Finance (Department), as of July 31, 1998, to implement the recommendations contained in our prior audit report 95-S-85, entitled "Office of Tax Enforcement Performance Measurement." Our prior report, which was issued February 21, 1996, addressed whether the Office of Tax Enforcement (OTE) developed a system to effectively monitor and measure its performance.

Background

The Department administers the State's tax laws and serves as its general tax collection agency. The Department is responsible for collecting more than \$31 billion in State revenue annually. Such collections include sales, personal, and corporate taxes, as well as various excise taxes including petroleum, alcohol, and tobacco.

OTE is the criminal investigative and law enforcement arm of the Department. The mission of OTE is to increase voluntary compliance with the tax laws. At the time of the prior audit, OTE was divided into two Bureaus, the Revenue Crimes Bureau (RCB) and the Petroleum, Alcohol and Tobacco Bureau (PATB).

PATB is primarily responsible for investigating petroleum, alcohol, and tobacco tax fraud. PATB field investigators perform regulatory inspections at businesses throughout the State which are subject to excise taxes for tobacco, alcohol, and petroleum products. The Bureau currently has 72 employees, of which 58 are field investigators. The Bureau maintains offices in New York City, Albany, Syracuse, Buffalo, and Plattsburgh.

RCB is primarily responsible for investigating sales, personal and corporate tax fraud. The Bureau currently has 42 staff including 35 responsible for conducting audits and investigations. The Bureau maintains offices in New York City, Albany, Syracuse and Buffalo. In September 1997, the Department reorganized its functions and moved RCB from OTE to the Office of Tax Operations (OTO). However, RCB's responsibilities remain the same.

The Department's mainframe computer system called the Tax Enforcement Case Tracking System (PENFORCE) was used to record and track tax enforcement case data. Case data information includes the source of referrals, the date of referral, the case status, and the tax type.

Summary Conclusions

Our prior audit concluded that the Department did not have a system to effectively monitor PATB and RCB performance. While OTE developed annual Enforcement Plans, the goals and objectives contained in the plans were not measurable. As a result, officials could not specifically substantiate to what extent past and current activities of PATB and RCB were accomplishing the OTE mission. Generally, OTE relied on supervisory review of staff activities and review of case activity reports to monitor and assess the performance of its organization. Our prior audit concluded that objective performance data and comparison with specific goals were necessary to improve these processes.

Summary of Status of Prior Audit Recommendations

Department officials have partially implemented all three of our prior audit recommendations.

Follow-up Observations

Recommendation 1

Develop a system to measure OTE performance which includes measurable goals and objectives and the use of performance indicators.

Recommendation 2

Consider the continued application, refinement and expansion of the performance indicators presented in this report as part of an overall performance measurement system.

Status - Partially Implemented

Agency Action - The Department is in the process of developing departmentwide performance measurements. All Department employees are required to undergo a two-day training session on performance measurement as a part of the Department's overall Total Quality Management (TQM) initiative. The training process, in part, consists of management asking staff to develop performance measures which apply to their respective areas.

PATB officials stated that performance indicators will result from the Departmentwide TQM initiative. PATB officials told us that they obtain and use other data to identify reasons for compliance. For example, they believe that the increase in cigarette stamps sold for 1997/98 over the previous year can be used as an indicator of enforcement efforts. Officials believe that increased stamp sales are a positive indicator that their enforcement efforts are effective, especially when this trend is compared to both the national scene and neighboring states.

RCB has developed and partially implemented performance measurements, but indicators developed do not as yet permit an assessment of the effect RCB's compliance efforts.

Auditors' Comments - We continue to recommend the development and implementation of comprehensive performance measurement systems for PATB and RCB so that enforcement efforts can be evaluated and accounted for.

Recommendation 3

Evaluate PENFORCE to determine the changes needed to capture the information necessary for performance measurement, including the development of a uniform automated time system that accounts for total OTE staff time.

Status - Partially Implemented

Agency Action - RCB is currently modifying PENFORCE to incorporate time sheet data to account for its staff resources. During our review, we received a monthly report from RCB which reflected the investigator, field auditor, and attorney hours applied to each of the investigative cases. PATB, however, has not incorporated time sheet data into PENFORCE. Department officials have concluded that PENFORCE must be replaced in order to meet all requirements of users.

Auditors' Comments - The Department must ensure that an adequate system is in place to capture its performance measurement data and to account for the time and effort of all staff.

Major Contributors to this report were Arthur F. Smith, Naomi Hoffman and Kevin Connolly.

We would appreciate your response to this report within 30 days, indicating any action planned or taken to address any unresolved matters discussed in this report. We also thank Department management and staff for the courtesies and cooperation extended to our auditors during this review.

Yours truly,

Jerry Barber
Audit Director

cc: Robert L. King