



Department of Transportation

Oversight of Grants

Report 2009-S-78



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

July 21, 2011

Ms. Joan McDonald
Commissioner
Department of Transportation
50 Wolf Road
Albany, NY 12232

Dear Commissioner McDonald:

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 *Oversight of Grants* at the Department of Transportation. 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*

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State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

The objective of our audit was to assess the ability of the Department of Transportation (Department) to effectively oversee grant activity.

Audit Results - Summary

The Department administers numerous transportation grant programs for purposes such as planning and capital construction. The Freight and Passenger Rail Bureau (FPRB) was responsible for 144 grants valued at \$311.4 million for the period April 1, 2007 through March 31, 2009. The Passenger and Freight Rail Assistance and the Multi-Modal are the two largest capital construction grant programs. The two largest programs administered by the Bureau account for 56 grants valued at \$121.6 million. The Aviation Bureau (AB) is responsible for programs pertaining to security, business development and capital projects for aviation facilities. The AB's 2005 Rebuild and Renew New York Transportation Bond Act accounts for \$9 million of the \$20.8 million of grant payments made by the AB for the State fiscal year ended March 31, 2009. We reviewed a sample of 15 capital construction grants, with a total value of about \$64.6 million, overseen by these two Bureaus. We found strengths and improvement opportunities in the Department's oversight of its grants.

For example, on-site inspections are not a component of the AB's monitoring activities for capital construction grants or for the FPRB monitoring of the Multi-Modal Rail program. Furthermore, the reliance on grantee certifications for some Multi-Modal grants without supporting documentation, such as invoices, or an independent assessment of a grantee's financial and project monitoring controls increases the risk for improper payments.

In addition, risk assessments are beneficial for State agencies overseeing grants, because they can identify grantees that require additional monitoring or technical assistance or are at risk of not meeting their program goals. However, neither the FPRB nor the AB used formal risk assessments to allocate resources for grant monitoring. We recommend that risk assessments be performed to place the Department in a better position for overseeing future grant activity.

We also found that the monitoring performed by FPRB and the AB could be enhanced through more effective analysis of available data and through better communication and information

sharing within the Department and with other State agencies that are also providing grant funding.

Our report contains eight recommendations to improve the Department's ability to oversee its grants. Department officials generally agreed with most of our recommendations and have taken steps to implement them.

This report, dated July 21, 2011, is available on our website at: <http://www.osc.state.ny.us>.

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Office of the State Comptroller

Division of State Government Accountability

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Albany, NY 12236

Introduction

Background

The Department of Transportation (Department) oversees the State's highway, rail, air, port and ferry transportation systems. The Department's mission is to ensure a safe, efficient, balanced, and environmentally-sound transportation system for those who live, work, and travel in New York State. To help achieve its mission, the Department administers transportation grants that fund Department programs for capital planning and construction for highway, rail, and aviation projects. The Department's grants reimburse grantees for expenditures that are authorized and are documented in accordance with the grant terms.

The Department's Freight and Passenger Rail Bureau (FPRB) is responsible for several rail-related capital programs within the Department. In support of these programs, FPRB had 144 grants valued at \$311.4 million for the period April 1, 2007 through March 31, 2009. The Passenger and Freight Rail Assistance program and the Multi-Modal program are the two largest grant-funded programs that the FPRB administers. These two programs account for 56 grants valued at \$121.6 million. These grants provide capital construction funding to municipalities, private and publicly-owned railroads, public authorities, and other governmental entities so that rail transportation can be improved and so that freight and passenger rail service can be preserved.

The Department's Aviation Bureau (AB) is responsible for programs pertaining to security, business development, and capital projects for aviation facilities. In support of these programs, the AB administered grants accounting for \$20.8 million of expenditures during the State fiscal year ended March 31, 2009. This included \$9 million of grant payments from the Aviation program (Bond Act Aviation), which is part of the 2005 Rebuild and Renew New York Transportation Bond Act.

Audit Scope and Methodology

We audited the Department's oversight of grants for the period April 1, 2007 through March 31, 2009. To accomplish our objectives, we reviewed applicable laws and the Department's policies and procedures for grant management. To understand the Department's grant management practices, we interviewed officials from the Department's FPRB, AB, Central Office, Capital District Regional Office, Genesee Valley Regional Office, and New York City Regional Offices.

We selected for examination a judgmental sample of 15 grants and accompanying payments from a population of 136 grants from three programs. We selected ten Rail Bureau grants based on the dollar value

of the grants for the Passenger and Freight Rail Assistance program and the Multi-Modal program in the Capital District, Genesee Valley, and New York City regions. We selected five AB grants based on the dollar value of the grants for the 2005 Rebuild and Renew New York Transportation Bond Act Aviation program. We reviewed Department project files, contracts, inspection records, and photographs relating to these grants to determine whether the Department followed its policies and procedures for ensuring that grantees complied with grant terms and conditions.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 report was provided to Department officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of this report.

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 were Carmen Maldonado, Stephen Goss, Roger Mazula, Robert Mainello, Deb Spaulding, Michael Sulem, Raymond Barnes, and Jeff Fuller.

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Audit Findings and Recommendations

Monitoring

Both the FPRB and the AB require staff to review reimbursement claims to ensure payments are supported by documentation, such as invoices. When monitoring certain grantees, the FPRB requires and performs on-site inspections of grantee performance and records. The AB requires and performs a desk review of progress reports.

We examined the grant monitoring practices in the two Bureaus. Our judgmental sample of 15 grants including 10 FPRB grants from the Rail Bureau and 5 grants from the Aviation Bureau. Our review of files for the 15 grants identified both strengths and weaknesses in the effectiveness of the monitoring practices in the two Bureaus.

For example, the FPRB monitoring procedures for the Passenger and Freight Rail Assistance program include on-site inspections and review of the supporting documentation submitted with payment requests. Regional office staff determines whether payment requests are supported by invoices, labor records, and material delivery tickets and are reasonable for the projects' budget and scope of work. Inspections are to be conducted to document work progress and to ensure that materials, labor and equipment used are in conformance with work specifications.

We reviewed 81 payments totaling \$11.3 million for five Passenger and Freight Assistance program grants valued at \$16 million, and concluded that overall the FPRB adequately monitored the grants. However, we also noted that while the Region 4 office kept photographs of its on-site visits, it did not document that work was completed on a \$1.2-million project before approving the final payment. In fact, photographs of the completed project were dated ten months after the final payment was approved. This occurred because the regional office staff report to the Regional Engineer and not the FPRB.

Rail Bureau

In contrast to the monitoring performed for the grants pertaining to the Passenger and Freight Rail Assistance program, the FPRB monitoring for the Multi-Modal program neither requires nor includes on-site inspections of grantee performance or records. In addition, for two of the Multi-Modal programs, the FPRB does not require grantees to provide support for grant reimbursement requests and instead only requires a certification from the grantee that expenditures are true and accurate. Moreover, we observed that while FPRB guidelines provide for post audits

of Multi-Modal grant expenditures, such audits had not been performed. Consequently, we concluded that there are opportunities to strengthen Multi-Modal grant monitoring.

The following are some of our specific findings based on our review of FPRB monitoring for the Multi-Modal program:

- We reviewed 58 payments totaling \$29.6 million for five Multi-Modal grants with a total value of \$44.4 million. We found that reimbursement payments were approved without verification that the work had been properly completed, deliverables had been met, or records were maintained in accordance with grant requirements.
- The Farley Post Office/Moynihan Station project in Region 11 is funded through various grants pertaining to the Multi-Modal 1 rail program. The grantee, the Moynihan Station Development Corporation (Corporation), is to monitor project progress, pay vendors, and seek Department reimbursements. In this regard, the Department approved \$6.4 million of reimbursement, but the Department relied only on Corporation certifications as a basis for reimbursement. The Department generally did not obtain or inspect documentation pertaining to project progress and it did not obtain or inspect any support for expenditures prior to making the reimbursements. Records of Department monitoring for the project were limited to files supporting a discussion of expenses and one 2006 project progress report. Department officials explained that they did not want to duplicate the Corporation. However, at a minimum, the Department should have made an assessment of whether the Corporation's monitoring was adequate to support the certifications that accompanied the payment requests. We further noted that when we started our audit, the Department began to obtain documentation supporting how the Corporation was monitoring the project.
- The design of the Albany Port District Commission Wharf in Region 1 is funded through a Multi-Modal 1 grant. However, the Region 1 staff approved the final payment under the grant without first obtaining evidence that the architect's plans had been received. Also, all of the payments under the grant which totaled \$250,000 were made after the grant period had expired, including a duplicate payment to the grantee for \$17,662.
- The Barilla Pasta Plant rail siding project in Region 4 is funded through a Multi-Modal 4 grant. We noted that two payments totaling \$49,748 were approved and paid without the required certification by the sub-grantee. As a result, and in the absence of ongoing review of

expenditures, we question whether the Department had an adequate basis to support grantee compliance with grant terms.

Aviation Bureau

The AB emphasizes partnership with a shared interest and goal of completing the projects set forth in grants. However, the AB's grant monitoring is somewhat limited and relies primarily on the submission of program and financial information by the grantees. As illustrated in the following paragraphs, we conclude there is a need for the AB to strengthen its monitoring of grants.

- We reviewed 58 payments totaling \$3.5 million for five Bond Act Aviation program grants valued at \$4.2 million. We found that 31 of the 58 payments totaling approximately \$500,000 lacked sufficient detail to support the expenditures and to establish the current status of the project. For example, the AB payments were supported only by a statement of the percentage of the work completed or only with a general description such as "Engineering" with no further detail of what had been accomplished.
- We also found that the AB approved seven payments totaling \$52,000 for engineering charges without any supporting invoices as required by procedures. (Department officials replied to our draft report that they had the invoices when payment was made, but did not retain them.)

- Recommendations**
1. Instruct Region 4 to prepare documented inspection reports and to properly document completed work before approving final payment.
 2. Strengthen monitoring of the Multi Modal program by requiring on-site inspection reports of grantee performance.
 3. Determine whether each of the Multi Modal programs warrants grantees to submit support for grant reimbursement beyond a certification and perform required post audits of expenditures.
 4. Improve AB oversight of grants to address findings presented in this report.

Assessing Risk Risk assessment is a tool that enables management to identify and respond to internal and external threats that may prevent achievement of program goals. Risk assessments benefit agency grant management by helping to identify grantees that require additional monitoring or technical assistance in order to ensure that they are meeting their objectives.

Neither the FPRB nor the AB has developed a formal methodology for risk assessment for grant monitoring. FPRB officials stated that their

monitoring is based on the scope of work. They also stated that given the State's current fiscal crisis and travel constraints, a project's proximity to the regional office also influences the extent of monitoring and on-site visits.

We note that, over the last several years, both bureaus experienced reduced staffing for monitoring grants. For example, the FPRB staffing has been reduced from 38 in March 1985 to ten full-time and four part-time staff in May 2010. On average, FPRB Central Office staff persons were responsible for ten projects each during the period April 1, 2007 through March 31, 2009. Regional offices generally have only one rail coordinator to monitor grants and the three regional offices we reviewed had a total of 75 rail grants for the period April 1, 2007 through March 31, 2009. Moreover, FPRB officials stated that they have difficulty hiring and retaining engineers because the State Education Department only accepts about 50 percent of FPRB employees' experience toward a professional engineering license.

We also noted that the AB only has two staff assigned to administer 800 grants. AB officials stated that there were 16 staff persons available 10 years ago and that the reduced staffing reflects retirements and reassignments. (Department officials replied to our draft report that only one of the 16 staff was responsible for administering grants. However, this information was not previously provided to the auditors.)

Formal risk assessment could help to ensure that limited resources are used most effectively to help monitor the grants where there is the greatest risk of not meeting grant requirements.

Recommendation 5. Formalize grant monitoring risk assessment processes for the AB and the FPRB.

Procedures and Training The effectiveness of grant monitoring is best ensured when staff has adequate written procedures to follow and when they are provided with sufficient training to perform the procedures. Officials of both the FPRB and the AB stated that procedures are available to all staff and that training is on-the-job, rather than formal. For example, the FPRB pairs newly-hired employees with experienced employees for about a two-year period. In addition, AB staff stated that they had been trained by their predecessor. While on-the-job training is useful and important, both Bureaus should consider supplementing this approach with a formal training program.

In addition, we noted that grant monitoring procedures for the FPRB were developed in the mid-1980s and may no longer be relevant. For

example, the procedures call for one rail inspector for each grant project to maintain a daily diary and inspection report. However, given staff reductions, current practices do not permit compliance with these procedures. In addition, we noted that AB written procedures generally do not provide adequate instruction and guidance on steps to verify reimbursement for grant expenditures. For example, we noted that staff were sometimes relying on summaries of program expenditures rather than review of supporting invoices for expenditures.

- Recommendations**
6. Determine whether formal training is needed to supplement on-the-job training for the AB and the FPRB.
 7. Update the written grant monitoring procedures of the AB and the FPRB.

Data Analysis and Communication The monitoring of the FPRB and the AB could be enhanced through more effective analysis of available data and through better communication. For example, if the bureaus analyzed data in the State Accounting System as well as the Open Book System, the bureaus could identify Department grantees that also receive grants from other state agencies. Follow up communication on this information with other grantor agencies could be useful to establish whether the grantees have effective and reliable systems of grant administration. This information could help to facilitate internal Department risk assessments about grantees.

For example, we identified 553 active grant contracts in effect as of March 31, 2009 between the Department and at least one other State agency, including 99 grantees that were receiving funds from the Department and at least five other state agencies.

We found that the Department was not performing this type of data analysis and follow-up communication. Therefore, the Department is missing an opportunity to improve the effectiveness of grant oversight.

- Recommendation**
8. Improve the effectiveness of FPRB and AB grant oversight through statewide data analysis on multi-funded grantees and through appropriate follow up with the Department grantors and grantors from other State agencies.

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Agency Comments



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232
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JOAN McDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

May 31, 2011

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-78
Oversight of Grants

Dear Ms. Maldonado:

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

RECOMMENDATIONS

Recommendation 1: Instruct Region 4 to prepare documented inspection reports and to properly document completed work before approving final payment.

Response: We agree with the recommendation. On an interim basis, the Freight & Passenger Rail Bureau (FPRB) will remind all Regional and Bureau staff involved in project inspections and payment of invoices of the need to conduct documented on-site inspections, using the Manual for Uniform Record Keeping (MURK) IRR form, prior to authorizing interim payments and a documented final inspection prior to approval of the final invoice. The FPRB will incorporate these procedures in the update to its grant administration guidelines (see Recommendation 7).

The Local Programs Bureau (LPB) will implement a new "Project Completion Report" for the Multimodal programs by July 1, 2011.

Recommendation 2: Strengthen monitoring of the Multi Modal program by requiring onsite inspection reports of grantee performance.

Response: We agree with this recommendation. The LPB will implement this control as part of a risk-assessed-based Quality Assurance Process for the Multimodal Programs by July 1, 2011.

Recommendation 3: Determine whether each of the Multi Modal programs warrants grantees to submit support for grant reimbursement beyond a certification and perform required post audits of expenditures.

Response: We agree with this recommendation. Preliminary guidance has been issued by the LPB to NYSDOT Regional staff concerning the importance of grantees submitting with their payment request certifications supporting documentation of their first-instance expenditures and consistency with the contract's documented scope of work. As part of the newly developed Quality Assurance Process for the Multimodal programs, the LPB will issue new procedures and updated Program Guidelines to Regions as well as implement risk-assessed data sampling for selected Multimodal projects. The LPB expects to fully implement this process by July 1, 2011.

Recommendation 4: Improve AB oversight of grants to address findings presented in this report.

Response: We agree with this recommendation. The Aviation Bureau (AB) will implement revised procedures with the next solicitation of applications for Bond Act programs. Specifically, the AB's improved oversight of grants will require the following items from the consultant or municipal engineer in charge of the project:

- Requests for payment to reimburse engineering charges shall be accompanied by an invoice including a summary of hours charged over the payment period.
- Requests for payment to reimburse construction shall include inspector's reports completed over the payment period. These reports shall include a summary of work completed and measurement of quantities.

Recommendation 5: Formalize grant monitoring risk assessment processes for the AB and the FPRB.

Response: While we agree in principle with this recommendation, as indicated in the report, the AB and FPRB have experienced significant reductions in staff and are currently unable to devote existing resources to formalize the grant monitoring risk assessment process. The AB and FPRB will continue to base its monitoring on the factors discussed in the report, such as the project scope and location. The AB and FPRB will work toward formalizing the grant monitoring risk assessment process as additional resources become available.

Recommendation 6: Determine whether formal training is needed to supplement on-the-job training for the AB and the FPRB.

Response: We agree with this recommendation. Training guidance will be formalized within NYSDOT's updated procedures (see response to Recommendation 7 below). Once completed, the written procedures will form the basis for a formal training plan for any new employees.

Recommendation 7: Update the written grant monitoring procedures of the AB and the FPRB.

Response: We agree with the recommendation. The AB and the FPRB will update and reissue their written procedures for grant administration by the end of 2011.

Recommendation 8: Improve the effectiveness of FPRB and AB grant oversight through statewide data analysis on multi-funded grantees and through appropriate follow up with the Department grantors and grantors from other State agencies.

Response: While we agree with the intent of this recommendation, the data resources currently available to NYSDOT staff do not provide a means to conduct a statewide data analysis on multifunded grantees efficiently. As an oversight agency, OSC may be in a better position to conduct this kind of analysis and/or establish an automated program for state agencies to share grant management and monitoring information.

REPORT COMMENTS

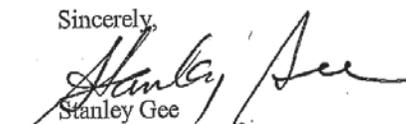
Page 15, second bullet: The report incorrectly states that the AB approved seven payments, totaling \$52,000, for engineering charges without any supporting invoices as required by procedures. The invoices supporting those payments were forwarded to the Accounting Bureau with the voucher. The AB, however, had not kept a copy of those invoices in its files. The AB does generally keep copies of invoices and will strengthen its record-keeping practices in this respect.

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Page 16, second paragraph: The report implies that in the past up to 16 people were available to administer grants while currently there are only two. The number 16 refers to the total number of staff in the AB 10 years ago, of which only one was responsible for administering grants on a full-time basis. For the past six years, a second person was trained and has been assisting in administering grants.

*

Should you need more information, please contact John Rondinaro, Acting Director, Office of Integrated Modal Services, at 518 457-4033 or Diane Kenneally, Director, Local Programs Bureau, at (518) 485-9959.

Sincerely,

Stanley Gee
Executive Deputy Commissioner

* Our report has been revised to reflect information provided in the Department's response.