



New York State Office of the State Comptroller
Thomas P. DiNapoli
Division of State Government Accountability

Collection of Lease and Permit Revenues

Department of Transportation



Executive Summary

Purpose

To determine whether the Department of Transportation is collecting all lease and permit revenues it is owed. The audit covers the period January 2008 through May 2012.

Background

The Department of Transportation (Department) has land that it does not use continuously. Interested parties can pay a fee for a permit to use such land temporarily. The Department is responsible for billing permit holders and collecting the amount due. As of May 2012, the Department was owed a total of \$6 million in lease and permit revenues, including \$2.4 million between two and six years past due and another \$1.4 million at least six years past due. In total, 195 permits were more than 30 days past due.

Key Findings

- The Department is not effectively collecting all unpaid lease and permit fees. Of 45 sampled permits which had outstanding balances, no action was taken on eight. These eight permits had a total of \$417,000 outstanding at the time of our review.
- When initial actions to collect revenues were unsuccessful, the Department generally did not refer permits to the Office of the Attorney General. From January 2008 to January 2012, the Department referred only two permits, with a total outstanding of \$61,530. We identified 61 permits with a total outstanding of \$1.2 million that should have been referred during that period.

Key Recommendations

- Provide the regions with detailed permit billing information and guidance on which permit holders are delinquent and require follow-up action.
- Refer delinquent accounts to the Office of the Attorney General, as required.

Other Related Audits/Reports of Interest

[Department of Transportation: Review of Real Property Holdings for Disposal \(Report 2010-S-48\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

March 12, 2013

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 entitled *Collection of Lease and Permit Revenues*. 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.

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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Background

The mission of the New York State Department of Transportation (Department) is to ensure that New York State has a safe, efficient, balanced and environmentally sound transportation system. The Department owns land, including State highway right-of-ways and areas under overpasses, some of which it does not use continuously. The Department may issue a permit allowing the holder to use such land on a month to month basis for a fee. If the Department needs to use the land, it does not renew the permit. In some instances, the user needs a more formal agreement, so the Department issues a lease.

The Department has issued guidelines for its main office and 11 regional offices on how to issue and monitor permits and how to track the revenues. Permits are issued by the regional office where the property is located. The regional office is responsible for reviewing and approving the application, setting the permit fee and issuing the permit. The minimum permit fee is \$100 per year, and can be paid monthly, quarterly or annually as agreed to by the region and permit holder. Under certain circumstances the Department can waive the fee. The regional office should review and adjust each permit fee to fair market value every two to three years. The regional office also monitors the properties, including annual inspections.

The main office bills permit holders, collects payments, and prepares and sends an aged accounts receivable schedule to the regional offices. According to Department procedures, collection efforts should begin in-house after 30 days and referral to a collection agency or the New York State Office of the Attorney General (Attorney General) after 90 days. The regional offices are expected to identify their delinquent permit holders and take steps to contact them and work out payment plans. If a payment plan cannot be arranged, the regional office should prepare the account for referral by the main office to a collection agency or to the Attorney General. Under State law, any unpaid rent (including lease and permit revenues) not secured through litigation after six years is no longer collectible.

When a permit holder is more than 30 days past due, the Department adds a penalty and interest on the unpaid balance. Between January 2008 and May 2012, the Department billed \$21.9 million in permit fees and another \$6.5 million in interest and penalties for late payments. The Department collected \$25.5 million of the \$28.4 million it was owed during this time. As of May 2012, the Department had an outstanding balance of \$6.0 million, including \$2.9 million billed during our audit period and \$3.1 million billed prior to January 2008.

Audit Findings and Recommendations

Revenue Collection

The Department is not effectively collecting all unpaid leases and permits. As of January 2012 the Department was owed \$2.9 million for 45 of 101 permits we reviewed. The regional offices took no action to collect over \$417,000 owed on 8 of the 45 because they were not aware that the permit holder was delinquent. The regions receive accounts receivable information from the main office periodically. However, the information does not meet the regions' needs because it lacks a complete billing history for each permit holder and includes old accounts that require no action by the regions. Furthermore, the regions do not have access to the Department's billing system to look up information on the accounts that require follow up. In response to our preliminary findings report, Department officials told us that they gave the regions and program areas electronic access to accounts receivable and invoice records for permits.

For the remaining 37 permits totaling \$2.5 million overdue, the regions took collection actions such as sending letters to the permit holder, evicting the permit holder, or referring the account for litigation. The regions also cancelled permits or adjusted the fee amount.

When initial actions to collect revenues were unsuccessful, the Department generally did not refer the accounts for further collection action to a collection agency or the Attorney General. Department officials told us the contract with a collection agency expired in 2009 and they have not been able to get Division of the Budget approval for a new contract. Therefore, all permits with an outstanding balance of at least \$500 should be referred to the Attorney General. As of May 2012, the Department had 110 permits with a total of \$3.8 million outstanding that was two years or older. This includes \$3.7 million on 48 permits with balances over \$10,000 and about \$149,000 on 46 permits with balances between \$500 and \$10,000. According to Department procedures, 61 of these 94 permits totaling \$1.2 million should have been referred to the Attorney General between January 2008 and January 2012. However, during this period, the Department referred only two permits totaling \$61,530 to the Attorney General.

One reason for the lack of comprehensive and consistent collection efforts is the Department does not track the status of accounts with an outstanding balance. Although the Department's billing system has codes to track account status, the Department does not use them. The Department needs to track this type of information and communicate the status to appropriate units and staff so that follow-up actions can be taken timely to maximize collection.

Recommendations

1. Provide the regions with detailed permit billing information and guidance on which permit holders are delinquent and require follow-up action.
2. Refer delinquent accounts to the Office of the Attorney General, as required.

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3. Track and communicate account status to appropriate units and staff.

Billing Accuracy

We noted that 12 of the 101 permits we reviewed had billing problems: 6 permits were cancelled but bills continued to be sent; 5 permits had changes to fees but the accounting system was not updated; and 1 permit fee was waived, but the permit holder was still billed. These billing errors arose because the regional offices did not notify the main office of the changes timely. When the regional office notified the main office of the changes, the accounts were adjusted as necessary.

The regional offices focus more on processing new permits than on revising existing ones. So the main office is generally notified promptly when a new permit is issued. However, decisions made at the regional offices regarding existing permits, such as changing a permit fee or cancelling a permit, are not always shared with the main office as promptly.

Recommendation

4. Remind the regional offices to report permit changes and cancellations to the main office more timely.

Audit Scope and Methodology

The objective of our audit was to determine whether the Department is collecting all lease and permit revenues it is owed. The audit period covered January 1, 2008 through May 31, 2012.

To accomplish our objective we reviewed the Department's policies and procedures, interviewed Department officials, and visited four regional offices (Western, Hudson Valley, Long Island and New York City) to understand their role in collecting lease and permit revenues. We also selected a sample of 101 permits from the four regions visited including 20 active, 20 inactive, 21 fee waived and 40 with high balances. The active, inactive and fee waived permits were randomly selected. One of the permits selected for having a high outstanding balance was actually a fee waived permit that had been entered into the billing system in error. We also visited 55 of the 101 permitted sites in the four regions. The properties visited included 12 active, 12 inactive, 11 fee waived and 20 with high balances to determine whether the properties were being used in accordance with the permit terms.

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

This 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

We provided a draft copy of this report to Department officials for their review and comment. We considered their comments in preparing this final report and have included them 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 This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



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

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JOAN McDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

February 20, 2013

Carmen Maldonado, Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William St Fl 21
New York, New York 10038

Re: Draft Report 2012-S-6
Collection of Lease and Permit Revenues

Dear Ms. Maldonado:

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

Recommendation 1: Provide the Regions with detailed permit billing information and guidance on which permit holders are delinquent and require follow-up action.

Response: This recommendation is agreed to and has been implemented. Monthly reports from the Accounting Bureau are currently being made available to the regions showing all invoices issued that month, Aged Accounts Receivables report listing the outstanding balance, and Customer Transaction History report giving details of the outstanding balance. The Office of Right of Way (OROW) has reminded the regional real estate groups of their responsibilities in regards to NYSDOT collection efforts.

Recommendation 2: Refer accounts to the Office of the Attorney General, as required.

Response: This recommendation is agreed to and will be implemented. NYSDOT program staff met with the Civil Recovery Unit of the Office of the Attorney General (AG) to streamline and put into action the collection of arrears. The AG's office assured NYSDOT that they would accept NYSDOT's delinquent accounts for collection. The OROW will work with the Accounting Bureau to identify the delinquent permit holders that should be referred to the AG's office for collection.

Recommendation 3: Track and communicate account status to appropriate units and staff.

Response: This recommendation is agreed to and has been implemented. All Regional Property Managers receive reminders by e-mails that monthly billing, aging report, and

detail transaction history information is available on the shared network drive. Additional information on permits, including non-billing account status, can be found in the OROW's Sesame Database.

Recommendation 4: Remind the regional offices to report permit changes and cancellations to the main office more timely.

Response: This recommendation is agreed to and will be implemented by April 30, 2013. The OROW is preparing updates to its written procedures that will address the subject directly. These changes will include guidance on submission times for permit updates prior to the commencement of a new billing cycle.

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

Sincerely,



Peter J. Snyder
Assistant Commissioner
Administrative Services Division