



STATE OF NEW YORK  
DEPARTMENT OF STATE  
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ALBANY, NY 12231-0001

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GOVERNOR

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SECRETARY OF STATE

January 20, 2005

Ms. Carmen Maldonado  
Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

Dear Ms. Maldonado:

As required by Section 170 of the Executive Law, this information is provided in response to Report 2003-S-57, concerning the Cemetery Maintenance Fund administered by the Department of State. The Comptroller's Report contained eight recommendations regarding the Fund. The Department has made significant progress in addressing these recommendations.

The following describes the steps taken to date:

*1. Make fee reconciliations a standard disclosure in the audit of cemeteries conducted every three to five years. For larger cemeteries, reconcile the number of interments and cremations performed with the fees remitted on an annual basis.*

The Department's Division of Cemeteries has taken several steps to make fee reconciliation a standard disclosure. The Division has developed and implemented a field audit checklist to be completed by field accountants to ensure compliance. The Division has also updated its Field Audit Procedure manual and audit worksheet requiring field accountants to reconcile the number of interments to vandalism and assessment fees remitted.

*2. Establish a record keeping system that will enable the Department to identify the calendar year for which fees are collected.*

The Division of Cemeteries has developed a Microsoft database which allows fee remittances to be tracked by year. This new system also enables a transmittal sheet noting such information (used to forward batched checks and other materials to the Bureau of Fiscal Management) to be generated directly off of the database.

*3. Create an integrated system to accurately track all expenses and can report on claims' status [sic].*

Previously, actual expenses and pending potential liabilities were monitored via two different tracking mechanisms, maintained separately by the Division of Cemeteries and the Bureau of Fiscal Management. The new database developed by the Division of Cemeteries tracks both expenditures and claim status centrally throughout the process.

*4. Create system to track police reports for vandalism cases.*

The Department continues to disagree that any significant benefit, especially given the cost necessary to implement, would be obtained were the Cemetery Division to create a system to track police reports for vandalism cases. The reasons were delineated in the Department's letter of September 24 and will, therefore, not be restated here.

The Department does, however, agree that a cemetery should have an incentive to seek restitution. The Division of Cemeteries will mail notices twice within the first year of the cemetery having received a vandalism claim check. The notice will require the cemetery to indicate whether restitution was received and instruct them on proper disposition of any monies. Additionally, the Cemetery Board counsel has reviewed the amendment of 19NYCRR 200.11 to clarify the responsibility of the cemetery to seek restitution and to require that any monies received via restitution or from any other source be used in lieu of fund monies. This matter will be presented for Board consideration at its next meeting on January 20<sup>th</sup>.

*5. Finalize the Risk Assessment of the Cemeteries Division, and update it to identify changes in the risks facing the Division.*

The Department's Director of Internal Audit will review this issue.

*6. Change the process for recording reimbursement of unused claim funds and restitution received so these funds are not incorrectly counted as revenue.*

As noted in the Department's September 24<sup>th</sup> response, this change was implemented by the Department prior to release of the Report.

*7. Develop written policy that addresses the late payment of CMF fees and present it to the Board for Approval.*

As noted in the Department's September 24 letter, it has been the Department's experience that late payments are generally made by small, unsophisticated cemeteries administered by volunteers. Penalizing these cemeteries would be counterproductive and could push them into abandonment.

The Department agrees, however, that cemeteries which intentionally delay payment should be cited, and disciplinary action taken. That has been within the purview of the Board to review on a case by case basis. A written policy with respect to action against cemeteries which make late payment to the CMF is to be presented at the Board's next meeting on January 20<sup>th</sup>.

*8. Evaluate the fee amounts for the CMF and the expenses eligible for claim recovery based on actual experience and anticipated future use. Present these results to the Board so it can decide whether a proposal should be made to the Legislature to adjust the fee amounts.*

The Department reviews both collections and expenses related to the Fund at least annually. These projections will continue to be shared with the Division of the Budget as part of the Executive Budget process. In addition, a tally of monies both collected and granted per year is now presented to the Board at each of its meetings.

Thank you again for this opportunity to respond.

Sincerely,



Frank P. Milano  
First Deputy Secretary of State

FPM/nb

c: George E. Pataki, Governor  
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Joseph L. Bruno, Temporary President of the Senate  
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Thomas F. Barraga, Ranking Minority Member, Assembly Ways and Means