

A REPORT BY THE NEW YORK STATE OFFICE OF THE STATE COMPTROLLER

Alan G. Hevesi
COMPTROLLER



DIVISION OF STATE POLICE DEPARTMENT OF TRANSPORTATION DEPARTMENT OF CORRECTIONAL SERVICES



LEASE, ACQUISITION AND MAINTENANCE COSTS IN CONTRACTS WITH M/A-COM FOR RADIO COMMUNICATIONS EQUIPMENT

2004-BSE-2

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State of New York Office of the State Comptroller

Alan G. Hevesi
COMPTROLLER

Report 2004-BSE-2

Mr. Wayne E. Bennett
Superintendent
Division of State Police
State Office Campus, Building 22
Albany, NY 12226

Mr. Thomas J. Madison, Jr.
Commissioner
Department of Transportation
50 Wolf Road
Albany, NY 12232

Mr. Lucien J. Leclaire, Jr.
Acting Commissioner
Department of Correctional Services
State Office Campus, Building 2
Albany, NY 12226

Dear Messrs. Bennett, Madison, and Leclaire:

The following is our report addressing the lease, acquisition and maintenance costs incurred by the Division of State Police, the Department of Transportation, and the Department of Correctional Services in their contracts with M/A-COM for radio communications equipment.

*Office of the State Comptroller
Division of State Services
Bureau of State Expenditures*

September 29, 2006

Division of State Services
110 State Street ♦ Albany, New York 12236

EXECUTIVE SUMMARY

DIVISION OF STATE POLICE

DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF CORRECTIONAL SERVICES

***LEASE, ACQUISITION AND MAINTENANCE COSTS IN
CONTRACTS WITH M/A-COM FOR RADIO
COMMUNICATIONS EQUIPMENT***

SCOPE OF REVIEW

The Division of State Police (State Police), the Department of Transportation (Transportation) and the Department of Correctional Services (Correctional Services) lease mobile radios, portable radios and other radio communications equipment from M/A-COM. Each agency has its own contract with M/A-COM. These contracts enable the agencies to lease individual equipment items for a period of 60 months and retain the items after the lease period. The contracts provide for maintenance agreements for the items.

State Police's contract with M/A-COM began in 1960, Transportation's contract began in 1985, and Correctional Services' contract began in 1998. As of February 18, 2005, agencies spent \$126 million of the \$150 million contracts' value. Agencies spent \$16.8 million on these contracts during the fiscal year ended March 31, 2004. Our review addressed the following question about the radio communications equipment leased by the three agencies under their contracts with M/A-COM:

- Did the agencies acquire and maintain equipment in a cost-effective manner?

Our review covered equipment leased and/or maintained during the period April 1, 2003 through March 31, 2004. This included reviewing all historical and future costs associated with the equipment – from installation dates to projected retirement dates.

AUDIT OBSERVATIONS AND CONCLUSIONS

We found that, because of a lack of centralized coordination in the negotiation of contract terms and ineffective management oversight at the three agencies, the equipment leased from M/A-COM was unnecessarily costly. In fact, we identified a total of \$35.3 million in excess costs and potential cost savings. We recommend the three agencies recover or negotiate contract concessions for up to \$14.5 million from M/A-COM for excessive and inappropriate charges already incurred. We also recommend improvements that will significantly reduce the agencies' future costs under the contracts with M/A-COM.

The three agencies paid, or are committed to pay, about \$3.3 million in excessive interest for the items in our sample. All three agencies simply accepted the financing terms offered by M/A-COM and did not try to negotiate better interest rates, even though they were allowed by their contracts to do so. Officials at State Police and Transportation were not even aware of the interest rates on their leases because M/A-COM never disclosed the rates. We recommend the three agencies actively negotiate interest rates on future equipment leases and be aware of certain financing options that are less costly than the financing terms M/A-COM offered. We also recommend State Police and Transportation recover or negotiate contract concessions for up to \$2.4 million in interest payments incurred because M/A-COM charged these agencies interest rates higher than the interest rates they charged Correctional Services for the same types of leases.

State Police and Transportation paid exorbitant monthly fees, sometimes for years, to continue using equipment after their leases expired and the items were fully paid for. Together the two agencies either paid, or were likely to pay, about \$8 million in such fees, just for the items in our sample. The agencies paid the unreasonable fees because agency officials did not fully understand the contract provisions and agency fiscal managers were not actively involved in acquisition decisions. We recommend the two agencies recover or negotiate contract concessions for up to \$2.6 million in excessive fees from M/A-COM and take action that could prevent the payment of about \$6.9 million in future excessive fees.

Transportation and Correctional Services could save about \$12.8 million in future lease payments on our sample items if they keep their portable and mobile radios in service for their entire useful lives. Also, Transportation will pay about \$2 million in lease and maintenance fees for mobile radios that it either did not need or could not find. We recommend Transportation and Correctional Services systematically identify their mobile radio needs before ordering new radios. We also recommend Transportation improve its inventory controls over the radios.

Over the lease periods, the three agencies will pay \$8.9 million in maintenance fees on the items in our sample. We found the maintenance agreements on these items generally were not needed because the preventive maintenance services that were to be provided through the agreements were rarely provided and the equipment stayed in good working order without the services. The maintenance agreements were especially questionable during the first year of the leases because the items were under warranty. We further determined that some of the prices M/A-COM charged for the maintenance agreements were unreasonably high (e.g., an item's monthly maintenance fee could be higher than its monthly lease payment). We recommend the three agencies evaluate the need for maintenance agreements on all current and future equipment. We also recommend that they pursue recovery of amounts paid for maintenance that M/A-COM did not provide.

We also found M/A-COM overcharged State Police by nearly \$600,000 (e.g., double-billings and excessive annual escalations in maintenance fees) and we recommend recovery.

COMMENTS OF STATE POLICE, TRANSPORTATION AND CORRECTIONAL SERVICES OFFICIALS

A draft copy of this report was provided to the State Police, Transportation and Correctional Services officials for their review and comments. Their comments were considered in preparing this report and are included as Appendix B.

State Police and Correctional Services managers agreed with the findings in our report. Transportation managers agreed with most of our findings. At their urging, we removed language in the report citing a lack of a Statewide plan for their radio needs and, instead, noted the deficiencies in the documents they presented as their plan. We urge Transportation managers to develop a comprehensive plan for their future radio needs. Also, Transportation managers indicate they are assigning the task of equipment cost analysis to program staff rather than Business Services Bureau staff. We urge Transportation managers to reconsider their decision, as Business Services staff are trained in these fiscal matters and program staff typically are not.

Managers at the three agencies are working with the Office for Technology to develop an appropriate method for cost-effective radio communications equipment acquisitions and maintenance until the Statewide Wireless Network becomes fully operational.

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INTRODUCTION

Background

The Division of State Police (State Police), the Department of Transportation (Transportation) and the Department of Correctional Services (Correctional Services) lease radio communications equipment from M/A-COM¹, such as mobile radios, portable radios and base stations. Mobile radios are mounted in vehicles. Portable radios are hand-held units carried by individuals. Base stations transmit signals from radio to radio. The three agencies may also lease one or more of the following other equipment items: consoles, receivers, decoders, chargers, speaker microphones and other ancillary equipment.

Each agency has its own contract with M/A-COM. While the three contracts are similar in some respects, they are also different in some respects. Generally, the contracts enable the agencies to lease individual equipment items for 60 months. In each lease, the agency makes monthly lease payments consisting of a portion of the item's purchase price (this purchase price is fully paid by the end of the lease) plus interest. The interest rate is either specified in the contract or to be negotiated by the agency and M/A-COM.

At the end of the 60-month lease period, the agencies either (a) returned the item to M/A-COM, (b) paid a one-time buyout fee and purchased the item, or (c) continued to "lease" the item by the month and pay a monthly user fee. The monthly user fee amount is not specified in either the lease or the contract; rather, it's subject to negotiation between the agency and M/A-COM. Only the Correctional Services contract specifies a buyout amount (one dollar). State Police and Transportation can negotiate the buyout price with M/A-COM. The agencies may lease new items at any time and have several 60-month leases ongoing at the same time.

The contracts provide for monthly maintenance agreements on equipment during and after the lease period. Under the agreements, authorized service centers across the State are

¹ M/A-COM is the most recent name of the contractor, which has been involved in a number of corporate acquisitions and mergers.

required to perform certain maintenance procedures (such as routine inspections and adjustments) and the agency pays a fixed amount each month, regardless of the services actually provided that month. The service agreement may be obtained at the beginning of the lease or after the first year of the lease. The equipment is under warranty for the first year.

State Police’s contract with M/A-COM began in 1960, Transportation’s contract began in 1985, and Correctional Services’ contract began in 1998. As of February 18, 2005, agencies spent \$126 million of the \$150 million contracts’ value.

	State Police	Transportation	Correctional Services	Total
Expenditures	\$86 million	\$26 million	\$14 million	\$126 million
Commitments*	6 million	1 million	17 million	24 million
Total	\$92 million	\$27 million	\$31 million	\$150 million

* Represents future lease payments, user fees, buyout costs, monthly maintenance payments and/or repairs on existing equipment.

During the fiscal year ended March 31, 2004, agencies paid M/A-COM \$17 million in contract expenditures: State Police, \$9 million; Transportation \$4 million; and Correctional Services \$4 million. These expenditures consisted of monthly lease payments, user fees, buyout costs, monthly maintenance agreement payments and payments for repairs not covered by the maintenance agreements.

State Police and Correctional Services use both mobile and portable radios, while Transportation uses only mobile radios. All three agencies use base stations.

The three agencies lease the equipment through the M/A-COM District Sales Manager. Since 1977, the same Sales Manager has been responsible for the contract with State Police, and this same individual has also been responsible for the contracts with Transportation and Correctional Services.

Review Scope, Objective and Methodology

We reviewed a sample of equipment leased and/or maintained during the period April 1, 2003 through March 31, 2004. This included reviewing all historical and future costs associated with the equipment - from installation dates to projected retirement dates.

Our objective was to determine whether agencies acquired and maintained equipment under the contract in a cost-effective manner. To accomplish our objective, we reviewed each agency's contract with M/A-COM and examined vouchers, invoices, equipment schedules, repair logs, work orders and other evidence supporting contract costs. We interviewed officials at the three agencies and at M/A-COM, and evaluated relevant internal controls at the three agencies. We also interviewed officials at 8 of the 18 M/A-COM authorized service centers across the State.

At each agency, we selected a judgmental sample of equipment on invoices during the period April 1, 2003 through March 31, 2004. At State Police, we selected all models on the invoice above a certain cost threshold plus other judgmentally selected items. These items accounted for about 90 percent of State Police's total lease costs for the year. At Transportation, we selected 4,400 mobile radios because their historical costs could readily be identified through Transportation records. These items accounted for about 85 percent of Transportation's total lease costs for the year. At Correctional Services, we selected all active leases for the year. These items accounted for 100 percent of Correctional Service's total lease costs for that year. We then reviewed all the historical costs and all the future cost commitments under the contracts for the selected items and evaluated whether the items had been acquired and were being maintained in a cost-effective manner.

As the following table shows, the agencies' lease and maintenance payments for our sample items are \$37.4 million and \$8.9 million, respectively, over the 60-month lease.

	State Police	Transportation	Correctional Services	Total
Total Lease Payments Over 60 Months	\$ 14.7 million	\$ 9.8 million	\$12.9 million	\$37.4 million
Total Maintenance Payments Over 60 Months	3.4 million	1.8 million	3.7 million	8.9 million
Total	\$18.1 million	\$11.6 million	\$16.6 million	\$46.3 million

Responses of State Police, Transportation and Correctional Services Officials

We provided a draft copy of this report to State Police, Transportation and Correctional Services officials for their review and comment. We considered their comments in preparing this final report.

Within 90 days after the release of the final report, the Superintendent of State Police and the Commissioners of Transportation and Correctional Services 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 therefor.

LEASE AND ACQUISITION COSTS

Because managers at the three agencies did not effectively administer the contracts, M/A-COM was able to profit from the agencies' lack of due diligence. As a result, agencies paid far more for their equipment than necessary. For example, for the items in our sample:

- State Police and Transportation paid, or were committed to pay:
 - About \$3.3 million in excessive interest, and
 - About \$7.9 million in excessive user and buyout fees.
- Transportation and Correctional Services were committed to pay about \$12.8 million in future lease payments if they kept their mobile or portable radios in service for their useful life.

Also, Transportation paid, or was committed to pay, about \$2 million in lease and maintenance fees for mobile radios it either did not need or could not find.

We recommend all three agencies commence negotiations with M/A-COM to recoup about \$5 million in excessive charges already incurred. We also recommend State Police and Transportation take action that could prevent the payment of about \$7 million in excessive future fees. We recommend Transportation systematically identify its mobile radio needs before ordering new radios and improve its inventory controls over the radios. We also recommend actions agencies can take to reduce the finance charges on future equipment leases.

The excess costs and the potential cost savings are summarized, by agency, in Exhibit A. The recommended recoupment amounts are summarized in Exhibit B.

Interest

Interest on Equipment

The three agencies paid, or are committed to pay, about \$3.3 million in excessive interest for the items in our sample because

the agencies simply accepted the financing terms offered by M/A-COM and did not try to negotiate better interest rates, even though they were allowed by their contracts to do so. Officials at State Police and Transportation were not even aware of the interest rates on their leases because M/A-COM never disclosed the rates. We recommend the three agencies actively negotiate interest rates on future equipment leases and be aware of certain financing options that are less costly than the financing terms offered by M/A-COM.

The equipment leased under the contracts with M/A-COM is not particularly costly. However, the three agencies need large quantities of equipment. If the agencies wanted to purchase this much equipment outright, their operating budgets might not be able to absorb the large purchase cost. Therefore, agencies lease the equipment so they can spread the purchase cost over 60 months.

The contracts allow agency managers to negotiate² interest rates with M/A-COM, however, managers never initiated or participated in negotiations. As a result, M/A-COM offered the three agencies different interest rates for their leases – despite the fact that for each lease, M/A-COM receives the full purchase price for the equipment during the lease. Specifically, M/A-COM charged Correctional Services 5.95 percent interest, Transportation 9.25 percent interest and State Police 10.78 percent interest, on average. It's noteworthy that at the beginning of the Correctional Services contract, the 5.95 percent interest rate was 30 percent below the prime rate.

Also, at least one agency manager was not aware of other financing options available to them, including PIT bonds (backed by personal income tax revenue) and the Statewide Lease Finance contract (a pool of pre-qualified vendors who bid interest rates). If the three agencies used these financing options, they could borrow the funds needed to purchase equipment outright from M/A-COM, and repay the lenders over the same 60-month lease period. At the very least, they could cite the other interest rates in negotiations with M/A-COM to get better rates.

Not every alternative was available to agency managers over the years. For example, the Statewide lease purchasing contract didn't start until 1998. However, all financing vehicles

² The Correctional Services contract interest rate of 5.95 percent was fixed for two years and negotiable after that.

were available from January 1, 2003 to March 31, 2004. As the table below illustrates, M/A-COM's interest rates were higher than rates available through other financing vehicles or through more effective negotiations (i.e., negotiating rates at 30 percent below the prime rate).

Finance Vehicle or Negotiating Position	Max Rate
PIT bonds	2.81%
30% below prime rate	2.98%
Statewide lease finance contract	3.14%
M/A-COM's rate to Correctional Services	5.95%
M/A-COM's rate to Transportation	9.25%
M/A-COM's rate to State Police	10.92%

If the agencies attempted to negotiate an interest rate that remained 30 percent below the prime rate, and were successful in their efforts,

- State Police would have saved \$1,758,930 in interest, and
- Transportation would have saved \$1,292,300 in interest, and
- Correctional Services would have saved \$235,409 in interest on the items in our sample.

In the absence of negotiations, we question why the agencies didn't get the same interest rates from M/A-COM. The three agencies have the same lease structures (i.e., agencies' payments over the lease period cover 100 percent of the purchase price plus interest) and each agency leases significant amounts of equipment from M/A-COM. If M/A-COM consistently charged Transportation and State Police the same interest rate they charged Correctional Services (which was consistently lower), Transportation would have saved \$733,183 and State Police would have saved \$1,697,568 in interest on the sample items. Since there is no apparent reason for State Police and Transportation to pay higher interest rates than Correctional Services, we recommend the two agencies commence negotiations with M/A-COM to obtain \$2.4 million in concessions under the current contracts for excessive finance charges already incurred

Officials at State Police and Transportation were not even aware of the interest rates on their leases. The officials at these two agencies accepted M/A-COM's financing terms without understanding the interest rate they were paying. M/A-COM

didn't disclose the interest rates to the officials at these two agencies. At State Police, M/A-COM disclosed the total monthly lease payment for each equipment lease. For 20 percent of those leases, M/A-COM also disclosed a "finance factor" ranging from 0.02060 to 0.02339. At Transportation, M/A-COM disclosed a "finance factor" of 0.02088 and the total monthly lease payment.

M/A-COM is not required by the contracts with the two agencies to disclose the interest rates on the agencies' leases. However, State Police and Transportation officials may have challenged the reasonableness of the interest rates if M/A-COM disclosed them.

We recommend the three agencies actively negotiate the interest rates on future equipment leases. As part of the negotiation process, agency officials should share information with one another about the terms of their leases. Agency officials should also make themselves aware of other financing options available to State agencies. Officials indicated that, in the future, they would be actively involved in the financing decisions for their equipment leases.

Interest on Maintenance

While State agencies are allowed to finance equipment purchases, they are prohibited by the Division of the Budget from financing maintenance charges. We found State Police financed the first-year maintenance agreement fees for about 80 percent of the items in our sample. At the request of managers in the State Police Communications Unit, M/A-COM added these fees to the items' purchase price. Because the fees were added to the purchase price, they are subject to interest rates ranging from 8.29 percent to 13.73 percent over the items' various 60-month lease periods. As a result, State Police will pay an additional \$182,540 in interest on first year maintenance over the lease periods.

The Communications Unit managers told us this practice enabled them to obtain more equipment within their budget, since they could amortize the cost of first-year maintenance over 60 months rather than 12 months. The agency's fiscal managers were not aware of this practice because they were not actively involved in equipment acquisition decisions. We recommend State Police comply with the restriction on the

financing of maintenance charges. State Police officials stated they would not finance maintenance fees in the future.

User Fees and Buyout Costs

Because State Police and Transportation managers didn't fully understand the contract provisions, managers paid, or were likely to pay, about \$7.9 million in unnecessary and excessive post-lease fees just for the items in our sample. In addition, agency fiscal managers were not actively involved in acquisition decisions. We recommend agencies negotiate to recoup \$2.6 million of the excessive fees already incurred and the two agencies take action that could prevent the payment of about \$6.9 million in future excessive fees.

A capital lease, as defined by the Financial Accounting Standards Board, is one in which the present value of the future lease payment at the outset of the lease is equal to, or greater than, 90 percent of the fair market value of the equipment. Although all three agencies had capital leases, M/A-COM characterized the leases at State Police and Transportation as operating leases. This mischaracterization allowed M/A-COM to continue to bill State Police and Transportation beyond the lease period. Specifically, M/A-COM continued to charge the State Police and Transportation monthly fees to keep the equipment after the lease expired, even though over any 60-month lease, agencies paid M/A-COM the full purchase price of the equipment plus interest. Accordingly, if State Police or Transportation elects to keep an item beyond the end of its lease period, it shouldn't have to continue making monthly payments to M/A-COM. Rather, the two agencies should seek the same nominal buyout M/A-COM offers Correctional Services.

M/A-COM is allowed by its contracts with the three agencies to charge monthly user fees for items retained beyond the end of their 60-month leases. Exercising this provision can be cost-beneficial when the agency holds the equipment for a short time beyond the lease period and the value of the continued payments is less than the value of equipment disposal costs. However, since State Police and Transportation hold their equipment for years beyond the lease period, it isn't cost-beneficial for them to continue making monthly payments on it.

The agencies may also purchase items when their leases expire. Correctional Services' contract with M/A-COM specifically states the agency can purchase such items. The other two agencies' contracts do not specifically make this statement, but as M/A-COM acknowledged, the agencies can purchase the equipment at any time – before or after the lease expires.

Correctional Services does not continue to make monthly payments after their leases expire. M/A-COM doesn't even charge the agency the nominal, one-time buyout fee of \$1 when it keeps items beyond the end of the lease period, even though the contract allows this. However, when State Police and Transportation keep items beyond the end of the lease period, M/A-COM charges the agencies monthly user fees. Historically, M/A-COM has charged these monthly user fees for up to nine additional years. M/A-COM also charged State Police a large buyout fee when it eventually purchased the items. We question M/A-COM's inconsistent approach to State agency contracts.

State Police

M/A-COM regularly charged State Police large monthly user fees for items retained beyond the end of their 60-month leases. While M/A-COM was permitted by the contract to charge such fees, we question the necessity of these charges because State Police fully paid for the items when their leases expired.

State Police routinely uses its radio communications equipment for more than ten years. For example, State Police acquired several of the items in our sample as early as 1990. At the time of our review, the leases for these older items expired and State Police had been paying monthly user fees on the items for a number of years. When we reviewed these monthly user fees, we found that until April 2001, they were the exact same amount as the monthly lease payments had been before the leases expired.

For 24 items in our sample, M/A-COM charged the full monthly lease fee as a user fee for at least two months and as many as 71 months. This practice continued until April 2001, at which point M/A-COM began charging a reduced monthly user fee (20 percent of the monthly lease fee). We believe all monthly user fees were grossly excessive because State Police fully paid for the items by the end of their leases (and paid a considerable

finance charge, as well). For example, State Police ultimately paid \$12,133 for a base station originally priced at \$3,474, as follows:

Purchase price:	<u>\$ 3,474</u>
Total lease payments over 60 months between May 1990 and April 1995 (purchase price plus 13.5 percent interest):	\$ 4,796
Full monthly user fees between May 1995 and March 2001:	5,675
Reduced monthly user fees between April 2001 and June 2004:	1,290
Buyout fee in June 2004:	<u>372</u>
Total Payments	<u>\$12,133</u>

As a result of discussions we had with State Police about how costly the user fees were, they began paying buyout fees to purchase the off-lease equipment they intended to keep using. Officials told us they were not aware they could negotiate prices with M/A-COM. They thought the amounts paid to M/A-COM were fixed under the contract. However, a 1987 contract amendment gives State Police officials the authority to negotiate any fees paid after a lease expires.

The buyout fees M/A-COM charged in 2004 were, on average, more than twice the 20 percent monthly user fee. This amount is excessive because under the Correctional Services contract, M/A-COM can only charge a nominal \$1 buyout fee to buy out each off-lease item. If M/A-COM dealt with State Police under the same terms (i.e., charging no monthly users fees and only a \$1 buyout fee), State Police would have saved \$1.1 million in fees on the equipment items in our sample. Since there is no reason for State Police to pay fees that were not charged to Correctional Services, we recommend State Police commence negotiations with M/A-COM to recoup this \$1.1 million in excessive fees.

As a result of our review, State Police purchased all of its off-lease equipment and stopped paying monthly user fees on such equipment. On the basis of the agency's past equipment retention patterns, we estimate State Police saved as much as \$2 million in future monthly user fees on the off-lease equipment in our sample. Although they didn't get the best buyout price, we commend State Police for taking prompt, corrective action to

stop paying unnecessary user fees. Moreover, if State Police purchases the remaining equipment items in our sample for \$1 each as soon as their leases expire, it will avoid about \$3.3 million in future monthly user fees on this equipment as well. We recommend State Police routinely evaluate whether it's cost-beneficial to purchase contract items when their leases expire. We also recommend State Police monitor contract acquisition costs on an item-by-item basis to ensure costs are not excessive.

Transportation

M/A-COM charged Transportation a monthly user fee when it retained items beyond the end of their 60-month leases. For example, in 2002, Transportation replaced its old mobile radios and leased 4,400 new mobile radios (the items in our sample). At that time, the old radios were up to nine years old and Transportation paid monthly user fees for up to four years beyond the lease expiration date.

M/A-COM charges Transportation a reduced monthly user fee (20 percent of the monthly lease payment) when it retains items beyond the 60-month lease period. As was previously noted, we believe this fee is excessive because (a) the items are fully paid for at the end of the leases and (b) M/A-COM doesn't charge Correctional Services any monthly user fees for items retained beyond the 60-month lease period. Moreover, it would be far less costly for Transportation to purchase items, at a nominal price, as soon as their leases expire.

Transportation does not purchase items when their leases expire because the employee responsible for this decision incorrectly analyzed the costs and benefits of this course of action. This employee was not a fiscal manager and Transportation's fiscal managers did not oversee or otherwise involve themselves in the decision to pay monthly user fees. We recommend Transportation's fiscal managers be involved in such decisions.

If Transportation purchases the 4,400 mobile radios as soon as their leases expire, the agency will avoid future monthly user fees on these items. On the basis of the agency's past equipment retention patterns (and assuming a nominal buyout fee of \$1), we estimate these savings would total \$1,561,613.

We recommend Transportation routinely evaluate whether it's cost-beneficial to purchase contract items when their leases expire. We also recommend Transportation monitor contract acquisition costs on an item-by-item basis to ensure the costs are not excessive.

In addition, we recommend Transportation negotiate with M/A-COM to recoup some of the excessive user fees M/A-COM charged in the past. Since we estimate, on the basis of past equipment retention patterns, Transportation was likely to pay \$1,561,613 in user fees on its current batch of mobile radios, we believe it is likely the agency paid at least that much on prior batches of mobile radios. We therefore recommend Transportation seek \$1,561,613 from M/A-COM.

Useful Life of Equipment

Transportation and Correctional Services managers haven't effectively evaluated the frequency with which they should replace certain equipment – they turn over their equipment before the end of its useful life. Further, M/A-COM underestimated the useful life of the equipment. We question whether this underestimation may have played a role in the two agencies' decision to replace their equipment sooner than necessary. Based on their equipment retention patterns, Transportation and Correctional Services can realize up to \$12.7 million in cost avoidance savings by holding on to their equipment for its useful life.

Agency managers should use radio equipment for its useful life, provided it operates as intended and doesn't jeopardize anyone's safety. We commend State Police managers for consistently using their equipment to its extended useful life. However, managers at Transportation replace their mobile radios and Correctional Services replace their portable radios before the end of their useful life. Specifically, Transportation most recently replaced its mobile radios after nine years and Correctional Services routinely replaces their portable radios every five years.

To gauge the useful life of mobile and portable radios, we examined a variety of governmental sources. The results are as follows:

Source	Mobile Radio Life	Portable Radio Life
State Police experience	10-15 years	10-15 years
Transportation experience *	13-16 years	n/a
State & Federal radio depreciation guidelines	8-10 years	6-10 years
Interviews with other government officials	8 years	5-14 years
M/A-COM salesman	5-7 years	5-7 years

* Longest documented historical life for mobile radios at Transportation.

We found it noteworthy that the upper ranges for the radios' useful lives are higher than the M/A-COM estimates. In fact, State Police managers consistently use their equipment for about twice the length of the M/A-COM estimates. Based on our survey, we conservatively estimated the extended useful life of mobile and portable radios at 12 and 10 years, respectively.

If Correctional Services and Transportation kept their radios in service for their useful life, they could realize significant savings because they would enter into new leases, and initiate new lease payments, less frequently than they have in the past. For example, if Correctional Services replaced the portable radios in our sample after ten years, rather than after five years, it would save about \$6.9 million in lease payments over the last five years of that ten-year period. Similarly, if Transportation purchases its current batch of mobile radios (the 4,400 radios in our sample) when their lease expires and keeps the radios for twelve years, rather than nine years, it would save about \$5.9 million in lease payments over the last three years of that twelve-year period (it would also save about \$1.6 million in user fees, as was noted in the preceding section of this report).

Officials at Correctional Services and Transportation could provide no basis for their decisions to replace their radios when they did. For example, they had not analyzed breakdown and repair records and found a need to replace the radios after a certain amount of time. We question whether they may have been influenced by M/A-COM's estimates - where both types of radios were estimated to have a useful life of only five to seven years.

In response to our findings, Correctional Services officials stated they would evaluate their practice of replacing portable radios every five years. However, Transportation officials do not

believe their mobile radios can be kept in service for 12 years, even though State Police's radios are routinely kept in service for longer than that. We suggest Transportation officials confer with State Police officials and verify the reliability of the radios for themselves.

We recognize maintenance and repair costs may increase when radios are kept in service for longer periods of time. However, as is noted later in this report, our review of maintenance and repair records indicates M/A-COM radios are very durable and not likely to incur significant maintenance and repair costs, even when they are kept in service for 10 to 15 years or beyond.

Unneeded and Missing Equipment

Transportation will pay up to \$1.3 million in lease and maintenance fees for 652 more spare radios than they originally required, plus an additional \$782,000 for 303 mobile radios they could not locate, or never received, as of December 2004.

Agencies should determine the amount of radios they need to effectively carry out their mission. To ensure their mobile radio needs are appropriately met, Transportation should have a comprehensive Statewide plan identifying these needs. At a minimum, this plan should include:

- A list of which types of vehicles require mobile radios,
- An accurate identification of the current mobile radio inventory, by vehicle and location, including installation and scheduled replacement dates, and
- Installation dates, by vehicle and location, for each mobile radio.

While Transportation officials responded they have a Statewide plan, it lacks the critical information listed above. Also, the only document in their plan that addresses 4,400 radios was written after Transportation leased the radios. The other documents in the plan do not support the need for 4,400 radios. Further, Transportation executives told us the agency doesn't have 4,400 vehicles or a list of which types of vehicles require mobile radios.

The agency's former Radio Engineer worked with the M/A-COM sales representative to determine Transportation needed the 4,400 mobile radios they leased in 2002. To determine how many unneeded mobile radios Transportation leased based on consultations with the M/A-COM sales representative, we analyzed various agency records. According to the document created after Transportation leased the 4,400 radios, Transportation identified 225 of the 4,400 mobile radios as spare radios – 50 of these spare radios were to be kept at Transportation's main warehouse and 175 were to be kept at authorized service centers throughout the State. However, Transportation's December 2004 radio inventory records indicated there were actually 877 spare mobile radios: 240 at the warehouse and 637 at the service centers. Therefore, it appears the agency ordered at least 652 more mobile radios than it needed (877 actual spares minus 225 planned spares).

These 652 unneeded mobile radios will cost Transportation about \$1.3 million in monthly lease and maintenance agreement payments over the 60-month lease period. To make use of the excess radios, the agency plans to install mobile radios on vehicles that do not normally have mobile radios, like lawn mowers. The current Radio Engineer called this Transportation's expansion plan and expected it to be complete by June 2005. We question the logic behind leasing radios almost three years before installing them in equipment that doesn't normally have radios, and recommend Transportation consider returning the unneeded radios to M/A-COM for refunds.

As of December 2004, Transportation couldn't account for 303 of the remaining 3,748 mobile radios (4,400 minus 652 equals 3,748). According to the agency's inventory records, these radios were not assigned to a region and were in no identifiable location (the space for "location" on the inventory records was either blank or filled with a question mark).

M/A-COM was supposed to ship these 303 radios to various authorized service centers throughout the State along with 4,047 other radios. These 4,350 radios were either to be installed in agency vehicles or kept at the service centers as spares (the remaining 50 radios were to be shipped to the agency's main warehouse). Service centers should have completed and forwarded receiving reports to the agency and

Transportation shouldn't have made monthly payments on the radios until their delivery had been verified.

Transportation had no receiving reports from the service centers. Despite this, Transportation began making monthly payments on the radios, even though it had no reliable assurance all 4,350 radios had, in fact, been delivered (the monthly payments were initiated because the former Radio Engineer said the radios had been delivered). We therefore question whether the 303 missing radios were ever delivered to the service centers.

We asked Transportation officials to verify they had all 4,400 mobile radios. They were able to verify 240 radios in the main warehouse, but were unable to obtain reliable information from managers in the different regions across the State about the radios in their regions. In fact, a Transportation official told us ten years ago the radio equipment inventory reported by the regional managers was only 40 percent reliable. From October 2003, when the new Radio Engineer took his position, to at least December 2004, the Radio Engineer was not able to get an accurate inventory from the regional managers.

The current Radio Engineer gave us a M/A-COM spreadsheet with shipping dates for the 4,400 radios. We reviewed the spreadsheet and found, according to this information, virtually all 4,400 of the radios were shipped before Transportation started making monthly payments to M/A-COM. However, M/A-COM provided neither a bill of lading nor a shipping company name for 2,250 radios, no bill of lading for another 175 radios, and no shipping company name for another 150 radios. Accordingly, we question the accuracy of the shipping dates in the spreadsheet.

The 303 missing mobile radios will cost Transportation about \$782,000 in monthly lease and maintenance agreement payments over the 60-month lease period. We recommend Transportation officials account for these radios. If these radios were never delivered, we recommend Transportation officials recover from M/A-COM amounts already expended on the associated lease and maintenance costs. We also recommend Transportation officials improve their inventory controls over radio communications equipment and ensure items are not paid for until their receipt has been independently confirmed.

Recommendations

To State Police, Transportation and Correctional Services:

1. Actively negotiate the interest rates on future equipment leases. As part of the negotiation process, share relevant information with the other two agencies and be aware of other financing options available to State agencies.

To State Police:

2. Actively negotiate to recoup \$1,697,589 in excessive interest fees and \$1,054,962 in excessive monthly user fees and buyout fees from M/A-COM.
3. Comply with Division of the Budget bulletins and do not finance maintenance fees through lease payments.

To State Police and Transportation:

4. Routinely evaluate whether it is cost-beneficial to purchase contract items when their leases expire.
5. Ensure fiscal managers with the appropriate knowledge, skills and abilities are actively involved in acquisition decisions under the contract and are monitoring acquisition costs on an item-by-item basis to determine whether the costs are excessive.

To Correctional Services:

6. Re-evaluate the practice of replacing portable radios after five years. Instead, keep the radios in service for their full useful life.

To Transportation:

7. Actively negotiate to recoup \$733,183 in excessive interest fees and \$1,561,613 in excessive monthly user fees and buyout fees from M/A-COM.
8. Re-evaluate the practice of replacing mobile radios after nine years. Instead, keep the radios in service for their full useful life.
9. Develop and maintain a Statewide plan identifying mobile radio needs.

Recommendations (Cont'd)

10. Consider returning the unneeded mobile radios to M/A-COM for refunds.
11. Account for the 303 missing radios and recover amounts expended on radios not delivered.
12. Improve inventory controls over radio communications equipment.
13. Ensure items are not paid for until their receipt has been independently confirmed by a receiving report or other such document.

MAINTENANCE COSTS

Under their contracts with M/A-COM, all three agencies spent, or will spend, up to \$8.9 million over the 60-month lease periods on unnecessary maintenance agreements because:

- M/A-COM rarely provided the preventive maintenance services,
- The equipment stayed in good working order without the services,
- Repairs often were not covered by the agreements, and
- The equipment was covered under a warranty during the first year.

Further, the prices M/A-COM charged for the maintenance agreements were unreasonably high (e.g., an item's monthly maintenance fee was higher than its monthly lease or user fee payment). We believe the agencies could have saved most of this amount if they had declined the maintenance agreements and paid for the occasional repairs as they were needed. We also identified nearly \$600,000 in overcharges. We recommend State Police recover the overcharges we identified.

Maintenance Agreements During Warranty Period

Agency managers didn't effectively evaluate the need for monthly maintenance on their M/A-COM equipment. As a result, they paid \$1 million in aggregate monthly maintenance fees on portable and mobile radios during the first year – while the equipment was under warranty.

The terms of the warranty are a lot like the terms for the monthly maintenance agreements. Specifically, each covers all parts and labor for repairs as a result of equipment defects. There are two differences. First, repairs under warranty for all equipment are available during normal business hours. This is

essentially the same under the maintenance agreements for mobile and portable radios; however, under the maintenance agreements, repairs to base stations are covered every hour of every day. Second, M/A-COM is supposed to perform preventive maintenance on equipment covered by monthly maintenance agreements. Preventive maintenance is not a component of the warranty.

While preventive maintenance is to be provided under the maintenance agreements, such maintenance usually is not needed during the radios' first year of operation. Moreover, as discussed later in this report, the preventive maintenance procedures to be provided under the agreements are, in fact, rarely provided. Despite this lack of preventive maintenance, M/A-COM's radios rarely malfunction.

Agency managers told us that if the radios malfunction outside normal business hours, they wait until the next business day to have them repaired. They also stated they have adequate back-up systems (e.g., spare radios and cell phones) and can maintain communication when portable or mobile radios are out for repair.

Therefore, maintenance agreements are not needed in the first year of a portable or mobile radio lease because the benefits provided by the agreements are, for the most part, duplicated by the items' first-year warranty coverage and the radios rarely break down.

State Police and Correctional Services entered into all their maintenance agreements at the beginning of the lease. Transportation entered into some maintenance agreements at the beginning of the lease, but entered into other agreements after the first year of the lease.

Agencies paid about \$1 million in unnecessary monthly maintenance on portable and mobile radios while they were covered by a warranty. We believe the agencies could have relied on the first-year warranty coverage for these radios and saved the entire \$1 million in first-year maintenance fees.

Agencies paid another \$186,000 in first-year maintenance fees on base stations during the first year. Officials at State Police and Correctional Services told us their base stations are such critical pieces of equipment, they need the assurance of 24-

hour, seven-day-a-week repair coverage on them. Our review of repair records indicated base stations rarely need to be repaired, especially in their first year of operation. However, if agency officials want around-the-clock service coverage for base stations during their first year of operation, they should negotiate a separate first-year maintenance agreement for the base stations to provide coverage not provided by M/A-COM's warranty on the items. If State Police and Correctional Services had negotiated such an agreement with M/A-COM, we estimate they could have saved about \$49,800 of the \$186,000 in first-year maintenance fees for the base stations in our sample.

Preventive Maintenance

M/A-COM is required to provide preventive maintenance services on certain equipment. However, we found M/A-COM rarely, if ever, provided these services. We also found the equipment stayed in good working order without the services. Further, M/A-COM charged an unreasonably high amount for the monthly maintenance agreements and needed repairs often are not covered by the agreements.

Services Paid For But Not Provided

Under maintenance agreements, M/A-COM is supposed to repair defects and provide preventive maintenance. The specific preventive maintenance requirements vary with each contract. For example, at State Police, preventive maintenance is to be performed on mobile and portable radios, but not on base stations. However, at Correctional Services, preventive maintenance is to be performed on mobile radios and base stations, but not on portable radios. These differences are summarized in the following table:

	Items To Receive Preventive Maintenance		
	State Police	Transportation	Correctional Services
Mobile Radios	Yes	Yes	Yes
Portable Radios	Yes	*	No
Base Stations	No	Yes	Yes

* Transportation does not use portable radios

The preventive maintenance descriptions also vary by contract. For example, Transportation's contract has the most comprehensive and descriptive preventive maintenance specifications, as it requires M/A-COM to annually provide a specific six-point inspection and related adjustments, as well as FCC checks, on each mobile radio covered by a maintenance agreement. In contrast, State Police's contract requires M/A-COM to provide routine preventive maintenance on mobile radios, but the contract does not specify what particular maintenance procedures, other than FCC checks, are to be provided or at what interval they are to be provided.

M/A-COM's definition of preventive maintenance is published on its website. Specifically, M/A-COM describes preventive maintenance as periodic checks and alignment to keep the system operating at published specification levels and to help prevent failures. Also, M/A-COM states regularly scheduled preventive maintenance provides the foundation for uninterrupted operations.

The preventive maintenance is to be provided by 18 authorized service centers across the State. M/A-COM represented that it is responsible for ensuring all maintenance requirements are met and identified two of its employees with this responsibility. However, when we interviewed managers at eight of these service centers, two of the eight managers told us they were not aware of any preventive maintenance requirements under the contracts and six managers told us they performed the required preventive maintenance procedures only when items were brought in for repairs.

When we examined repair records at two of the three agencies (and surveyed officials at the third agency), we found the equipment was rarely in the service centers for repairs. As a result, the service centers had the opportunity to perform the required preventive maintenance procedures only on a few items. For items that didn't need repair, the service centers never took the opportunity to perform the required preventive maintenance procedures.

For example, at State Police, we examined the repair records for the portable and mobile radios assigned to four of the agency's troops. At one of the troops (Troop G), between June 1, 2000 and March 31, 2004, 43 of the 110 (39 percent) portable radios were never sent to the service center for repairs and

another 38 radios (35 percent) were sent for repair only once. State Police acquired all 38 radios in 1996. The remaining 29 radios (26 percent) went for repair from two to seven times. State Police acquired 25 of the 29 portable radios in 1996.

We also examined the repair records for 29 mobile radios at the four troops and found seven of the radios had never been sent to service centers for repair (these seven radios had been acquired as early as 1994) and eight of the radios had been sent to service centers only once (these eight radios had been acquired as early as 1997). The remaining 14 radios had from two to six repairs. The two mobile radios that went to the service center the most times (six each) were acquired in 1996, and thus had been serviced less than once a year.

At Transportation, we examined the repair records for the 1,655 mobile radios assigned to four of the agency's regions. These records indicated only 282 of the 1,655 radios were sent to service centers in the year ended March 31, 2004. All 282 radios were sent for repairs and the records indicated one of the two annual maintenance procedures required in the contract (i.e., FCC checks) had been performed on only 163 of the 282 radios. However, there was no indication this required procedure had been performed on the other 1,492 radios (90 percent) in these regions. We did not test to determine the extent to which M/A-COM did the six-point inspection and related adjustments required by contract.

At Correctional Services, we asked managers at eight correctional facilities whether M/A-COM performed preventive maintenance on base stations twice a year, as required by the agency's contract with M/A-COM. We found the maintenance requirements for base stations were fully met at only two of the eight facilities. In addition, we asked managers at seven correctional facilities whether M/A-COM performed preventive maintenance on mobile radios twice a year, as required by the agency's contract with M/A-COM. We found the maintenance requirements for mobile radios were fully met at only one of the seven facilities.

Managers at the three agencies either did not know what maintenance procedures were required by their contracts, did not communicate the requirements to the employees responsible for the equipment, or did not establish appropriate monitoring controls to ensure the requirements were met.

Excessive Maintenance Fees and Incomplete Repair Coverage

The monthly maintenance fees M/A-COM charges the three agencies includes a 35 percent markup. M/A-COM passes 65 percent of the monthly maintenance fees to authorized service centers. Also, M/A-COM adds a 35 percent markup on service center fees for remedial repairs on agencies' equipment. Other contracts have smaller markups on such fees. For example, a standard specification in other Transportation contracts allows for a five percent markup on services. We, therefore, conclude that M/A-COM's monthly maintenance fees are excessive.

In addition, in some instances, the monthly maintenance fees M/A-COM charged State Police and Correctional Services were higher – even much higher – than the monthly lease payments or monthly user fees for those items. The following are examples of these unreasonable maintenance fees:

Agency	Item	Monthly Lease Payment	Monthly User Fee	Monthly Maintenance Fee	Maintenance as a Percent of Lease or User Fee
State Police	Auxiliary Receiver		\$ 1.80	\$ 67.50	3,750%
State Police	Programmer-URP		2.00	20.25	1,013%
State Police	Base Station		18.56	135.00	727%
State Police	Pulscm FSK Decoder		4.83	33.75	699%
State Police	Base Station		33.08	209.25	633%
Correctional Services	Single Unit Charger-Pager	\$0.49		1.00	204%
Correctional Services	Multi Unit Charger-Pager	3.94		4.00	102%
Correctional Services	Speaker Microphone	0.99		1.00	101%

The examples at State Police are particularly egregious because the agency could have replaced the old items with new items that cost less per month than the maintenance agreements on the old items.

On those rare occasions when M/A-COM's mobile and portable radios did need to be repaired, the repairs often were not covered by the maintenance agreements (which only cover repairs to fix defective equipment). Specifically, when we

reviewed repair records at the three agencies, we found that for between 20 percent and 51 percent of the repairs, no portion of the repair was covered by the maintenance agreement, as follows:

Agency	Items Selected	Repairs Required	No Portion of Repair Covered by Maintenance Agreement*	Percent Not Covered
State Police	29 mobiles	57	29	51%
Transportation	282 mobiles	359	72	20%
Correctional Services	68 portables	162	54	33%

* Does not include repairs partially covered by the maintenance agreement

Need for Maintenance Agreements

Based on the above information, we question whether the maintenance agreements are cost-beneficial – not only during the warranty period, but also during the remaining years of the lease and after the leases expired. To summarize, M/A-COM's equipment is extremely durable: it's rare for an item to break down and even rarer for M/A-COM to perform preventive maintenance. Also, maintenance agreements offered by M/A-COM are very costly and do not cover many of the needed repairs.

We recommend the three agencies evaluate the need for maintenance agreements on a case-by-case basis and purchase the agreements only when they can be shown to be cost-beneficial. We also recommend the agencies terminate existing maintenance agreements if they cannot be shown to be cost-beneficial.

As a result of our review:

- State Police terminated its existing maintenance agreements for portable radios. This will save State Police up to \$1.2 million in monthly maintenance fees over the equipment's useful life. Officials are also evaluating the need for the agreements on the rest of its equipment.
- Transportation terminated its existing maintenance agreements on 842 of the 877 mobile radios not in service (spare and missing radios). This will save Transportation up

to \$754,000 in monthly maintenance fees if they keep the mobile radios for their useful life. However, Transportation officials stated that, in their opinion, the agreements were cost-beneficial for the rest of the equipment. We reviewed the analysis provided by the officials in support of this position and found it contained unrealistic estimates and unverifiable numbers. We encourage the officials to redo the analysis with appropriate, supportable data.

- Correctional Services officials agreed to evaluate the need for continued maintenance agreements.

Agency officials told us they were concerned that if they didn't continue to purchase maintenance agreements, the service centers would not repair their items promptly. In fact, the M/A-COM District Sales Manager agreed that paying for monthly maintenance agreements ensures prompt attention from service centers.³ Yet, M/A-COM did not deliver on this promise. For example, it took M/A-COM more than one week, and up to 181 days, to repair two thirds of the portable radios State Police Troop G sent to the service centers for repair.

M/A-COM should be willing to ensure prompt repair service on multi-million dollar contracts, such as the contracts with the three agencies, without charging the agencies an \$8.9 million premium during the lease period for the appropriate level of attention.

In addition, because agencies paid M/A-COM for preventive maintenance services it didn't provide, M/A-COM adds an unreasonable markup on pass-through costs, and M/A-COM charges unreasonably high monthly maintenance fees as compared to lease or user fees, both on the items in our sample and on past items not in our sample, we recommend the three agencies recover up to \$8.9 million in maintenance fees from M/A-COM for services paid for but not provided.

Overcharges

For the items in our sample, M/A-COM overcharged State Police \$592,704 by inflating maintenance and user fees and

³ The M/A-COM District Sales Manager made this statement in a meeting on November 16, 2004.

doubling monthly maintenance fees on certain items. State Police fiscal managers did not closely oversee these transactions. We recommend managers recover the overcharges we identified and strengthen oversight of contract transactions.

Inflated Maintenance

M/A-COM is allowed by the contracts to increase (escalate) the monthly maintenance fees annually based on certain provisions specified in the contracts. However, in April 2001, M/A-COM increased the monthly maintenance fees on most of the older items in our sample at State Police by amounts that far exceeded the escalation limit specified in the contract with State Police.

For example, in March 2001, M/A-COM charged State Police \$54 a month in maintenance fees for a certain base station. In April 2001, when a new fiscal year began, M/A-COM was allowed by the contract to escalate the maintenance fees on this item by about 4 percent, or \$2 a month and thus charge about \$56 a month in maintenance fees. However, M/A-COM increased the maintenance fees on this item by 256 percent and charged State Police \$192 a month maintenance.

The timing of M/A-COM's significant increase in monthly maintenance fees in April 2001 happened to coincide with the company's first application of user fees (80 percent monthly lease fee reduction) for State Police on post-lease equipment. Prior to April 2001, M/A-COM had been charging State Police a monthly user fee that was the same as the monthly lease payment for items beyond the 60-month lease period. As a result of this reduction, State Police's total monthly payments for these older items (i.e., total monthly user fees plus total monthly maintenance fees) should have decreased.

However, the total monthly payments for these items increased in April 2001. For example, the total monthly payments for the oldest items in our sample (which were acquired between 1976 and 1990) experienced a net increase of 66 percent in April 2001.

The actual magnitude of the maintenance increases was obscured because in March 2001, M/A-COM did not segregate the monthly lease or user fees from the monthly maintenance

fees on its invoices. Rather, M/A-COM aggregated the amounts into one, lump-sum equipment fee. Therefore, State Police could not easily discern the maintenance portion of the fee or the specific individual increases in April 2001.

Also, in April 2003, M/A-COM escalated the maintenance fees on the oldest items in our sample twice, and thus exceeded the annual escalation limit for those items.

As a result of these excessive increases in maintenance fees, as of August 2004, M/A-COM overcharged State Police \$340,908 in monthly maintenance fees.

Double Maintenance

In our review of the invoices relating to the items in our sample, we found M/A-COM double-charged the monthly maintenance fees on six line items. M/A-COM erroneously included the six line items on two different schedules: a schedule of items currently under lease (Schedule A) and on a schedule of items no longer under lease (Schedule D). As a result, between April 1, 2001 and December 31, 2004, M/A-COM overcharged State Police by \$158,462 in maintenance fees.

Inflated User Fees

As was previously noted, in April 2001, M/A-COM began charging State Police a reduced monthly user fee on items still in service after their leases had expired. Although the contract does not include language governing the specific user fee rate reduction, representatives from M/A-COM and State Police told us user fees are 20 percent of the monthly lease fees. For each item, the new user fee was supposed to be 20 percent of the item's monthly lease payment. However, we found M/A-COM incorrectly calculated the new monthly user fee. M/A-COM charged 20 percent of the items' combined monthly lease payments and monthly maintenance fees, rather than 20 percent of the monthly lease payments alone. As a result, as of March 31, 2004, M/A-COM overcharged State Police \$93,334 in user fees on the items in our sample.

Invoice Review Process

At State Police, both fiscal staff and Communications Unit staff review M/A-COM invoices. The fiscal staff are expected to

review the invoices for reasonableness and the Communications Unit staff are expected to perform a more thorough evaluation of the invoices to ensure the charges are accurate.

The fiscal staff failed to identify any of the overcharges described in this report. While they were expected only to review the invoices for reasonableness, such a review should have identified the sudden and unreasonable increase in monthly payments in April 2001 for the oldest items under contract, especially since the monthly payments for those items were expected to decline. We recommend State Police fiscal managers ensure the staff responsible for verifying the accuracy of M/A-COM's invoices have the knowledge, skills and abilities needed to perform this task effectively.

Communications Unit staff are responsible for determining equipment needs, getting price quotes from M/A-COM for the equipment, and examining equipment deliveries to ensure they are appropriate. Internal controls are weakened when the same employees are responsible for too many aspects of a business process. To strengthen controls, such duties should be separated among different employees. Accordingly, fiscal staff should be responsible for verifying the accuracy of equipment invoices from M/A-COM (this particular responsibility should generally be performed by fiscal staff, because it is a fiscal responsibility.)

State Police officials told us they are training the fiscal staff to audit M/A-COM invoices more effectively. They also stated they are working with M/A-COM to simplify its overly complicated invoices. We commend State Police officials for taking prompt, corrective action.

Recommendations:

To State Police, Transportation and Correctional Services:

14. Evaluate the need for all future maintenance agreements on a case-by-case basis and purchase the agreements only when they can be shown to be cost-beneficial. Evaluate the need for all existing maintenance agreements and terminate those agreements that cannot be shown to be cost-beneficial.

Recommendations (Cont'd)

15. If around-the-clock maintenance coverage is needed for base stations in the first year of their leases, negotiate a separate first-year maintenance agreement for the base stations to provide coverage not provided by M/A-COM's warranty on the items.
16. When maintenance agreements are purchased for items, monitor the items to ensure that the required maintenance services are performed on each item.
17. Recover up to \$8,936,673 in monthly maintenance fees, depending on whether and to what extent M/A-COM can document that it provide the services required under the contract.

To State Police:

18. Make fiscal staff responsible for verifying the accuracy of M/A-COM's invoices, and ensure that the staff have the knowledge, skills and abilities that are needed to perform this task effectively.
19. Recover \$592,704 in overcharges.

Exhibit A

Summary of Excess Costs and Potential Cost Savings by Agency

Excess Costs and Potential Cost Savings	State Police	Transportation	Correctional Services	Adjusting Entries	Total Amount
Interest	\$1,758,930	\$1,292,300	\$235,409		\$3,286,639
Financed First-Year Maintenance	182,540			(\$72,531) ¹	110,009
User/Buyout Fees	6,389,269 ²	1,561,613			7,950,882
Full Useful Life ³		5,856,049	6,907,068		12,763,117
Items Unneeded & Missing		2,041,780 ⁴		(344,857) ⁵	1,696,923
Maintenance ⁶	3,413,189	1,841,300	3,682,184		8,936,673
Improper Maintenance Escalations	340,908			(29,727) ⁷	311,181
Double Maintenance	158,462				158,462
Inflated User Fees	93,334			(5,454) ⁸	87,880
Totals	\$12,336,632	\$12,593,042	\$10,824,661	(\$452,569)	\$35,301,766

¹ This amount is included in the excess costs under Finance Charges and is eliminated to avoid double-counting.

² This amount consists of \$1.2 million in excess costs and \$5.3 million in future cost savings.

³ The savings realized by keeping items in service for their full useful life may be offset to some extent by increased repair costs on aged equipment.

⁴ This amount consists of \$1.3 million in excess costs for 652 unneeded mobile radios and \$782,000 in excess costs for 303 missing mobile radios.

⁵ This amount is included in Maintenance and is eliminated to avoid double-counting.

⁶ These potential savings represent the total amounts to be paid for maintenance agreements on the items in our sample over their various 60-month lease periods. These potential savings do not include the amounts that were paid for the older items' maintenance agreements after their lease periods ended. If these amounts were included, the potential savings would be even higher. However, all such savings would be reduced to some extent by repair costs on the items.

⁷ This amount relates to maintenance payments made during an item's 60-month lease period, and is therefore included in the total \$8.9 million for maintenance agreements over the sampled items' various 60-month lease periods. The remaining \$311,181 in improper maintenance escalations relates to maintenance payments that were made after a sampled item's lease period had ended.

⁸ This amount is included in the excess costs under User/Buyout Fees and is eliminated to avoid double-counting.

Exhibit B**Summary of Recommended Refunds from M/A-COM**

Area	State Police	Transportation	Correctional Services	Adjusting Entries	Total Amount
Interest ¹	\$1,697,568	\$733,183			\$2,430,751
User/Buyout Fees	1,054,962	1,561,613			2,616,575
Maintenance	3,413,189	1,841,300	3,682,184		8,936,673
Improper Maintenance Escalations	340,908			(29,727) ²	311,181
Double Maintenance	158,462				158,462
Inflated User Fees	93,334			(5,454) ³	87,880
Totals	\$6,758,423	\$4,136,096	\$3,682,184	(\$35,181)	\$14,541,522

¹ These amounts represent the additional interest fees State Police and Transportation paid because M/A-COM charged them higher interest rates than they charged Correctional Services at the same time.

² This amount is included under Maintenance and is eliminated to avoid double-counting.

³ This amount is included under User/Buyout Fees and is eliminated to avoid double-counting.

MAJOR CONTRIBUTORS TO THIS REPORT

Bernard J. McHugh, CIA, CISA, CPA

John D. Brennan, CFE, CGFM

Martin Nash

Roslyn Watrobski, CFE, CIA, CGAP

Holly Reilly, CPA, CIA

Teresa Strife

Paul Kosachiner, CGAP

Beverly Jones

Dana Newhouse



State of New York
Department of Transportation
Albany, N.Y. 12232
<http://www.dot.state.ny.us>

Thomas Madison
Acting Commissioner

George E. Pataki
Governor

November 25, 2005

Mr. Bernard McHugh
Office of the State Comptroller
Bureau of State Expenditures
110 State Street – 10th floor
Albany, NY 12236

Subject: Draft Report 2004-BSE-2
*Lease, Acquisition, and Maintenance Costs in Contracts with M/A-COM
for Radio Communications Equipment*

Dear Mr. McHugh:

The Department of Transportation (Department) has reviewed the subject report and provides the following response. Thank you for the opportunity to review the report.

REPORT COMMENTS

Page 18 (Useful Life of Equipment): The report estimates that the Department could save \$5.9 million in new equipment lease fees if it retains its existing radios for three years beyond the Department's historical turnover period of nine years. These savings would be predicated on the Department retaining its existing equipment through 2014. Since we intend to purchase radios compatible with the Statewide Wireless Network (SWN) when they become available around 2011 to take advantage of the interoperability and coordination between state and local agencies, these anticipated cost savings may not be realized.

Page 22 (Payments prior to receipt): The report states that based on analysis of a M/A-COM spreadsheet, the Department paid for radios prior to their shipment. However, as noted in your report, the Department's Radio Engineer advised your auditors that the date field they interpreted as a shipping date was not a shipping date. The Radio Engineer's advice is supported by the Department's work orders. For example, analysis of the spreadsheet led your auditors to conclude that no radios were shipped as of May 2002 (see page 22 of the draft report), yet a review of four work orders shows that two of these four radios¹ were installed in February and March 2002. They could not have been installed if they were not shipped prior to May 2002.

*
Not

¹ Serial numbers 1810234 and 1803704

* See State Comptroller's Notes p. 61

RESPONSE TO RECOMMENDATIONS

Recommendation 1: Actively negotiate the interest rates on future equipment leases. As part of the negotiation process, share relevant information with the other two agencies and be aware of other financing options available to State agencies.

DOT Response: The Department's future radio equipment purchases will be for equipment compatible with the planned Statewide Wireless Network (SWN). Since contracts for SWN-compatible equipment and any applicable interest rates will be initiated by the Office for Technology (OFT), the Department stands ready to work collectively with OFT to negotiate future radio equipment leases.

Recommendations 2 and 3 were not directed to the Department of Transportation.

Recommendation 4: Routinely evaluate whether it is cost-beneficial to purchase contract items when their leases expire.

DOT Response: The Department intends to purchase its existing radios at the end of the lease as this buyout is expected to be more cost-beneficial than continuing to lease.

Recommendation 5: Ensure fiscal managers with the appropriate knowledge, skills and abilities are actively involved in acquisition decisions under the contract and are monitoring acquisition costs on an item-by-item basis to determine whether the costs are excessive.

DOT Response: The Department's Procurement staff will request program managers to provide an analysis of acquisition costs as appropriate. Any apparently excessive costs will be discussed and decided upon before forwarding the contract to the Comptroller's Office for final approval. This analysis will remain documented in the Procurement file.

*
Not

Recommendation 6 was not directed to the Department of Transportation.

Recommendation 7: Recover \$733,183 in excessive interest fees and \$1,561,613 in excessive monthly user fees and buyout fees from M/A-COM.

DOT Response: Since the Office of the State Comptroller (OSC) is leading the State's efforts to recover the reported excess fees, the Department defers to these efforts but remains ready to work with your staff on this issue.

Recommendation 8: Re-evaluate the practice of replacing mobile radios after nine years. Instead, keep the radios in service for their full useful life.

DOT Response: The Department's decision to replace equipment is based on several factors, including estimated remaining useful life, availability of repair parts, and technological advancement of potential replacement equipment. We expect that the SWN's advanced interoperability among emergency responders will likely be a significant factor in the Department's decision to replace its existing mobile radios. The Department will continue to evaluate this and other relevant factors when deciding to replace existing equipment.

* See State Comptroller's Notes p. 61

Recommendation 9: Develop and maintain a statewide plan identifying mobile radio needs.

DOT Response: Prior to purchasing its existing radios in 2002, the Department developed a statewide plan for its radio needs. This plan was shared with your auditors during the course of their audit. Elements of this plan are noted in the report. We will continue to maintain our plan and revisit it as needs change.

*
Not

Recommendation 10: Consider returning the unneeded mobile radios to M/A-COM for refunds.

DOT Response: The Department will re-examine the number of mobile radios under lease. As noted in your report, these radios are being deployed to equipment which the Department has not been able to deploy them to in the past. This deployment is ongoing and will help ensure personal safety of Department staff as well as the traveling public.

*
Not

Recommendation 11: Account for the 303 missing radios.

DOT Response: The Department has located 264 of the 303 radios (87 percent). Based on our understanding of the reported cost savings, this would reduce the dollar value of savings from \$782,000 to \$100,653. The Department will continue its efforts to account for the remaining 39 radios (13 percent).

Recommendation 12: Improve inventory controls over radio communications equipment.

DOT Response: The Department recognized the need for better inventory controls prior to the audit and began pursuing implementation of new software to better track the equipment in February 2004. The Department has since added an inventory tracking module to its *Fleet Anywhere* system, which allows statewide access and update capabilities. All inventory data has been updated in the system and it is currently being used to monitor the Department's radio equipment.

Recommendation 13: Ensure items are not paid for until their receipt has been independently confirmed by a receiving report or other such document.

DOT Response: We agree and have reminded Department staff of this requirement.

Recommendation 14: Evaluate the need for all future maintenance agreements on a case-by-case basis and purchase the agreements only when they can be shown to be cost-beneficial. Evaluate the need for all existing maintenance agreements and terminate those agreements that cannot be shown to be cost-beneficial.

DOT Response: We agree. We will continue to do this in conjunction with the Office for Technology (OFT).

Recommendation 15: If around-the-clock maintenance coverage is needed for base stations in the first year of their leases, negotiate a separate first-year maintenance agreement for the base stations to provide coverage not provided by M/A-COM's warranty on the items.

DOT Response: As noted in our response to Recommendation 1, the Department's next radio equipment purchase is expected to be from OFT's SWN contract(s). We expect that any contracts affiliated with a first year lease will be negotiated by OFT.

* See State Comptroller's Notes p. 61

Recommendation 16: When maintenance agreements are purchased for items, monitor the items to ensure that the required maintenance services are performed on each item.

DOT Response: We agree. The Department's *Fleet Anywhere* software includes a tracking mechanism to determine if preventive maintenance requirements were complied with. This system alerts managers if the required preventive maintenance has not been performed. The Department's Radio Engineer will monitor the preventive maintenance status of radios on a semi-annual basis.

Recommendation 17: Recover \$8,936,673 in monthly maintenance fees.

DOT Response: Since the Office of the State Comptroller is leading the State's efforts to recover the reported excess fees, the Department defers to these efforts but remains ready to work with your staff on this issue.

Sincerely,



Brian O. Rowback
Chief Operating Officer

cc: Jerome Smith, DOB

WAYNE E. BENNETT
SUPERINTENDENT



NEW YORK STATE POLICE
BUILDING 22
1220 WASHINGTON AVE.
ALBANY, N. Y. 12226-2252

November 28, 2005

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Division of State Services
Bureau of State Expenditures
110 State Street – 10th Floor
Albany, New York 12236

Dear Mr. McHugh:

In accordance with your request of September 26, 2005, attached is the Division's response to the Draft Audit Report (2004-BSE-2) addressing the lease, acquisition and maintenance costs incurred by the Division of State Police, Department of Transportation and Department of Correctional Services in their contracts with M/A-COM for radio communications equipment.

Sincerely,

A handwritten signature in black ink that reads 'Wayne E. Bennett'. The signature is written in a cursive style.

Wayne E. Bennett
Superintendent



WAYNE E. BENNETT
SUPERINTENDENT

NEW YORK STATE POLICE
BUILDING 22
1220 WASHINGTON AVE.
ALBANY, N. Y. 12226-2252

November 28, 2005

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Division of State Services
Bureau of State Expenditures
110 State Street – 10th Floor
Albany, New York 12236

Dear Mr. McHugh:

The Division of State Police has reviewed the Office of the State Comptroller's (OSC) draft report regarding the Lease, Acquisition and Maintenance Costs in Contracts with M/A-COM for Radio Communications Equipment (2004-BSE-2).

Our existing contract with M/A-COM is essential to support the operational integrity of our independent public safety radio system until the Statewide Wireless Network (SWN) is fully operational. During the transition to SWN, we will work more closely with the Office for Technology to coordinate the lease and acquisition of equipment, including infrastructure under our contract with M/A-COM.

We offer the following responses to the recommendations addressed to the Division of State Police:

Recommendation #1: **Actively negotiate the interest rates on future equipment leases. As part of the negotiation process, share relevant information with the other two agencies and be aware of other financing options available to State agencies.**

During the transition to the Statewide Wireless Network (SWN), the Office for Technology (OFT) will continue to oversee lease and acquisition of radio equipment, including infrastructure, procured under our contract with M/A-COM under New York State Technology Policy #P03-003. OFT will assist in brokering discussions between the agencies to identify common contract concerns, including interest rates, and when appropriate broker discussions with M/A-COM regarding these common concerns.

Recommendation #2: Recover \$1,697,589 in excessive interest fees and \$1,054,962 in excessive monthly user fees and buy out fees from M/A-COM.

We have requested a meeting with OSC staff to discuss the recovery issue. We stand ready to work with your office with regard to any retroactive recoveries related to the Division of State Police. Prospectively, we concur that buyout options should be exercised as soon as practical upon completion of the 60-month lease term. We will negotiate the lowest buyout fee possible and will document these negotiations. Division Communications and Fiscal Management staff will be responsible for determining that procurements are in compliance with the terms of the contract and are coordinated with OFT during the transition to SWN.

Recommendation #3: Comply with Division of the Budget bulletins and do not finance maintenance fees through lease payments.

We concur that maintenance fees in the first year should not have been amortized as a part of the 60-month lease costs. In the future any maintenance charges incurred will not be included as a component of the monthly lease charges. Any maintenance charges will be paid separately from monthly lease charges. Additionally, as a result of other findings, the Division is re-examining the need to procure first year maintenance, or any maintenance at all based on the actual usage, warranties and repair histories.

Recommendation #4: Routinely evaluate whether it is cost-beneficial to purchase contract items when their lease expires.

Upon completion of the 60-month lease term, we evaluate the need for the contract item. Should the decision be made to buyout the lease, we will exercise our buyout options as soon as practical. We will negotiate the lowest buyout fee possible and will document these negotiations.

Recommendation #5: Ensure fiscal managers with appropriate knowledge, skills and abilities are actively involved in acquisition decisions under the contract and are monitoring acquisition costs on an item-by-item basis to determine whether the costs are excessive.

As a part of our review of the internal controls over this contract, we have undertaken a redesign of the procurement process for this contract. As your review pointed out, the systems we had in place did not exercise proper levels of internal control. All procurements are now co-signed by the managers in the Communications and Fiscal Management sections. Communications will be responsible to determine that appropriate equipment is being procured. Fiscal Management will be responsible for determining that the procurement is in compliance with the terms of the contract and that the appropriate financing mechanism is used for the specific procurement.

Recommendation #14: Evaluate the need for all future maintenance agreements on a case-by-case basis and purchase the agreements only when they can be shown to be cost-beneficial. Evaluate the need for all existing maintenance agreements and terminate these agreements that cannot be shown to be costs beneficial.

We concur with the findings that maintenance plans are not necessary on all equipment. Based on the findings developed in this review, we have already removed all portable radios from maintenance plans. We have initiated a review of our remaining end user and "backbone" or infrastructure equipment to determine what equipment should remain on maintenance plans. However, cost is only one of the factors

considered when determining the value of a maintenance contract. Our experience has shown that customers with maintenance contracts receive priority repair service over those customers without. Given the critical nature of certain communications components, an expedited response to restore service is required to ensure officer safety and provide service to the public. We agree to conduct a balanced evaluation and analysis of any remaining maintenance agreements to ensure that the appropriate level of service to be provided is received.

Recommendation #15: If round-the-clock maintenance coverage is needed for base stations in the first-year of their leases, negotiate a separate first-year maintenance agreement for the base stations to provide coverage not provided by M/A-COM's warranty on these items.

The Division Communications Section will evaluate the terms of the manufacturer's warranty for a piece of equipment against the operational necessity of that component. Based on this evaluation, a determination will be made as to whether a separate first year maintenance agreement is required and terms of a separate maintenance agreement will be negotiated.

Recommendation #16: When maintenance agreements are purchased for items, monitor the items to ensure that the required maintenance services are performed on each item.

Division Communications Section will be developing preventive maintenance schedules for communications equipment and will monitor Troop compliance with these schedules. Troop Communications sections will be reminded to enter all preventive maintenance activity into the existing Communications Equipment Inventory (CEI) and to keep Division Communications informed as to maintenance work done outside of maintenance contracts.

Recommendation #17: Recover \$8,936,673 in monthly maintenance fees.

We have requested a meeting with OSC staff to discuss the recovery issue. We stand ready to work with your office with regard to any retroactive recoveries related to the Division of State Police (\$3,413,189).

Recommendation #18: Make fiscal staff responsible for verifying the accuracy of M/A-COM's invoices, and ensure that the staff have the knowledge, skills and abilities that are needed to perform this task effectively.

It is our opinion that these overpayments were as a result of the practice of having our Communications section verifying monthly invoices. We recognize that this practice not only had staff that were not properly trained to audit the monthly invoices, it violated a basic tenant of good internal control, the segregation of duties.

We have trained appropriate staff in Fiscal Management in the audit of these invoices. We have also worked with M/A-COM to correct and revise an overly complicated monthly invoice. The previous version was not conducive to conducting an appropriate pre-audit. M/A-COM has developed an electronic version of the invoice to accompany the regular paper invoice, which will allow for a more complete pre-audit of the monthly invoice. This new invoice includes the segregation of monthly lease fees, user fees and maintenance fees so that billing anomalies are more easily identified and verified and if necessary, corrected.

Recommendation #19: Recover \$592,703 in overcharges.

With regard to your finding on Double Maintenance (\$158,462), we have already received \$69,637.12 in overcharges from M/A-COM and are seeking an additional \$90,924.41 for a total of \$160,561.53 in recoveries for overcharges on maintenance. We have requested a meeting with OSC staff to discuss the recovery issue. We stand ready to work with your office with regard to any additional retroactive recoveries for Improper Maintenance Escalations (\$340,908), and Inflated User Fees (\$93,334) related to the Division of State Police.

Thank you for the opportunity to comment on these audit findings.

Sincerely,

A handwritten signature in black ink that reads "William J. Callahan". The signature is written in a cursive style with a large, stylized initial "W".

William J. Callahan
Administrative Officer



GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

November 28, 2005

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Division State Services
Bureau of State Expenditures
110 State Street - 10th Floor
Albany, New York 12236

**Re: Draft Audit of Lease, Acquisition and
Maintenance Costs in Contracts with
M/A-COM for Radio Communications
Equipment, Report 2004-BSE-2**

Dear Mr. McHugh:

In accordance with Section 170 of the Executive Law and in response to your correspondence of September 26, 2005, attached is the Department's reply to the Draft Audit of Lease, Acquisition and Maintenance Costs in Contracts with M/A-COM for Radio Communications Equipment, Report 2004-BSE-2.

We have complied with the provisions of the Budget Policy and Reporting Manual, Item B-410 by forwarding two copies of this response to the Division of the Budget on November 28, 2005.

God Bless America

Glenn S. Goord
Commissioner

Attachment



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

GLENN S. GOORD
COMMISSIONER

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

November 25, 2005

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Division State Services
Bureau of State Expenditures
110 State Street -10th Floor
Albany, New York 12236

RE: Lease, Acquisition and Maintenance
Costs in Contracts with M/A-COM for
Radio Communications Equipment
Report, 2004-BSE-2

Dear Mr. McHugh:

The Department of Correctional Services (DOCS) has reviewed the Office of the State Comptroller's (OSC) draft audit report regarding the Lease, Acquisition and Maintenance Costs in Contracts with M/A-COM for Radio Communications Equipment (Report 2004-BSE-2).

During the next five years, the Department of Correctional Services' radio communications equipment will be transitioned to the Statewide Wireless Network (SWN).

It is our understanding that during the transition period, the Office for Technology will oversee the lease and acquisition of radio equipment as well as oversee on-going maintenance under the existing contract to ensure central coordination. The Office for Technology will also be the lead agency regarding contract concerns and agency specific requirements.

With the above in mind, we offer the following responses to the recommendations outlined in the audit:

Recommendation 1:

Actively negotiate the interest rates on future equipment leases. As part of the negotiation process, share relevant information with the other two agencies and be aware of other financing options available to State agencies.

Response:

DOCS staff have been made aware of alternative financing options. We will work with staff from Office of the State Comptroller, Office for Technology and the Office of General Services to ensure that the most effective rate is utilized. Department staff have met with both State Police and Transportation officials to share information.

Recommendation 6:

Reevaluate the practice of replacing portable radios after five years. Instead, keep the radios in service for their useful life.

Response:

The Department will conduct a reevaluation of our practice of replacing portable radios every 5 years. Our Product Evaluation Committee met on November 7, 2005 to discuss this recommendation. The auditors' findings, as well as our experience with the reliability of the radios, will be taken into account in determining the turnover rate.

Recommendation 14:

Evaluate the need for all future maintenance agreements on a case-by-case basis and purchase the agreements only when they can be shown to be cost-beneficial. Evaluate the need for all existing maintenance agreements and terminate those agreements that cannot be shown to be cost-beneficial.

Response:

We have established a database of all systems to better allow evaluation and/or need for existing maintenance agreements. We will work closely with the Office for Technology to ensure that our contracts conform to specific requirements established by them.

Recommendation 15:

If around-the-clock maintenance coverage is needed for base stations in the first year of their leases, negotiate a separate first-year maintenance agreement for the base stations to provide coverage not provided by M/A-COM's warranty on items.

Response:

The Product Evaluation Committee will evaluate and make a recommendation for the need for around-the-clock maintenance coverage for base stations in the first year of their leases to provide coverage not provided by M/A-COM's warranty on items. We will work in conjunction with Office for Technology to ensure compliance with specific contract requirements.

Recommendation 16:

When maintenance agreements are purchased for items, monitor the items to ensure that the required maintenance services are performed on each item.

Response:

We have established a monitoring system to ensure that required maintenance services are performed on each item.

Recommendation 17:

Recover \$8,936,673 (\$3,682,184 DOCS' share) in monthly maintenance fees.

Response:

We will work with the other audited agencies and your agency staff to recover DOCS' share (\$3,682,184) of the \$8,936,673 identified by the auditors for maintenance services that were not provided. On October 21, 2005, we requested a meeting with OSC staff to discuss the recovery issue.

Thank you for the opportunity to comment on these audit findings.

Sincerely,



Lucien J. Leclaire, Jr.
Deputy Commissioner

cc: Charles M. Devane, Deputy Commissioner
Joseph S. Ostrowidzki, Assistant Commissioner

State Comptroller's Notes

1. In an e-mail from the current Radio Engineer dated December 3, 2004, he represented to the auditors that the dates in the initial spreadsheet were shipping dates. He subsequently retracted his representation after the auditors discussed findings based on this spreadsheet and after he subsequently consulted with M/A-COM. While we could argue that the evidence he produced supporting only two of the 4,400 radios were installed prior to the initial spreadsheet dates is insufficient to draw an overall conclusion that all the dates are inaccurate, we nevertheless removed all information in the report regarding the original spreadsheet. The finding remains that Transportation doesn't have sufficient, competent, relevant evidence to confirm all 4,400 radios were received prior to the initial billing dates.
2. We caution Transportation managers on assigning the task of analyzing equipment acquisition costs to program staff, as they are typically not appropriately trained in finance matters. The role of program staff should be to identify the type and quantity of equipment that best suits agency's needs. Transportation should consider assigning the task of analyzing acquisition costs of the equipment to finance staff with sufficient knowledge, skills and abilities to perform this analysis.
3. Transportation representatives were steadfast in identifying three sets of documents as their Statewide plan to support the lease of 4,400 radios. We removed language in the report citing Transportation's lack of a Statewide plan and added language addressing the plan and its shortcomings.
4. As stated in the report, we question the logic behind paying monthly lease and maintenance fees on mobile radios while they sit in storage for three years prior to installing them in equipment that normally doesn't have mobile radios. Further, since Transportation has not used them for three years, we question whether they actually needed these radios.