



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Review of Real Property Holdings for Disposal

Department of Transportation



Report 2010-S-48

March 2012

Executive Summary

Purpose

To determine whether the Department of Transportation (Department) periodically reviews its real property so it can establish the need to either hold or dispose of properties. We also determined whether the Department disposes of real property on terms beneficial to the State. The audit covers the period April 2005 - August 2010.

Background

The Department is responsible for more than 113,000 miles of highways and tens of thousands of acres of property throughout the State. This includes property currently not being used and land purchased for specific projects which were later cancelled or changed. The Department's Real Estate Right of Way Manual (Manual) indicated that continued ownership of unused property adds to the Department's maintenance and management responsibilities and consumes valuable resources. The Manual also indicates retaining unneeded property deprives communities of real property tax revenue and prevents possible property development opportunities to enhance local economies.

Key Findings

- The Department does not comprehensively review its real property holdings to identify properties for sale or disposal.
- Our review of 110 sampled potentially surplus properties found that 18 with an estimated value of \$7.1 million may no longer be necessary for transportation purposes and could possibly be disposed of or sold to generate revenue for the State. The most recent assessments for the need of these properties were done between 1984 and 2005.
- The Department disposes of the properties we tested in a matter beneficial to the State. However, when the Department leases out its property, it may not maximize revenue because it does not review property permit fees on a regular basis.

Key Recommendations

- Regularly review real property holdings to determine whether they should be surplus and disposed of.
- Monitor compliance with Department procedures to review permits and update them as appropriate.

Other Related Audits/Reports of Interest

[Metropolitan Transportation Authority: Real Estate Portfolio 2009-S-10](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

March 5, 2012

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

Dear Commissioner McDonald:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Department of Transportation's *Review of Real Property Holdings for Disposal*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

Table of Contents

Background	4
Audit Findings and Recommendations	5
Review of Property Holdings for Disposal	5
Recommendations	6
Disposal of Surplus Property	6
Recommendation	7
Audit Scope and Methodology	7
Authority	8
Reporting Requirements	8
Contributors to this Report	9
Agency Comments	10
State Comptroller's Comments	13

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This report is also available on our website at: www.osc.state.ny.us

Background

The Department of Transportation (Department) oversees the State's highway, rail, air, port and ferry transportation systems. The Department is responsible for more than 113,000 miles of highways and tens of thousands of acres of property throughout the State. Property holdings consist of:

- property that is being used by the Department for transportation purposes such as highways, bridges and park and ride lots;
- excess property – property not currently being used but is being held for future transportation use. Excess property is also considered potentially surplus property; and
- surplus property – property the Department does not need and can be sold. These properties include land the Department purchased for specific projects which were later cancelled or changed.

Department policies pertaining to the proper maintenance, management and disposal of property are specified in the Real Estate Right of Way Manual (Manual). According to the Manual, continued ownership of excess property adds to the Department's maintenance and management responsibilities and consumes valuable resources. This document also indicates retaining unneeded property deprives communities of real property tax revenue and prevents possible property development opportunities to enhance local economies. Therefore, the Manual states regions should identify any real property holdings no longer needed for transportation purposes for potential sale. The Department's Property Executive Review Group must review properties identified for disposition and formally recommend them as surplus before they can be sold.

The Department generally sells its surplus property through public auctions, sealed bids, or through private sales. If Federal funds were used for the original acquisition, a portion of the sale funds are returned to the Federal government when the property is sold. A property could also be transferred to another State agency or municipality for public benefit such as a park. In some instances, the Department issues leases or permits for the use of land it does not use.

The disposition of surplus property is affected by when it was acquired. Prior to 1944, land for State highway purposes was acquired by the counties on behalf of the State. If the Department wants to dispose of this land, it is returned to the county. State Highway Law stipulates that the Department can dispose of property acquired after 1944 provided it's on terms beneficial to the State.

The Department has eleven regional offices throughout the State. Historically, the regional offices tracked their own surplus properties in a property database which could not be accessed by the main office. In 2008, the Department began implementing a new electronic property management system called Sesame. According to Department officials, Sesame was created to standardize surplus property record-keeping by merging the different databases used by the regions, and make the information accessible to the main office. The Department expected Sesame to be fully operational by Fall 2011.

Audit Findings and Recommendations

Review of Property Holdings for Disposal

One of the Department's goals is to identify land parcels which may be excess to the State's transportation needs in a systematic and cost effective manner. The regions are required to determine whether there is excess property that could potentially be disposed of upon completion of a construction project and upon inquiry from an outside party. The regions can also review their inventory of excess parcels for properties to dispose of. The Department does identify and dispose of some surplus properties. However, we found the Department does not comprehensively review its real property holdings to identify properties for sale or disposal.

We selected a judgmental sample of 110 potentially surplus properties from property records in five regions and found 92 properties were being held by the Department for reasons such as being used for current projects or because they had permits in place. We found the remaining 18 properties with an estimated value of \$7.1 million may no longer be necessary for transportation purposes and could potentially be disposed of or sold to generate revenue for the State. Therefore, the Department may be missing opportunities to generate additional revenues. Regional records show the most recent assessments of these properties by regional staff were done between 1984 and 2005. Department officials claimed some of the 18 properties were still considered active, some were properties where the State would not receive money since sale proceeds would go to the Federal government, and others would revert back to counties. Department officials did not provide us with documentation to support these claims. However, this practice of holding such properties is not consistent with the Department policies which indicate there is a cost to hold unused property.

Department officials also maintain that reviewing the status of properties could be time-consuming and they have limited resources. However, we believe the Department could take steps to streamline the review process to identify properties with the highest potential for sale. To do so, the regions need access to user-friendly real estate information systems that contain critical facts for each property. For example, factors that would inhibit the Department from selling the property such as environmental hazards, clearance to fixed objects, and highway drainage. Additionally, when a region identifies a potentially surplus property, according to the Manual it should determine if the projected costs of reviewing, mapping and appraising it exceeds the projected value of the parcel.

We found that the Department's real estate information systems do not allow regions to readily assess the potential cost benefit of selling specific parcels without researching manual property files. For example, we reviewed the property system listings for 817 of the 1,096 excess properties. Of these, we found 494 did not show property values (60 percent). Therefore, regional offices and Department management could not see which of the properties had the highest value to assist in prioritizing properties to target for review. In the absence of a system allowing them to easily identify excess properties with the highest potential for sale, regional managers told us it is too labor intensive to review all property holdings. So, they generally only review whether a specific

property is surplus when they receive an outside inquiry.

In the fall of 2011, the Department's new property database system called Sesame is expected to be fully implemented. However, we noted that Sesame does not contain some information that can be used to target properties with the highest potential for sale for review. For instance, Sesame should include information such as whether a property is in use, the date of its last review, why it wasn't declared surplus on the last review, the cost of maintaining and managing the property, and the estimated value of the property. Regional offices should also be able to use Sesame to access parcel maps. However, during our review of the program, it was not easy to link to a property's location. By improving its property systems, the Department will be better able to use their limited resources to make informed decisions about its property holdings. Once such improvements are accomplished, the Department should require the regions to monitor the completeness and accuracy of Sesame and use it to identify properties to review.

Another way to help determine the excess properties with the best potential for sale is to inform as many potential buyers about them as possible. While regional offices circulate information about excess properties that received inquiries to State agencies, local municipalities and elected officials in certain circumstances, it is not done for all excess properties. We reviewed how other states alerted potential buyers about surplus properties and found there were several methods that the Department could further investigate for its own use. For example, New Jersey's Department of Transportation annually reports to the state's governor and legislature on the property it holds for transportation projects that are not under construction. Other states, such as California and Florida, have centralized land management offices which annually report all available surplus property to their governor and legislature. If the Department did something similar and publicly reported unused properties, it could potentially increase the amount of inquiries about such properties and sales. We note that the Department's Western Region is developing a web page to list surplus properties in the future.

Recommendations

1. Evaluate and document whether the 18 properties cited in the audit should be marketed for sale or otherwise disposed of.
2. Modify Sesame to include essential information such as value, usage, and restrictions, and periodically review the information to prioritize properties that potentially could be surplus for review and potential disposal.
3. Require the regions to regularly review real property holdings to determine whether they should be surplus and disposed of.
4. Develop and implement methods to inform the public and potential buyers about excess property available for sales inquiries.

Disposal of Surplus Property

According to Department records, 118 properties were disposed of for approximately \$5.4 million from April 1, 2005 through August 25, 2010. We reviewed a sample of 57 of the 118, and found

the Department disposed of them in compliance with the law.

In certain instances, the Department cannot sell property, even though it is not being used for transportation purposes. For example, a parcel of land required to access bridges for maintenance and repair. However, it can issue permits or leases for these properties for revenue. During our review of the 100 properties for which the Department issued permits we found that it was not reviewing the permit fees for these properties on a regular basis. As a result, the Department could be missing an opportunity to receive even more revenue from these properties.

The Manual states that regional offices should review permit fees on a regular basis; permits for \$2,400 per year or less should be reviewed and updated at least every five years; and permits for more than \$2,400 per year should be reviewed and updated at least every two years. We found that regional offices did not review and update the permit fees for 51 of the 100 permits on time. The lapse between permit fee reviews ranged from over 2 years up to 23 years, including ten permits that did not have any fee valuations on file. By not reviewing the permit fees on time, the Department may not be maximizing its revenue from them.

Recommendation

5. Monitor compliance with Department procedures to review permits and update them as appropriate.

Audit Scope and Methodology

We audited the Department's efforts to identify and dispose of surplus property during the period April 1, 2005 through April 19, 2011. To accomplish our objectives, we reviewed applicable laws and the Department's policies and procedures, interviewed Department officials, and visited five regional offices (Western, Capital District, Hudson Valley, Long Island, and New York City) to understand their practices for identifying and selling surplus properties. In addition, we reviewed the Department's plans for its property management system and analyzed data from this system. We also researched other states' methods for identifying and selling surplus property to compare practices.

To determine whether the Department reviews its real property to establish the need to either hold or dispose of properties, we judgmentally selected 110 of the 1,096 excess properties at the regions we visited. Our selection was based on property value and description. We also reviewed a judgmental sample of 100 out of 1,697 properties with current permits at four regions (Western, Capital District, Hudson Valley, and New York City) to determine whether the properties could potentially be surplus. Our sample was selected based on value, property location, and description. We reviewed Office of Right-of-Way property files, property database information, parcel maps, and records to assess the Department's marketing efforts.

To test whether regions disposed of properties on terms beneficial to the State, we reviewed

records for 57 of the 118 surplus property sales from April 1, 2005 through November 18, 2010 at four regions (Western, Capital District, Hudson Valley, and New York City). We also reviewed the permit sample to determine whether the regions periodically updated the permit fees according to Department requirements.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

Reporting Requirements

A draft copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety to the end of this report. State Comptroller's comments to the Department's response are also attached at the end of this report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Transportation shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to this Report

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Vision

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

Agency Comments



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
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JOAN McDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

January 12, 2012

Ms. Carmen Maldonado
Office of the State Comptroller
Division of State Government Accountability
123 William Street - 21st Floor
New York, NY 10038

Re: Draft Report 2010-S-48 – Review of
Real Property Holdings for Disposal

Dear Ms. Maldonado:

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

RECOMMENDATIONS

Recommendation 1: Evaluate and document whether the 18 properties cited in the audit should be marketed for sale or otherwise disposed of.

Response: NYSDOT agrees with this recommendation. An initial evaluation of these 18 properties indicated that some are still needed for transportation purposes and/or should not be marketed for sale. NYSDOT is in the process of documenting these evaluations.

Recommendation 2: Modify Sesame to include essential information such as value, usage, and restrictions, and periodically review the information to prioritize properties that potentially could be surplus for review and potential disposal.

Response: NYSDOT partially agrees with this recommendation. Currently, Sesame has the functionality regarding this information and so does not require modification. For example, Sesame has a tab titled "Value" and a tab titled "Other" and there is a "Value/Appraisal" field for each of these tabs. In addition, there are flexible-use text fields that can be used to aggregate information, such as usage and restrictions. NYSDOT agrees that it is beneficial to periodically review excess properties that potentially could be surplus for review and potential disposal. As required by NYSDOT policy, Regional Property Managers are reviewing excess property holdings. Regional Property Managers will use Sesame to prioritize properties subject to these reviews and the Office of Right of Way will ensure that excess property reviews are included in the scope of its next annual Quality Assurance Review plans.

Ms. Carmen Maldonado
January 12, 2012
Page 2

Recommendation 3: Require the regions to regularly review real property holdings to determine whether they should be surplus and disposed of.

Response: NYSDOT agrees with this recommendation. The Office of Right of Way will be updating MAP procedure 7.8-5-1, *Disposal of Surplus Real Estate*, to require regular reviews of property holdings to determine which should be marketed for sale.

Recommendation 4: Develop and implement methods to inform the public and potential buyers about excess property available for sales inquiries.

Response: NYSDOT agrees with this recommendation. NYSDOT will be working with other State agencies to improve communication of information regarding the sale of surplus property, including potential centralized publication of State-owned property available for sales inquiry by the public and potential buyers.

Recommendation 5: Monitor compliance with Department procedures to review permits and update them as appropriate.

Response: NYSDOT agrees with this recommendation. The Office of Right of Way conducts cyclic Quality Assurance Reviews (QARs). FHWA is invited to participate on these QARs and frequently joins with NYSDOT in performing these reviews. The last permit-related QAR in 2010 examined the collection of permit revenues. NYSDOT intends to modify the scope of the next permit-related QAR to also examine the adequacy of the permit fees being charged.

REPORT COMMENTS

Executive Summary, Page 7, Paragraph 3 and Page 13, Paragraph 2: The draft report states: "...18 properties with an estimated value of \$7.1 million were not used for transportation purposes." This statement could be misinterpreted to mean NYSDOT has acquired property for nontransportation uses; therefore, NYSDOT recommends changing "were not used" to "are no longer needed for transportation purposes."

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Comment
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Secondly, the report states that all 18 properties "...could potentially be surplus and disposed of or sold to generate revenue for the State." NYSDOT has provided documentation to OSC that shows some of these properties are for active transportation projects or are properties that are being held for public use. For example, two of these 18 properties (totaling approximately \$3 million of the \$7.1 million) were acquired in anticipation of making operational improvements to the Nassau Expressway (NYS Route 878). On February 16, 2007, OSC approved contract #D025025, Supplemental Agreement No. 1, between NYSDOT and Vollmer Associates LLP (Vollmer) for 2006-2010 design services for Nassau Expressway operational improvements. Stantec Consulting Services Inc., which acquired Vollmer in April 2007, issued its *Project Scoping Report* regarding these improvements on October 5, 2011. Since these two parcels are still part of an active transportation project corridor, NYSDOT recommends removing these two properties and their respective values from the final OSC report.

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Comment
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* See State Comptroller's Comments on page 13

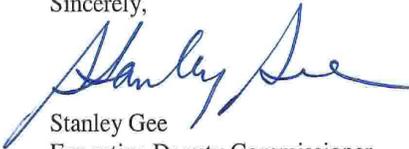
Ms. Carmen Maldonado
January 12, 2012
Page 3

Page 9, Paragraph 2: NYSDOT suggests clarifying the roles of the Property Executive Review Group (PERG) and the Commissioner stated in the draft report. PERG declares property as surplus on behalf of the Commissioner. The Commissioner reserves the right to accept, modify or reject a PERG decision. If the surplus property is being disposed of, PERG recommends the manner of disposition via resolution. Additionally, NYSDOT recommends removing the sentence, "The Commissioner approves or disapproves PERG recommendations for any private sales exceeding \$10,000." While this text appears in the *Disposal of Surplus Real Estate* procedure, NYSDOT's Official Order 1681 (which delegates authority to the Property Executive Review Group) does not include this requirement and supersedes this procedure. NYSDOT will update the procedure.

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Comment
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Should you need additional information, please contact Bruce Davis, Acting Director, Office of Right of Way, at (518) 457-2761.

Sincerely,



Stanley Gee
Executive Deputy Commissioner

* See State Comptroller's Comments on page 13.

State Comptroller's Comments

1. We revised the report to reflect information provided in the Department's response.
2. The two parcels mentioned in the audit are not related to the project cited in the Department's response. Rather, the parcels mentioned in the audit are about five miles away from the project cited in the Department's response. For the third parcel, the documents provided showed that the parcel was going to auction in 2000, but was removed from the auction after a county requested it for use as a park. The documents also indicate that the Department wanted to transfer the parcel to the county at no cost. Although the county has not accepted and acted on the offer in over 11 years, the Department continues to hold the parcel for this purpose. We maintain our position these three parcels should continue as potentially surplus.