



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

H. CARL MCCALL
STATE COMPTROLLER

November 15, 1995

Michael D. Zagata
Commissioner
Department of Environmental Conservation
50 Wolf Road
Albany, NY 12223

Re: Tyree Brothers Environmental
Services, Inc.
Report 93-R-6

Dear Mr. Zagata:

Pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law, we audited the books and records of Tyree Brothers Environmental Services, Inc. (Tyree), for the period April 1, 1989 through August 31, 1992. Our audit related to reimbursements claimed by Tyree under contracts D-100094 and D-100218 awarded by the New York State Department of Environmental Conservation (DEC).

The objectives of our financial-related audit were to determine whether costs claimed by Tyree were allowable, documented adequately, and incurred for services funded under the contractual agreements being audited. To accomplish these objectives, we reviewed the contractual agreements, Tyree's books and records of expenditures, internal controls over charges to the contracts, and compliance with contractual terms.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of Tyree that are included within our audit scope. Further, these standards require that we review and report on Tyree's internal control structure and its compliance with those laws, rules and regulations that are relevant to Tyree's operations that are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

In planning and performing our audit procedures, we considered Tyree's internal control structure. Our consideration was limited to a preliminary review of this structure that would enable us to understand the control environment and how transactions flowed through the accounting system and other systems supporting the billings. Because we did not intend to rely on the internal control structure in performing our work, our assessment did not extend beyond the preliminary review phase. Instead, we appropriately extended our substantive audit tests.

In conducting our audit, we performed tests of Tyree's compliance with certain terms of the contracts. Our objective in performing these tests was not to provide an opinion on Tyree's overall compliance with such provisions, but to obtain reasonable assurance about the allowability of amounts Tyree received from DEC.

The results of our tests indicated that, with respect to the items tested, Tyree complied in all material respects with the provisions referred to in the preceding paragraph, except as noted in Section B of this report. With respect to the items not tested, nothing came to our attention that caused us to believe that Tyree had not complied, in all material respects, with those provisions.

A. Background and Contract Terms

Tyree, located in Farmingdale, Long Island, was incorporated in 1986. The company provides environmental services, primarily for the petroleum industry, including environmental testing and cleanup, and related services. Tyree's reported annual income from services is about \$12.6 million. Most of its DEC-supported activities are related to oil spills, such as the investigation, cleanup and disposal of the collected oil, debris, and other contaminated materials.

DEC awards its oil-spill cleanup contracts to several contractors in each of DEC's nine regions throughout the State. Because of the nature of work, contractors are required to be on a standby basis and able to respond with emergency service on very short notice, 24 hours a day. According to its contracts with DEC, Tyree's reimbursement was to be based on specific rates per staff position for each hour of direct service provided. The contracts also provided for reimbursement for nonlabor costs, such as equipment and materials.

B. Results of Audit

We determined that a \$156,128 refund is due to DEC from the \$2,010,432 paid to Tyree during the period April 1, 1989 through August 31, 1992 under the two contracts audited, primarily because Tyree claimed labor and equipment hours and rates which are in excess of the amounts documented in its records.

During the period April 1, 1989 through August 31, 1992, DEC processed Tyree claims under contracts D-100094 and D-100218 totaling over \$2 million. We requested support from Tyree for the 96 largest dollar claims (vouchers) for which they received payments from DEC

totaling more than \$1.34 million. Our audit of these 96 claims found that Tyree overbilled DEC \$158,776, as follows (details of the vouchers we audited and our disallowances on each were provided to Tyree officials during our audit):

<u>Contract</u>	<u>Claimed</u>	<u>Audited</u>	<u>Disallowed</u>
D-100218	\$1,224,940	\$ 750,560	\$ 83,792
D-100094	<u>785,492</u>	<u>592,696</u>	<u>74,984</u>
Total	<u>\$2,010,432</u>	<u>\$1,343,256</u>	<u>\$158,776</u>

Subsequent to our examination, Tyree submitted additional documentation to DEC claiming undercharges on invoices for the above contracts. DEC officials reviewed Tyree's submission and determined that an additional \$2,648 was allowable. We have adjusted the recommended refund due to DEC by that amount. DEC officials are in agreement with our audit results.

Recommendation

Obtain a refund of \$156,128 (\$158,776 less \$2,648) from Tyree.

We would appreciate receiving within 30 days your response to the recommendation made in this report, indicating any actions planned or taken to implement it.

We want to thank the management and staff of the Tyree Brothers Environmental Services, Inc., and the Department of Environmental Conservation for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,



Robert H. Attmore
Deputy Comptroller

cc: Patricia A. Woodworth
James N. Totaro
Richard A. Kuthy