



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232
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STANLEY GEE
ACTING COMMISSIONER

DAVID A. PATERSON
GOVERNOR

September 29, 2010

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

Re: 90-Day Response to Audit Report 2009-S-14
Oversight of Revenue Contracts and Fees

Dear Ms. Maldonado:

As required by Section 170 of the Executive Law, the New York State Department of Transportation (NYSDOT) offers the following 90-day update on actions taken to implement the Oversight of Revenue Contract Fee's audit recommendations:

Recommendation 1: *Assess fees charged to ensure they are sufficient to cover the Department's cost to maintain facilities such as increasing the Signal Maintenance Fee.*

Draft Report Response: We agree with the recommendation. The Office of Traffic Safety and Mobility will pursue the implementation of a regulation to increase the annual signal maintenance fee to align with the actual costs of maintaining the permit signals.

90-Day Update: The Governor's Executive Order 17 (EO 17), *Establishing Measures to Evaluate Costs of Mandates on Local Government to Advance Property Tax Relief*, requires that any State agency submitting a regulation that may impact a local government shall include with its submission an accounting of the impact on local governments. Since an increase in annual traffic signal maintenance fees will impact local governments, NYSDOT is required to, and has begun, performing this analysis.

Recommendation 2: *Clarify instructions and train staff for permit inspection billings. Collect the approximately \$184,200 we identified that was due from these permits for our audit period.*

Draft Report Response: We agree with the first part of the recommendation. The Office of Traffic Safety and Mobility will be incorporating new guidance into the NYSDOT's Manual of Administrative Procedures by the end of August 2010. We will investigate and resolve the discrepancy in our guidance relative to the maximum duration of inspection services performed before billing the permittee. We will also reinforce the guidance via a separate issuance.

While we agree with the intent of the second part of the recommendation, it is not feasible for the NYSDOT to implement it. The \$184,200 referenced in the recommendation is an estimate that was based on the number and type of permits and an average number of inspection hours per permit. Since this calculated average is not reflective of actual inspection hours incurred on each permit, billing for this average fee would result in under-billing or over-billing of individual permit holders depending on the actual number of inspection hours incurred.

90-Day Update: NYSDOT staff researched the inconsistency in NYSDOT guidance and has begun revising the Manual of Administrative Procedures Code 7.12-2, *Issuance of All Highway Work Permits and Inspection of Non-Major Highway Work Permits*. The new guidance will clarify that inspection hours are only to be billed when they exceed four hours. NYSDOT will also revise Forms FIN12, *Cost Record for Department Services Permit Inspection*, and PERM 50, *Inspection Payment Agreement for Highway Work Permit*, to eliminate confusion over the four-hour and one-hour references noted in the audit. Staff expects to implement the revisions and issue separate guidance this fall.

Recommendation 3: *Assess all revenue formally, including the fees and the contracts noted in this report, to determine whether they are being properly monitored, billed and collected, and determine whether potential revenue is being maximized from these fees.*

Draft Report Response: We agree with the recommendation. When a potential for maximizing a reasonable return exists, program area staff will review and assess fees as time permits. The Accounting Bureau will continue to work with the NYSDOT's program areas to assist them in this endeavor. An example of this was the review of the billing methodology used by the Rail Safety Section for the calculation of the Rail Safety Fee. The collections of indirect costs were identified as missing and procedures were put in place to rectify this oversight. These indirect costs will be included in all future Rail Safety Fees billed by the NYSDOT.

90-Day Update: The Accounting Bureau will continue to work with program areas to assist them. The last Rail Safety Fees billed by NYSDOT in August 2010 included indirect costs.

Recommendation 4: *Develop procedures for billing and monitoring payments for Industrial Access Program contracts. Procedures should include, but not be limited to, ensuring the log accurately reflects all payments.*

Draft Report Response: We agree with the recommendation. The Accounting Bureau expects to have draft procedures developed for the Industrial Access Program (IAP) billings and collections by the end of April 2010. In addition, we anticipate that all active IAP contracts will be entered into our automated billing software (AccPac) by the end of April 2010 as well. This will ensure timely and accurate billings based on the schedule of payment dates in each contract. Checks received will also be recorded in this database which is able to produce accurate billing and receipt information.

90-Day Update: Procedures have been written for the IAP billings and collections. All active IAP contracts and their respective billing dates are set up in NYSDOT's AccPac system, where all billings and collections are recorded. This ensures an accurate record of each invoice produced and the related payment received.

Should you need additional information, please contact Michael J. Fazioli, Director of Accounting, at 518-457-9767.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Gee", is written over the typed name and title.

Stanley Gee
Acting Commissioner

cc: Honorable David A. Paterson, Governor of the State of New York
Honorable Thomas P. DiNapoli, State Comptroller
Honorable Malcolm A. Smith, President Pro Tempore
Honorable Pedro Espada Jr., Senate Majority Leader
Honorable Dean G. Skelos, Senate Minority Leader
Honorable Sheldon Silver, Assembly Speaker
Honorable Ronald Canestrari, Assembly Majority Leader
Honorable Brian M. Kolb, Assembly Minority Leader
Honorable Carl Kruger, Chairman, Senate Finance Committee
Honorable John A. Defrancisco, Ranking Minority Member, Senate Finance Committee
Honorable Herman D. Farrell, Jr., Chairman, Assembly Ways and Means Committee
Honorable James Hayes, Ranking Minority Member, Assembly Ways and Means Committee
Ms. Joan Millman, Executive Director, Assembly Committee on Oversight, Analysis and Investigation
Mr. Michael Novakowski, Division of the Budget