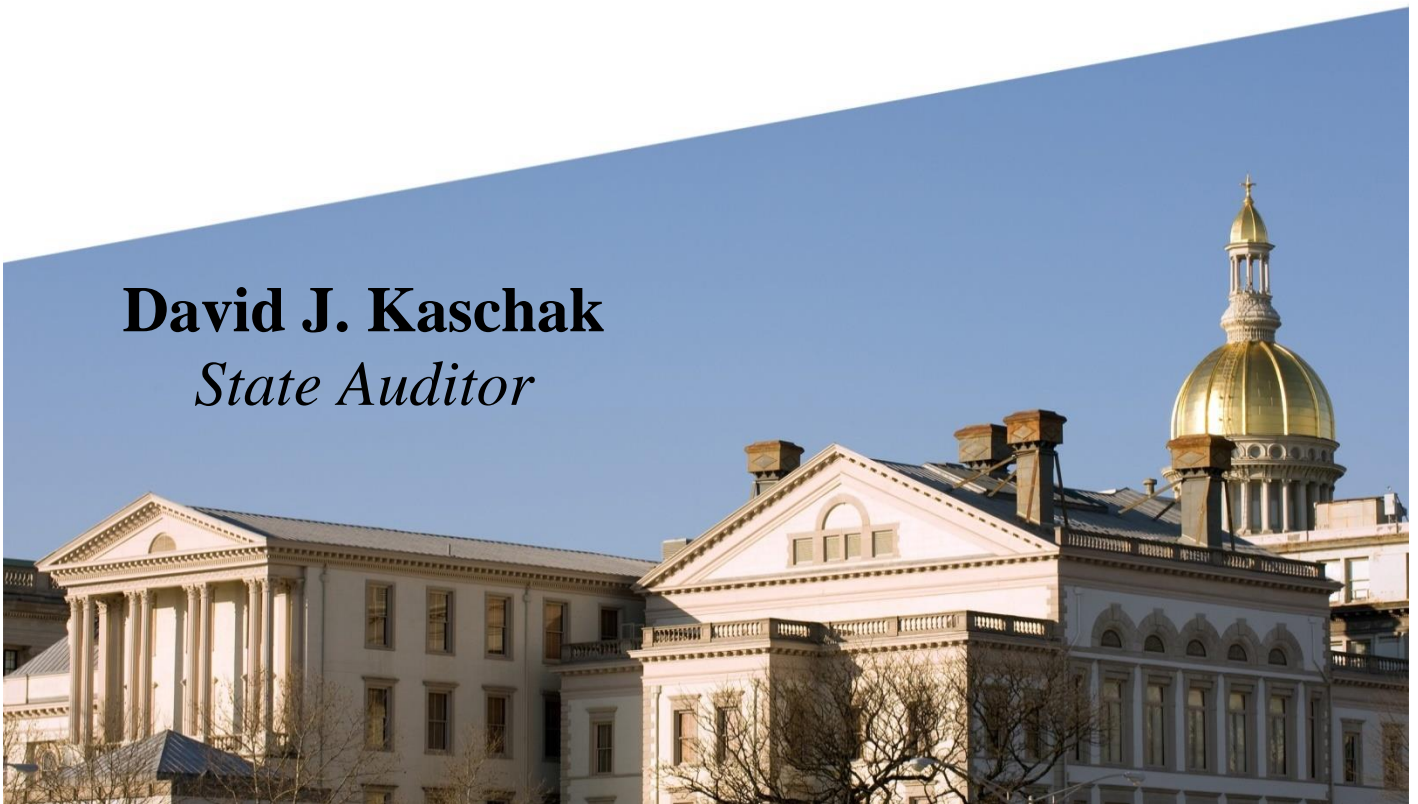


New Jersey Legislature
★ *Office of* LEGISLATIVE SERVICES ★
OFFICE OF THE STATE AUDITOR

Department of Environmental Protection
Hazardous Discharge Funds

July 1, 2016 to June 30, 2021

David J. Kaschak
State Auditor



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The Honorable Nicholas P. Scutari
President of the Senate

The Honorable Craig J. Coughlin
Speaker of the General Assembly

Ms. Maureen McMahon
Executive Director
Office of Legislative Services

Enclosed is our report on the audit of the Department of Environmental Protection, Hazardous Discharge Funds for the period of July 1, 2016 to June 30, 2021. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature in cursive script that reads "David J. Kaschak".

David J. Kaschak
State Auditor
January 18, 2023

Table of Contents

Scope.....	1
Objectives	1
Methodology	1
Data Reliability	2
Conclusions.....	2
Background.....	2
Findings and Recommendations	
Uncollected Debt	4
Appendix	
Methodologies to Achieve Audit Objectives	6
Auditee Response.....	7

Scope

We have completed an audit of the Department of Environmental Protection (department), hazardous discharge funds (funds) for the period of July 1, 2016 to June 30, 2021. Our audit included expenditures of the Hazardous Discharge Site Cleanup Fund, Hazardous Discharge Fund of 1986, 1996 Environmental Cleanup Fund, and the Hazardous Discharge Fund of 1981, as well as expenditures of the state's General Fund associated with those funds. Our audit also included a review of debt collection procedures.

The funds are primarily used for the remediation of sites contaminated by hazardous substances and the associated administrative and legal costs. Annual expenditures of the funds were \$49 million, \$92.4 million, \$72.5 million, \$65.8 million, and \$59.8 million for fiscal years 2017, 2018, 2019, 2020, and 2021, respectively.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the funds, were reasonable, and were recorded properly in the accounting systems. An additional objective was to determine if adequate controls were in place to collect outstanding debt.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In preparation for our testing, we studied legislation, the administrative code, circulars promulgated by the Department of the Treasury, and policies of the department. Provisions we considered significant were documented, and compliance with those requirements was verified by interview, observation, and through our testing of financial transactions. We also read the budget messages, reviewed financial trends, and interviewed department personnel to obtain an understanding of the programs and the internal controls. In order to achieve our objectives, we performed various tests and analyses, as we determined necessary. Additional detail regarding our methodology and work performed can be found in the Appendix, as well as in the finding section when testing resulted in a reportable condition.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions on our audit objectives, as well as internal controls and compliance. Sample populations were sorted, and transactions were judgmentally and randomly

selected for testing. Because we used a nonstatistical sampling approach for our tests, we cannot project the results to the respective populations.

Data Reliability

We relied on data from the New Jersey Comprehensive Financial System and the New Jersey Centralized Payroll System. Our office assesses the reliability of this data annually, and we have determined it to be reliable for purposes of this report. We assessed the reliability of the electronic Cost Accounting and Timesheet System (eCATS) data by reviewing existing information about the data and interviewing agency personnel knowledgeable about the data. We also assessed the reliability of the department's outstanding debt data in the New Jersey Environmental Management System by performing electronic testing, reviewing existing information about the system, and interviewing officials knowledgeable about the system. We determined that the data were sufficiently reliable for the purposes of this report.

Certain other data in our report were used to provide background information. Data that we used for this purpose were obtained from the best available sources. *Government Auditing Standards* do not require us to complete a data reliability assessment for data used for this purpose.

Conclusions

We found that the financial transactions included in our testing were related to the funds, were reasonable, and were recorded properly in the accounting systems. In addition, we found that controls were in place to collect outstanding debt. However, these controls did not ensure all available means to attempt collection were used.

Background

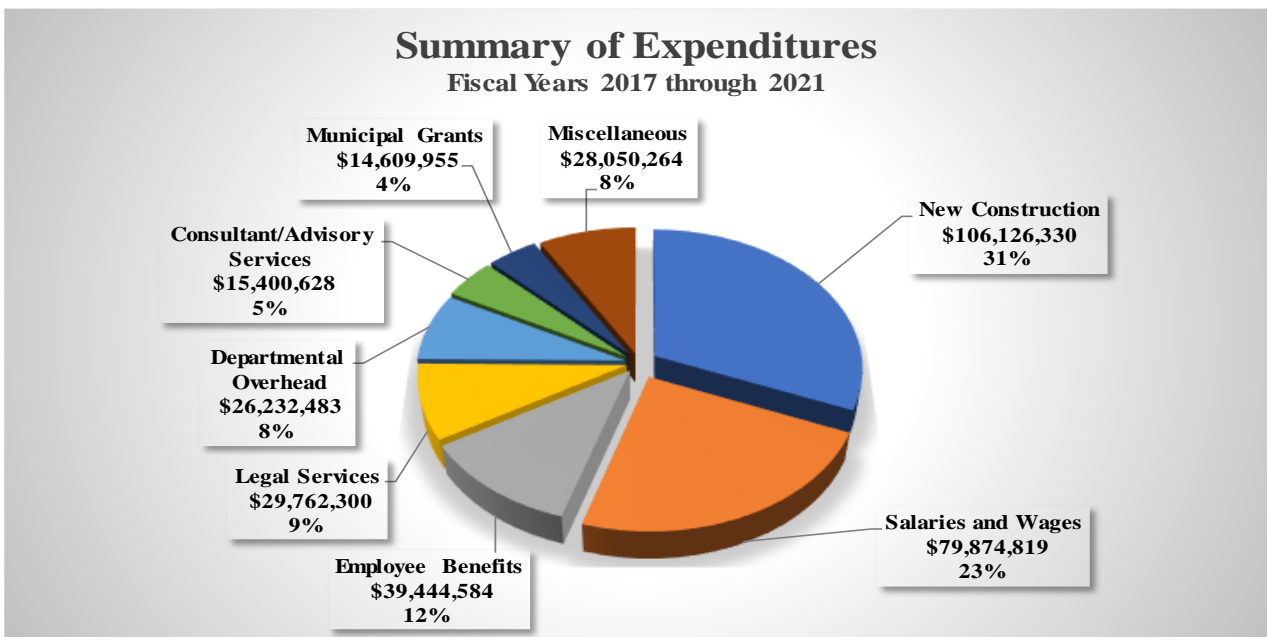
The department's Site Remediation and Waste Management Program office, which changed to the Contaminated Site Remediation and Redevelopment Program office following our audit period, was primarily responsible for overseeing the hazardous discharge funds we selected for review. The Hazardous Discharge Site Cleanup Fund was established for the purposes of preparing feasibility studies, engineering designs, and undertaking other work necessary for the cleanup or mitigation of hazardous discharge sites in the state. Collections for this fund include oversight bills for cleanup as well as legal settlements for past costs of cleanup. The Hazardous Discharge Fund of 1986 was authorized for the purpose of financing the cost of identification, cleanup, and removal of hazardous discharges. The 1996 Environmental Cleanup Fund was authorized to provide for the remediation of hazardous discharge sites and for the construction of water supply facilities to replace potable water supplies determined to be contaminated or threatened by discharge. The Hazardous Discharge Fund of 1981 was authorized for the identification, cleanup, and removal of hazardous discharges.

The funds were used for 293 projects totaling \$11.6 million in fiscal year 2020 and 252 projects

totaling \$10.3 million in fiscal year 2021. Annual expenditures for the funds are shown in the following table:

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total
Hazardous Discharge Site Cleanup Fund	\$ 48,226,039	\$ 76,288,521	\$ 55,107,187	\$ 56,289,402	\$ 56,317,347	\$ 292,228,496
Hazardous Discharge Fund of 1986	163,643	15,617,895	16,767,329	9,052,067	2,202,986	43,803,920
1996 Environmental Cleanup Fund	587,318	449,151	650,213	492,946	1,278,372	3,458,000
Hazardous Discharge Fund of 1981	1,108	2,488	4,201	2,931	219	10,947
Total	\$ 48,978,108	\$ 92,358,055	\$ 72,528,930	\$ 65,837,346	\$ 59,798,924	\$ 339,501,363

Below is a summary of how the funds' expenditures were spent during our audit period:



Uncollected Debt

The department needs to strengthen its collection efforts.

As of June 30, 2021, the Hazardous Discharge Site Cleanup Fund had \$17 million of uncollected debt according to department records. Of this amount, \$15.7 million (92 percent) had been transferred to the Department of the Treasury, Division of Revenue and Enterprise Services (DORES) for collection efforts, with \$657,000 collected as of June 30, 2021. We found the department is not utilizing all collection efforts available.

Statewide Nontax Debt Collection and Write-Off

Department of the Treasury Circular No. 13-11-OMB provides guidelines for the collection and write-off of statewide nontax debt. According to the circular, accounts receivable that have not been collected within 90 days should be transferred to the DORES for collection. The department received an extension of this timeframe to 165 days, which is also when it deems a debt account as delinquent. The circular also states the department shall develop and establish written procedures and guidelines that include, at a minimum, an initial billing (invoice), two dunning letters via regular and/or certified mail after 30 and 60 days, and telephone calls after 45 and 75 days.

We found the department does not have written procedures for debt collection. The department provided us with dunning letter templates, but it did not provide evidence the dunning letters were sent out. Additionally, the department's management admitted it did not make telephone calls at the 45- and 75-day marks.

Property Liens

Department policy allows property liens to be placed on delinquent accounts with certain exclusions, e.g., governmental entities and bankruptcy cases, when an unpaid balance is over \$5,000. However, we found the department is only establishing property liens on delinquent accounts over \$10,000. This was also an issue in our prior audit of the department's Site Remediation Program.

We identified 119 delinquent accounts between \$5,000 and \$10,000, totaling \$876,640, as of June 30, 2020 that may have been eligible for a property lien; however, they were not considered. Additionally, we tested 28 applicable delinquent accounts, totaling \$1.3 million, that each accrued to over \$10,000 between fiscal years 2008 and 2020 and found that 11 (39 percent), totaling \$749,711, had not had a property lien established. Seven of the eleven delinquent accounts, including one for \$315,547, were over two years delinquent as of June 30, 2020 without having a property lien established. As of September 28, 2022, we noted 10 of the 11 delinquent accounts still did not have a property lien established.

Interest and Penalties for Uncollected Fees

According to N.J.A.C. 7:26C-4.9, the department is permitted to charge interest and penalties for unpaid remediation fees and costs; however, it did not. Assessing interest and penalties may influence responsible parties to make payment on delinquent accounts.

Recommendation

We recommend the department establish and adhere to written policies and procedures regarding debt collection. In addition, the department should establish property liens on all applicable delinquent accounts. The department should charge interest and penalties on applicable uncollected debt to enhance collection efforts.



Appendix

Methodologies to Achieve Audit Objectives

To determine the propriety of fund expenditures, we judgmentally sampled 20 expenditure transactions totaling \$10.2 million of 3,778 transactions totaling \$339.5 million across three of the funds to determine whether the expenditures were mathematically correct, adequately supported, reasonable, pertained to the funds, and properly recorded in the state accounting systems.

We randomly sampled 5 of 19 Delegated Purchasing Authority (DPA) transactions greater than \$1,000 to determine whether each transaction contained adequate justification, followed Department of the Treasury Circular No. 19-10 DPP, and was recorded properly in the state accounting systems. We also determined whether annual purchases for each DPA vendor exceeded the circular thresholds.

We reviewed all purchases of the Hazardous Discharge Site Cleanup Fund processed through the state accounting systems to identify any confirming purchase orders or multiple purchase orders on a single day for the same vendor.

To determine if salaries charged to the funds were only for work related to the fund, we reviewed the payroll accounts charged in calendar year 2020 for the 50 employees identified in our prior audit of the Site Remediation Program that were improperly charged to the Hazardous Discharge Site Cleanup Fund. We also randomly selected 20 of the 160 employees with payroll costs charged to one of the funds in pay period 26 of calendar year 2020 for review of payroll costs.

Finally, we queried payroll transactions and reviewed timekeeping records to determine whether results only included employees with payroll accounts for fund-related work.



State of New Jersey

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SHAWN M. LATOURETTE

Commissioner

January 12, 2023

Brian M. Klingele
Assistant State Auditor
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, New Jersey 08625-0067

Dear Mr. Klingele,

Thank you for the opportunity to review and respond to the draft audit report regarding the Department of Environmental Protection, Hazardous Discharge Funds, for the period of July 1, 2016, to June 30, 2021.

We are pleased that the audit concluded that the financial transactions included in your testing were reasonable and were recorded properly in the State's accounting systems.

The audit report also noted several matters which merit management's attention. We hereby offer the following information on current program status, as well as our planned corrective actions to address these issues and their corresponding recommendations.

Statewide Nontax Debt Collection and Write-Off

The Contaminated Site Remediation & Redevelopment Program (CSRRP) is actively working on drafting comprehensive procedures for the collection of debt with a procedures document expected to be completed by the end of the first quarter of calendar year 2023. In the interim, CSRRP will continue to operate, to the extent possible, under the guidance provided in Circular Letter 13-11-OMB for Statewide Non-Tax Debt Collection and Write-Off. This includes attaching dunning form letters with each 2nd and 3rd notice invoice that is mailed. CSRRP is working with DEP's Division of Information Technology (DOIT) to have these letters added to the activity tracking section in the New Jersey Environmental Management System (NJEMS), ensuring that there is an official record that the dunning letters were mailed with invoices.

Due to the number of outstanding invoices, which was over 11,000 as of 6/30/22, CSRRP does not currently have the staff or resources available to make dunning telephone calls at the 45- and 75-

day marks but will continue to work toward implementing the corrective action that is possible at this time.

Property Liens

CSRRP will review their current lien placement policy and procedure with the intention of revising to raise the threshold from \$5,000 to \$10,000. This will alleviate some of the administrative burden placed on the program and allow staff to better focus their efforts on placing First-Priority and Regular liens, where applicable and allowable, on higher dollar delinquent accounts. Additionally, CSRRP has already started training additional staff to assist with this task.

We would also like to note that liens could not be filed on many of the cases included in the auditor's sample due to extenuating circumstances such as the responsible party being a government entity, being in bankruptcy, or being in active litigation with the Department.

Interest and Penalties for Uncollected Fees

CSRRP is working with DOIT to apply interest to unpaid remediation fees and other delinquent costs. The process is in the beginning stages and may take time to implement due to the complexity of the process. We are striving to have this process in place by the start of fiscal year 2024.

In closing, we would like to thank your audit staff for their continued diligent work and professionalism exhibited during the course of the audit.

Sincerely,

Stephen C. Matis

Stephen C. Matis, Director
Division of Budget and Financial Operations
Department of Environmental Protection

- C: David Haymes, Acting Assistant Commissioner, Contaminated Site Remediation & Redevelopment Program
Adrienne Kreipke, Assistant Commissioner, Management & Budget

