



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Department of Environmental Protection
Land Use Management and Selected Programs
of Compliance and Enforcement**

July 1, 2010 to February 28, 2013

**Stephen M. Eells
State Auditor**

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Enclosed is our report on the audit of the Department of Environmental Protection, Land Use Management and Selected Programs of Compliance and Enforcement for the period of July 1, 2010 to February 28, 2013. If you would like a personal briefing, please call me at (609) 847-3470.

Stephen M. Eells
State Auditor
June 20, 2013

Table of Contents

Scope.....	1
Objectives	1
Methodology	1
Conclusions.....	2
Findings and Recommendations	
Coastal and Land Use Compliance and Enforcement Collections	3
Land Use Regulation Permit Revenue.....	3
Auditee Response.....	5

Scope

We have completed an audit of the Department of Environmental Protection, Land Use Management and selected programs of compliance and enforcement related to Land Use Management for the period of July 1, 2010 to February 28, 2013. The audit included financial activities accounted for in the state's General Fund for the Division of Coastal and Land Use Planning, the Division of Land Use Regulation, and the Office of Policy Implementation and Watershed Restoration, as well as the selected compliance and enforcement programs. Expenditures for the audit period totaled \$27.3 million. Revenues for the audit period were \$25.8 million and were primarily comprised of land use permits and penalties. In addition, we also included in our scope federal grant expenditures totaling \$17.5 million. Due to the impact of Superstorm Sandy on the operations of the Bureau of Tidelands Management, it has been removed from the scope of our audit.

Objectives

The objectives of our audit were to determine whether the financial transactions were related to Land Use Management and the selected compliance and enforcement programs, were reasonable, and were properly recorded in the accounting systems. We also determined whether federal expenditures were proper and in compliance with the grant agreements.

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.

In preparation for our testing, we studied legislation, the administrative code, circular letters promulgated by the Department of the Treasury, and policies and procedures of the Department of Environmental Protection. 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. We also reviewed federal grant agreements administered by the Division of Coastal and Land Use Planning and the Office of Policy Implementation and Watershed Restoration programs.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions, as well as internal control and compliance attributes. Transactions were judgmentally selected for testing.

Conclusions

We found the financial transactions included in our testing were related to the programs, were reasonable, and were properly recorded in the accounting systems. We also found the federal grant expenditures were proper and were in compliance with the grant agreements. In making these determinations, we identified areas where improvements can be made to penalty collections and internal controls related to permit processing meriting management's attention.

Coastal and Land Use Compliance and Enforcement Collections

Improvements in Coastal and Land Use Compliance and Enforcement collections process should be implemented.

We noted areas for improvement in the Coastal and Land Use Compliance and Enforcement unit's collection process. The unit issues penalties against responsible parties for land use related environmental damages. The penalties require the responsible party to perform corrective action to remediate environmental damages and, in most cases, include a monetary penalty intended to deter future damaging activities. Often the unit will reach a negotiated settlement agreement on the monetary penalties. Moreover, additional penalties can be assessed for failure to comply with the settlement.

The unit had a \$1 million outstanding penalty receivable balance as of February 28, 2013. Although the unit complies with the Department of the Treasury (Treasury) Circular Letter 13-11-OMB in its collection attempts and forwards uncollected balances to Treasury's Division of Revenue and Enterprise Services, it does not place liens on the responsible parties' properties as does the Bureau of Tidelands Management. In addition, it does not assess additional penalties for failure to comply with the settlement agreement.

Recommendation

We recommend Coastal and Land Use Compliance and Enforcement unit improve its collection procedures by coordinating with the Department of the Treasury, Division of Revenue and Enterprise Services to place liens on properties of the responsible parties who fail to fulfill their payment obligations. In addition, the unit should assess additional penalties if the responsible parties default on their settlement agreements.



Land Use Regulation Permit Revenue

Land Use permit billing and revenue processing controls should be strengthened.

The Department of Environmental Protection, Division of Land Use Regulation (LUR) issues permits for projects taking place on specific state protected lands. LUR requires full payment prior to the issuance of a permit. LUR utilizes the New Jersey Environmental Management System (NJEMS) as its primary billing and revenue processing system. Our review disclosed the following.

- There are no procedures to verify that all checks received are deposited and posted correctly in the accounting system. We were not able to verify the deposit of six checks totaling \$7,000.

- We found three LUR employees who have physical access to checks and edit access capabilities to bills recorded in NJEMS.
- For fiscal years 2010 through 2012, we found 1,343 approved permits which lacked a paid bill or no fee reference in the fields provided. We tested 15 approved permit transactions and found two instances where fee required permits were issued but funds were not received.

Proper internal control procedures dictate management verify that checks are deposited and properly recorded in the accounting systems, adequate segregation of duties are in place to safeguard assets, and verification is made that proper funds are received before permits are issued. Lack of these procedures creates internal control weaknesses which may cause errors or irregularities not being detected timely.

Recommendation

We recommend the department:

- develop procedures to verify that all checks received are deposited and recorded properly in the accounting system,
- establish adequate segregation of duties to separate employees' physical access to checks and their edit access capabilities to bills on NJEMS, and
- verify that funds have been received before permits are issued.

We also recommend the department evaluate whether permit receipts should be processed by the Department of the Treasury, Division of Revenue and Enterprise Services.

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Commissioner

June 12, 2013

Mr. John Termyna
Assistant State Auditor
Office of the State Auditor
Office of Legislative Services
125 South Warren Street
PO Box 067
Trenton, New Jersey 08625-0067

Dear Mr. Termyna:

Thank you for the opportunity to review and respond to the draft audit report regarding the Department of Environmental Protection, Land Use Management and Selected Programs of Compliance and Enforcement, for the period of July 1, 2010 to February 28, 2013.

We are pleased that the audit concluded that the financial transactions included in your testing were related to the programs, were judged to be reasonable and were accurately and properly recorded in the State's accounting systems. Also, you noted our compliance with applicable Federal grant agreements.

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

Coastal and Land Use Compliance and Enforcement Collections

Recommendation:

We recommend Coastal and Land Use Compliance and Enforcement unit improve its collection procedures by coordinating with the Department of Treasury, Division of Revenue and Enterprise Services to place liens on properties of the responsible parties who fail to fulfill their payment obligations. In addition, the unit should assess additional penalties if the responsible parties default on their settlement agreements.

Response:

The Department is presently engaged in developing, along with the Department of the Treasury, Division of Revenue and Enterprise Service and the Division of Law, new methodologies to file liens through electronic applications, which will improve our collection efficiencies.

Land Use Regulation Permit Revenue

Recommendation:

Develop procedures to verify that all checks received are deposited and recorded properly in the accounting system.

Response:

The Division has modified Standard Operating Procedures and developed monthly reports to ensure that all deposited checks are received, processed and recorded by Treasury and updated in NJEMS properly. Division staff have been notified of all changes.

Recommendation:

Establish adequate segregation of duties to separate employees' physical access to checks and their edit access capabilities to NJEMS.

Response:

The Division is evaluating approaches to ensure segregation of duties which include physical access to checks and access capabilities to NJEMS that will not hinder the timing and efficiency of processing checks and permit application processing.

Recommendation:

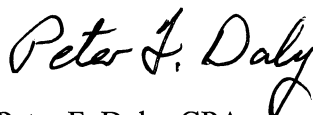
Verify that funds have been received before permits are issued.

Response:

The Division has instituted changes in existing Standard Operating Procedures, specifically NJEMS data entry field updating, and developed reports to address this issue. Specifically, "no fee" permits and "transfer of fees" which were the majority of the audited permits are now identified as such in NJEMS. Division staff have been notified of changes and advised to ensure permit fees are collected prior to issuance and accurately reflected in NJEMS.

In closing, we would like to commend both the field audit staff for their professionalism and thoroughness exhibited during the course of the audit, as well as, the management and technical review staff for excellent oversight and guidance during this engagement.

Sincerely,

A handwritten signature in black ink that reads "Peter F. Daly". The signature is written in a cursive style with a large, stylized "P" and "D".

Peter F. Daly, CPA
Controller, Management and Budget

C: Bob Martin, Commissioner
Magdalena Padilla, Esq., Chief of Staff
Marilyn Lennon, P.P., AICP, Assistant Commissioner