



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

Division of State Government Accountability

Use of New York State Snowmobile Trail Development and Maintenance Funds

Office of Parks, Recreation and Historic Preservation



Executive Summary

Purpose

To determine whether the New York State Snowmobile Trail Development and Maintenance Fund is used for its intended purpose.

Background

In 1985, the New York State Legislature required the Office of Parks, Recreation and Historic Preservation (Parks) to prepare a plan to service the snowmobile trail miles in New York State and established the means to fund a statewide snowmobile trail system. In 1989, Parks completed the plan and the use of the New York State Snowmobile Trail Development and Maintenance Fund (Fund) was established to implement a statewide snowmobile program (Program) administered by Parks. Parks is responsible for authorizing payments, monitoring the Program, and planning for the development and maintenance of safe snowmobile trails and facilities. Parks receives State aid from the Fund of about \$5 million annually and then distributes funds to approved local sponsors, who administer snowmobile trail services. Trail maintenance entities (TMEs) are responsible for maintaining the trails. Sponsors can function as TMEs and do the trail maintenance themselves, or they can contract with a snowmobile club or association. TMEs generally use volunteers to groom and maintain their assigned trails.

Key Findings

- The Herkimer County Snowmobile Association Treasurer falsified documentation and improperly used his dual authority as Association Treasurer and President of a TME to redirect funds from another TME to his own. We referred this matter to the Herkimer County District Attorney's Office for potential prosecution.
- Eight local sponsors improperly assessed administrative fees on TMEs totaling more than \$48,397 for the three years ending March 31, 2011.
- In contrast to other TMEs reviewed, all of which used unpaid volunteers, Franklin County Snowmobile Association paid its trail groomer operators \$79,885 for fiscal years 2009-10 and 2008-09 combined, with pay rates ranging from \$12 per hour for groomer operators to \$15 per hour for the President and Vice President. In fact, a total of \$54,984 of the \$79,885 was paid to the Franklin Association's top officers - \$23,044 to the President and \$31,940 to the Vice President.

Key Recommendations

- Take corrective action to ensure the affected club received the funds it was entitled to; conversely, recover any improperly-received funds or adjust future payments accordingly.
- Develop and communicate clear guidance to local sponsors and TMEs about administrative fees being ineligible for Fund reimbursement.
- Provide stronger Program oversight by assessing the effects that sponsor and TME practices such as using paid groomer operators have on the effectiveness and value provided to the snowmobiling public. Use the results to monitor and communicate about identified risk areas.

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

Division of State Government Accountability

January 2, 2013

Ms. Rose Harvey
Commissioner
Office of Parks, Recreation, and Historic Preservation
Empire State Plaza
Agency Building 1
Albany, NY 12238

Dear Commissioner Harvey:

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 Office of Parks, Recreation and Historic Preservation's *Use of New York State Snowmobile Trail Development and Maintenance Funds*. The 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.

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*

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

Background

In 1985, the New York State Legislature required Parks to prepare a plan to service the snowmobile trail miles in New York State and established the means to fund a statewide snowmobile trail system. In 1989, Parks completed the plan and the use of the New York State Snowmobile Trail Development and Maintenance Fund (Fund) was established to implement a statewide snowmobile program (Program) administered by Parks. Parks is responsible for authorizing payments, monitoring the Program, and planning for the development and maintenance of safe snowmobile trails and facilities. Other agencies, such as the Department of Environmental Conservation, maintain information related to snowmobile trails, but Parks is the primary oversight entity. The Department of Motor Vehicles (Motor Vehicles) collects snowmobile registration fees, which are the Fund's revenue source. A related audit of Motor Vehicles' collection of snowmobile registration revenues (2011-S-54) will be issued separately.

Parks receives State aid from the Fund of about \$5 million annually. The aid comes from snowmobile registration fees and penalties that individuals pay to Motor Vehicles. Parks then distributes funds to approved local sponsors, such as counties and municipalities, who administer snowmobile trail services. Supported services include trail grooming; workers' compensation and theft insurance policies; training and signage programs; special event permits, and enforcement of snowmobile laws including law enforcement grants to local government agencies and law enforcement training.

Local sponsors suggest and request approval from Parks for trails. Parks uses an allocation formula to prorate funds based on the number of trail miles and characteristics of each area. To be eligible for Program funds, local sponsors submit an annual application to Parks that includes summary information for anticipated maintenance services and providers. Sponsors whose applications are approved receive 70 percent of the State aid up front, with the remaining 30 percent reimbursed during the third of three Program phases, after Parks receives supporting documentation from the sponsor for the entire amount received. Support includes items such as receipts for equipment purchases and leases, and logs showing when and where trails were groomed. Parks pays local sponsors only for eligible expenses that are less than or equal to the amount of aid allowed for that sponsor; if a sponsor submits support for less than its allowed funds, Parks reduces the aid. Under this system, sponsors have incentive to request and provide support for the maximum amount of aid.

The amount clubs receive from local sponsors is intended to reimburse a portion of actual club expenses incurred in developing and maintaining trails; it is not intended to fully fund these efforts. Club revenues generally include the Fund amount, plus membership dues and funds raised from other sources. Sponsors who use TMEs disburse the funds based on the number of trail miles and the trail designations each TME is responsible for maintaining. Success of the Program is dependent in part on the use of volunteers to service the trails, participation of local governmental sponsors, and oversight by Parks.

Trail maintenance entities (TMEs) are responsible for maintaining the trails. Sponsors can function as TMEs and do the trail maintenance themselves, or they can contract with a snowmobile club or association that will act as TME. The clubs and associations generally use volunteers to groom and maintain their assigned trails.

Audit Findings and Recommendations

Potentially Fraudulent Documents

We found that Herkimer County Snowmobile Association (Association) Treasurer Pat Deyle improperly used his dual authority as Association Treasurer and President of the Ilion Snowdrifters (Snowdrifters) to redirect funds from the Long Pond Snow Sled Club (Long Pond) to the Snowdrifters. In this case, the County of Herkimer was the local sponsor and both the Snowdrifters and Long Pond were clubs. The Association acted as an intermediary that received the funds from the local sponsor and distributed them to the clubs. Mr. Deyle redirected the funds by falsifying support for the maximum amount of grooming fees on behalf of Long Pond for both the 2009-10 and 2008-09 seasons, and retaining a portion of the funds he received for his own club, the Snowdrifters. Mr. Deyle submitted the claims to Parks without Long Pond's knowledge.

In 2009-10, Mr. Deyle requested and received \$5,518 on behalf of Long Pond, of which he paid \$4,385 to Long Pond and retained the remaining \$1,133 to benefit the Snowdrifters. Similarly, in 2008-09, Mr. Deyle requested and received \$6,600, of which he paid \$4,300 to Long Pond and kept the remaining \$2,300 for his own club, for a total of \$3,433 improperly retained over the two years.

When we questioned Mr. Deyle, he admitted he falsified Long Pond's grooming logs and submitted them to Parks in an effort to collect the maximum aid allotted to Herkimer County because Long Pond hadn't timely submitted its grooming logs or other support. We brought this to the attention of Parks officials, who stated they weren't aware of this situation. They expressed concern, and acknowledged that the concentration of authority in Mr. Deyle's two roles increased the risk of improper collection of Fund aid. They also stated that while Parks is required to review the summary information they receive from the local sponsors, the local sponsors function as the intermediaries between Parks and Fund recipients and bear responsibility for verifying what they send to Parks. We referred this matter to the Herkimer County District Attorney's Office for potential prosecution.

Recommendations

1. Take corrective action to ensure the affected club received the funds it was entitled to; conversely, recover any improperly-received funds or adjust future payments accordingly.
2. Assess the risks associated with the misappropriation of snowmobile trail funds and develop controls to mitigate these risks.

Questionable or Unsubstantiated Fund Payments

We identified instances in which sponsors and TMEs may have inappropriately used trail maintenance funds, and in some cases misrepresented their reporting of expenses to Parks. Specifically, some sponsors improperly collected administrative fees, and some paid the operators of trail grooming equipment (groomer operators), even though the practice is to use volunteers

for this work. In addition, some TMEs and sponsors submitted improper documentation to Parks.

Parks guidance to local sponsors and TMEs for the 2010-11 snowmobile season expressly states that administrative costs are not reimbursable under the Program. However, we identified two local sponsors, Tioga and Chautauqua counties, that withheld administrative fees from the upfront 70 percent payments to TMEs. The fees totaled more than \$6,600 for the three years ending March 31, 2011. Subsequently, the TMEs submitted expenses to sponsors that omitted the paid administrative fees but included enough support to account for the total State aid allocated to them by Parks, in effect disguising the fees that were paid and replacing them with other eligible expenses. Sponsors then sent this summary information to Parks. This practice results in diminished transparency of how Fund payments are used, and we question its propriety.

Additionally, we canvassed local sponsors participating in the 2010-11 snowmobile programs and identified six local sponsors that, subsequent to disbursing the Parks funds to TMEs, charged the TMEs administrative fees totaling more than \$41,780 for the three years ending March 31, 2011. The sponsors were the Counties of Chenango, Orleans, Cortland, Madison, Niagara and Otsego.

Legislation requires sponsors to annually submit to Parks an estimate of expenditures necessary to implement Program activities and to complete an application for State aid, in which they agree to voluntarily participate in the Program. However, Parks didn't require the estimates, nor did sponsors submit them to Parks. Since the sponsors charged the administrative fees after receiving Parks funds, we don't know whether the fees came from Program funds or other sponsor sources. Though sponsors cite lack of resources as a reason for assessing these fees, the practice still results in fewer funds being available to TMEs to service the system of snowmobile trails. During the 2010-11 snowmobile season, there were approximately 55 local sponsors participating in the snowmobile program, and only eight sponsors assessed administrative fees, indicating that the majority of sponsors are operating without this practice.

We also found that the Franklin County Snowmobile Association (Franklin Association) paid its trail groomer operators \$79,885 for FYs 2009-10 and 2008-09 combined, with pay rates ranging from \$12 per hour for groomer operators to \$15 per hour for the President and Vice President. In fact, a total of \$54,984 of the \$79,885 was paid to the Franklin Association's top officers - \$23,044 to the President and \$31,940 to the Vice President. Also, as part of the \$31,940, the Vice President was paid \$625 a month for 23 months (or a total of \$14,375) to serve as Trail Coordinator. This stands in stark contrast to the practices of other TMEs reviewed, all of which used unpaid volunteers to accomplish their trail development, grooming and maintenance activities during the same time period. We question whether Franklin Association is providing the best value to snowmobilers through its use of Program funds.

We also identified Fund payments to TMEs that lacked adequate support. Local sponsors are responsible for auditing TME expenditure claims prior to submitting them to Parks for approval and payment. TMEs, in turn, are responsible for maintaining accurate records of all expenditures, as well as work logs and groomer usage logs that support their claims for reimbursement based on trail miles serviced. However, we found that several sponsors and TMEs may have shirked this responsibility. For example, Parks guidance recommends that grooming equipment be operated

typically in the five to seven miles per hour range. If groomers go too slowly, the rolling action in front of the blade will not be adequately established and trail grooming will suffer.

We found seven of twelve sponsors, representing 23 TMEs, submitted logs to Parks with grooming speeds that, on average, ranged from .08 mph to about three miles per hour, considerably slower than Parks guidance recommends. Since payment to the TMEs is based in part on time spent grooming, this may have been an attempt by TMEs to maximize their payments by embellishing grooming expenses. We identified about \$51,000 and \$58,000 in excessive grooming expenses for the 2009-10 and 2008-09 seasons, respectively. Parks officials said they are evaluating the option of installing GPS tracking devices on the groomers, which may help them better monitor the accuracy of grooming activities and expenses claimed by TMEs and submitted for reimbursement by local sponsors. They acknowledged the GPS system might mitigate the problem, but said the lack of personnel and resources would still make it difficult to monitor all the grooming activity done on the trails. Parks officials stated it may take several years to implement a GPS tracking system to all the TMEs.

Further, we identified four TMEs (Tioga Ridge Runners Snowmobile Club, Ridge Riders Snowmobile Club, Inc., Dryden Caroline Drifters Snowmobile Club and BC SnoRiders) responsible for grooming trails across multiple municipalities (Counties of Tioga, Broome, Cortland, Tompkins and Chenango), that claimed expenses for grooming services that weren't adequately supported. In these cases, the TMEs partitioned costs to the counties by assigning each county a percentage and using it to distribute the total grooming costs, rather than allocating the expenses based on actual services provided. And Oneida, Lewis, Herkimer, Oswego, and St. Lawrence received Fund payments based in part on grooming logs that lacked required and necessary information such as the number of trail miles groomed and amount of time spent grooming. Without this information, Parks cannot effectively determine if the expenses claimed are reasonable.

The Fund also reimbursed two sponsors, Herkimer and Cattaraugus counties, for sales tax that was claimed by TMEs and is ineligible for reimbursement. We attribute this to inadequate monitoring by local sponsors and Parks, and the lack of detailed documentation required to be submitted to Parks. In addition, the Fund pays for a statewide insurance policy that includes coverage for snowmobile trails both outside and inside the statewide trail system. When asked, the Parks Director of the Snowmobile Unit didn't know how many trail miles outside of the trail system were covered by this insurance. He informed us that the unit is still trying to determine that information in order to provide the insurance company with an accurate account for liability purposes. We question whether this is a reasonable use of Program funds, and urge Parks to reassess this practice.

Recommendations

3. Develop and communicate clear guidance to local sponsors and TMEs about administrative fees being ineligible for Fund reimbursement.
4. Provide stronger Program oversight by assessing the effects that sponsor and TME practices such as using paid groomer operators have on the effectiveness and value provided to the

snowmobiling public. Use the results to monitor and communicate about identified risk areas.

5. Reassess the practice of allowing the Fund to pay for insurance for trails outside the statewide system.

Parks Oversight and Communication

In addition to Parks not enforcing the requirement to collect expenditure estimates, we found lapses in Parks' oversight and communication that resulted in differing practices and expectations among sponsors and TMEs, as well as reduced assurance that Fund payments are helping to achieve its objectives. A main objective of the Fund is to facilitate grooming and maintenance of the statewide snowmobile trail system. Grooming is the critical activity to ensure the objective is met. But in some cases, we found it difficult to assess whether grooming even occurred. For example, one TME in Cattaraugus County submitted and was paid for expenses for 2009-10 and 2008-09 that consisted solely of the allocated cost of purchased equipment over a period of time, i.e., depreciation, a noncash item. The TME didn't report any trail grooming costs or submit grooming logs. In addition, Parks officials did not go onsite to monitor the Cattaraugus County TME and observe whether trail maintenance occurred. Therefore Parks has no assurance that trail maintenance activities occurred as expected during this time period. We noted that for the 2010-11 season, Parks established a mandate requiring TMEs to annually submit grooming logs to local sponsors who in turn would send them to Parks. Prior to that, there was no requirement for logs and there was less assurance the trails assigned to this TME were actually maintained. Requiring logs may enhance this assurance.

We also found Parks hasn't established written procedures, schedules or policies for the inspection of the snowmobile trail system, and Parks' practices for reimbursing entities for equipment purchases may raise the potential for wasteful spending. TMEs must receive Parks' approval for equipment purchases costing more than \$2,500. However, we learned Parks doesn't have an effective method to manage the risk and financial implications of Fund disbursements for the purchase of the same piece of equipment across multiple TMEs. TMEs are permitted to purchase grooming equipment fully reimbursed by the Fund, subsequently sell that equipment and retain the profits from the sale, and then purchase new equipment which is also fully reimbursed by the Fund. Furthermore, other TMEs participating in the Program are permitted to purchase the same equipment from the selling TME and also receive full reimbursement from the Fund. The existing situation raises the risk for wasteful spending on equipment. Parks officials agreed this was a risk area and said it has been a big concern for them, but more staff would be needed to track the equipment used by TMEs.

State law permits local sponsors to subcontract with municipalities, TMEs and similar entities for the development and maintenance of snowmobile trails and facilities. Parks guidance specifies that TMEs are not permitted to subcontract with other TMEs; however, it doesn't address TMEs contracting with other non-TMEs, such as businesses. We visited eleven counties and identified a potential conflict of interest between a Herkimer county TME (Beaver River Area Snowmobilers & Skiers a/k/a B.R.A.S.S.) and a business in the county, Norridgewock III. B.R.A.S.S. contracted with Norridgewock III, which is owned and operated by family members who also sit on the executive

committee of B.R.A.S.S. Under this contract for grooming and maintenance services, Fund payments totaled \$62,400 for the 2009-10 and 2008-09 seasons. Parks officials acknowledged the risk inherent in this scenario.

We interviewed local sponsors and TME officials in eleven municipalities and found significant differences in their understanding of Parks requirements. For example, officials in four counties believed they were required to submit only enough documentation to support amounts they received from the Fund, while those in four other counties believed they needed to submit support for all expenses associated with trail grooming, development and maintenance activities. Yet another two counties submitted support for the Fund disbursement plus an additional amount as a cushion in case some expenses were disallowed or reduced. The official responsible for monitoring the program in one municipality lacked an understanding of his role and was unable to provide information pertaining to documentation submitted to Parks. Parks officials said they have recommended local sponsors provide all trail development and maintenance expenses so Parks has a better sense of both total expenses and the amount paid by the Fund.

Five of the eleven sponsors we visited had written contracts with TMEs, while six did not. The contract and grooming policies established between the St. Lawrence County Snowmobile Association and the clubs maintaining trails in St. Lawrence County were notable for what they included: a tentative weekly grooming schedule for each piece of equipment and a process for reviewing maintenance logs to determine whether groomer operators completed tasks as expected and if major equipment repair would be necessary. Clear communication between sponsors and TMEs can enhance consistency in practices and boost public confidence that Parks is overseeing a well-run Program. Parks officials said they encourage local sponsors to establish written contracts with TMEs.

Recommendation

6. Develop and communicate clear guidance and controls, where applicable, on the requirements for:
 - annual application requirements, including addressing expenditure estimates
 - submission of documentation supporting trail grooming, development and maintenance activities
 - trail safety inspection
 - equipment purchases and sales
 - subcontracting practices

Audit Scope and Methodology

We audited the use of New York State Snowmobile Trail Development and Maintenance Funds. Our audit covered the period April 1, 2008 through July 31, 2011.

To accomplish our objective, we interviewed Parks and local sponsor officials and reviewed laws, rules and regulations and supporting documentation submitted to Parks by twelve local sponsors. We also visited local sponsors and conducted inspections of selected snowmobile trails.

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 objective.

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

The 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.

Reporting Requirements

We provided a draft copy of this report to Parks officials for their review and formal comment. We considered Parks officials' comments in preparing this report and have included them in their entirety at the end of it. Parks officials agree with our six audit recommendations and state steps they have taken or will take to implement them.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Parks, Recreation, and Historic Preservation 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

A team of accountability experts respected for providing information that decision makers value.

Mission

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

Agency Comments



New York State Office of Parks, Recreation and Historic Preservation

Albany, New York 12238
www.nysparks.com

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

November 8, 2012

Ms. Melissa Little
Audit Manager
NYS Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

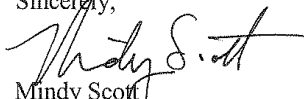
Dear Ms. Little:

The New York State Office of Parks, Recreation & Historic Preservation has reviewed the Office of the State Comptroller's audit report 2011-S-05 entitled *"Use of New York State Snowmobile Trail Development and Maintenance Funds"*. Enclosed please find the Agency's response to the draft report.

As summarized by the attached, we generally concur with the recommendations made in the draft audit report. The audit is generally a positive one and OPRHP understands there is always room for improvement. We thank the OSC team for their professionalism and their efforts on our behalf in conducting this review.

Thank you for the opportunity to respond to the report. If you have any questions regarding the Agency's response, please contact Brian D. Jackson of OPRHP's Office of Internal Audit at (518) 473-3390.

Sincerely,


Mindy Scott
Deputy Commissioner for
Finance and Administration

cc: Commissioner Harvey
Andy Beers
Tom Alworth
Marc Talluto
Chris Pushkarsh
Brian D. Jackson

An Equal Opportunity/Affirmative Action Agency

**New York State Office of Parks, Recreation & Historic Preservation
Response to the Office of the State Comptroller's Draft Audit Findings
Use of New York State Snowmobile Trail
Development and Maintenance Funds
Audit 2011-S-05**

The Office of Parks, Recreation & Historic Preservation's (OPRHP) response to the Office of the State Comptroller's (OSC) draft audit report number 2011-S-05, entitled "*Use of New York State Snowmobile Trail Development and Maintenance Funds*" is presented below. OPRHP has reviewed the findings and recommendations presented in the draft audit report. In the following sections, we have noted the portions of the report where we differ in opinion to or feel the need to clarify the described conditions, findings and recommendations.

In the following sections, we have noted the portions of the report where we take exception to the described conditions, findings and recommendations.

Comments on Described Conditions

The following section presents specific comments regarding selected wording contained in the draft audit report.

Executive Summary

Background:

- *Page 1, Paragraph 1, first sentence:* "In 1989,"

Agency Response: In 1985, the New York State Legislature required OPRHP to prepare a plan to service the snowmobile trail miles in New York State and established the means to fund a statewide snowmobile trail system. In 1989, OPRHP completed the plan and the use of the New York State Snowmobile Trail Development and Maintenance Fund was established to implement a statewide snowmobile program administered by OPRHP.

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Comment
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Background

- *Page 4, Paragraph 1, first sentence:* "In 1989,"

Agency Response: In 1985, the New York State Legislature required OPRHP to prepare a plan to service the snowmobile trail miles in New York State and established the means to fund a statewide snowmobile trail system. In 1989, OPRHP completed the plan and the use of the New York State Snowmobile Trail Development and Maintenance Fund was established to implement a statewide snowmobile program administered by OPRHP.

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Comment
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- *Page 4, Paragraph 2, second sentence:* "Supported services include trail grooming; trail insurance policies; training and signage programs; special event permits, and enforcement of snowmobile laws."

Use of New York State Snowmobile Trail Development and Maintenance Funds (2011-S-05)

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* See State Comptroller's Comments, on page 22.

**New York State Office of Parks, Recreation & Historic Preservation
Response to the Office of the State Comptroller's Draft Audit Findings
Use of New York State Snowmobile Trail
Development and Maintenance Funds
Audit 2011-S-05**

Agency Response: Supported services also include law enforcement grants to local government agencies and law enforcement training.

- **Page 4, Paragraph 3, first sentence:** *"Parks assigns trails"*

Agency Response: OPRHP does not assign trails; sponsors suggest and request approval for trails.

- **Page 4, Paragraph 2, second sentence:** *"Supported services include trail grooming; trail insurance policies; training and signage programs; special event permits, and enforcement of snowmobile laws."*

Agency Response: Supported services also include law enforcement grants to local government agencies and law enforcement training.

- **Page 4, Paragraph 5, third sentence:** *"State law requires the clubs be members of the New York State Snowmobile Association (NYSSA) in order to serve as TMEs and participate in the Program."*

Agency Response: State law (§ 21.07) does not require Clubs to be members of NYSSA in order to serve as TMEs and participate in the program.

The law provides that in order to obtain the reduced snowmobile registration fee, an individual registering a snowmobile must be "a member of an organized New York State snowmobile club that is a member of the New York State Snowmobile Association or is a member of an organized New York State snowmobile club that is a trail maintenance entity and a member of the NYSSA."

- **Page 4, Paragraph 5, fourth sentence:** *"NYSSA's website describes its members clubs as "all-volunteer" and itself as a volunteer effort of snowmobilers and organizations."*

Agency Response: The NYSSA website may describe its member clubs as "all-volunteer" and itself as a volunteer effort; however, the NYSSA has paid staff and paid Public Relations and Public Affairs firms.

Audit Findings and Recommendations

Potentially Fraudulent Documents:

- **Page 5, Paragraph 2, first sentence:** *"In 2009-10, Mr. Deyle requested"*

* See State Comptroller's Comments, on page 22.

**New York State Office of Parks, Recreation & Historic Preservation
Response to the Office of the State Comptroller's Draft Audit Findings
Use of New York State Snowmobile Trail
Development and Maintenance Funds
Audit 2011-S-05**

Agency Response: Parks accepts that the information provided in the report is all factual. The implementation of the ATGP will help to eliminate data entry by someone outside the actual TME that did the work. The program tracks the data entry by individual with the date and time of the entries. If there is no work data entered within a specified time frame then no one can enter additional data.

Questionable or Unsubstantiated Fund Payments:

- **Page 6, Paragraph 2, first sentence:** *"Additionally, we canvassed local sponsors participating in the 2010-11 snowmobile programs and identified six local sponsors that, subsequent to disbursing the Parks funds to TMEs, charged the TMEs administrative fees totaling more than \$41,780 for the three years ending March 31, 2011."*

Agency Response: It should be noted that the \$41,780 is approximately \$13,927 for each season and \$2,321 for each of the six counties under review. If you include Tioga and Chautauqua counties the total increases to \$16,127 and represents less than 0.3% of the total annual program funding of \$5 million.

OPRHP will implement a formal application process for Local Sponsors to request program oversight expenses. Local Sponsors will need to document their expenses just as the TMEs do.

- **Page 6, Paragraph 4, first sentence:** *"We found other questionable practices, such as the use of paid trail groomer operators instead of NYSSA's published practice of using volunteers for this work."*

Agency Response: NYSSA published practices do not have any bearing on program practices. The use of paid public employee groomer operators is allowable for local sponsor maintained trails. One could argue that since the local sponsors are allowed to pay operator then they should be allowed to apply this practice within their subcontracts with TMEs.

In addition, TMEs are reimbursed at a rate of \$7.25 for trail groomer operators. This is the reimbursement for volunteers and/or "paid trail groomer operators." If the payment to "paid trail groomer operators" is greater than \$7.25, the TMEs are using club funds and not program funds.

OPRHP will be assessing the practice and make programmatic changes as needed.

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**New York State Office of Parks, Recreation & Historic Preservation
Response to the Office of the State Comptroller's Draft Audit Findings
Use of New York State Snowmobile Trail
Development and Maintenance Funds
Audit 2011-S-05**

- *Page 7, Paragraph 1, first sentence:* "We found seven of twelve sponsors, representing 23 TMEs, submitted grooming logs to Parks with grooming speeds that, on average, ranged from .08 mph to about three miles per hour, considerably slower than Parks guidance recommends."

Agency Response: The process of recommending optimal grooming speeds has several variables such as size of groomer, experience of the operator, weather conditions, traffic on the trails, length of wait at crossings, amount of snow to process, trail characteristics (hilly vs flat, straight vs tight turns) that it is virtually impossible to set a speed for grooming each day or season. The recommendation is just that a recommendation.

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Comment
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- *Page 7, Paragraph 3, first sentence:* "The Fund also reimbursed two sponsors, Herkimer and Cattaraugus counties, for sales tax that was claimed by TMEs and is ineligible for reimbursement."

Agency Response: As OSC noted, "Parks receives State aid from the Fund of about \$5 million annually." OSC did not indicate the amount of sales tax reimbursed, therefore OPRHP questions the materiality of the amount and the potential impact on the program.

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Comment
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Parks Oversight and Communication:

- *Page 8, Paragraph 1, first sentence:* "In addition to Parks not enforcing the requirement to collect expenditure estimates, we found lapses in Parks' oversight and communication that resulted in differing practices and expectations among sponsors and TMEs, as well as reduced assurance that Fund payments are helping to achieve its objectives."

Agency Response: The Statute does not require TMEs to submit 100% of their trail development and maintenance expenses. The TMEs only have to show expenses and donations that meet the trail grant award amount. The requirement for submitting grooming activity was to monitor groomer use vs repair expenses and to collect total grooming hours by region and for the amount of snow cover.

The installation of GPS tracking devices will be evaluated for cost effectiveness and accuracy reliability.

* See State Comptroller's Comments, on page 22.

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Response to Recommendations 1-6 (Pages 5 - 9)

The following section presents OPRHP's response to each recommendation contained in the draft audit report.

- **Recommendation 1:** *Take corrective action to ensure the affected club received the funds entitled to; conversely, recover any improperly funds or adjust future payments accordingly.*

Agency Response: **Agree.** OPRHP will take the corrective actions to recover any funds improperly received.

- **Recommendation 2:** *Assess the risks associated with the misappropriations of snowmobile trail funds and develop control to mitigate these risks.*

Agency Response: **Agree.** OPRHP will work to reduce potential risks by encouraging Local Sponsors to review their contracts with both TMEs and Associations and include contract language that clearly defines the roles and responsibilities of all parties and provides for increased controls.

- **Recommendation 3:** *Develop and communicate clear guidance to local sponsors and TMEs about administrative fees being ineligible for Fund reimbursement.*

Agency Response: **Agree.** OPRHP will address this issue with Local Sponsors. In addition, OPRHP will assess the effects of Local Sponsors claiming administrative cost and determine if the expenses should be allowable.

- **Recommendation 4:** *Provide stronger Program oversight by assessing the effects that sponsor and TME practices such as using paid groomer operators have on the effectiveness and value provided to the snowmobiling public. Use the results to monitor and communicate about identified risk areas.*

Agency Response: **Agree.** With the development and implementation of the Automated Trail Grant Program (ATGP), OPRHP has an improved means to monitor eligible, accurate and accountable expenditures by the TMEs. The ATGP restricts the time period TMEs have to enter expenses into the program. This will help limit the opportunity TMEs have to back fill expense data when potential award amounts are greater than actual expenses. In addition, Local Sponsor and OPRHP will have very near real time oversight of expenses entered into the ATGP. In the first year of the ATGP the final 30% payment was reduced by over \$300,000 with the increased oversight of data entry.

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The use of paid groomer operators by Franklin County does not directly impact the Trail Fund and the documentation provided by the Sponsor identifies that groomer rates were within the allowable rate which includes labor, fuel, lubricants and minor maintenance expenses. OPRHP monitors the hours of groomer usage but does not require documentation of the labor, fuel, lubricants and minor maintenance expenses within the Allowable grooming rate. In addition, the TME may be using its own membership revenue to pay for this.

Part 454.2 of the OPRHP Rules and Regulations provides that the Local Sponsors are permitted to submit employee normal hourly rates of wages spent performing trail construction and maintenance which includes grooming. This allows for the payment of groomer operators.

OPRHP will also address the use of trail funds to pay groomer operators and Association officers.

- **Recommendation 5:** *Reassess the practice of allowing the Fund to pay for insurance for trails outside the statewide system.*

Agency Response: **Agree.** OPRHP will evaluate the pros and cons of using trail funds to insure trails not in the statewide trail system.

- **Recommendation 6:** *Develop and communicate clear guidance and controls, where applicable, on the requirements for:*
 - *Annual application requirements, including addressing expenditure estimates;*
 - *Submission of documentation supporting trail grooming, development and maintenance activities;*
 - *Trail safety inspection;*
 - *Equipment purchases and sales; and*
 - *Subcontracting practices.*

Agency Response: **Agree.**

- **Annual Application Requirements:** Each year OPRHP's Snowmobile Unit produces a detailed set of guides on the requirements of the Trail Grant program. These guides are annually updated to clearly detail any program changes and provide direction for Local Sponsors and TMEs on any deviations or misinterpretations of program requirements. The practice of providing estimates for expenditures was eliminated from the

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application since the trail fund award process is based on the number and type of trails rather than on estimates that the sponsors provide. Sponsor estimates were not soundly based as they had no means to establish actual costs and the estimates had no bases for assuring a fair and equitable distribution of funds. The submission of three year work plans provides a means to assess Local Sponsor and TME progress in improving trail conditions and safety. OPRHP is considering proposing legislative changes to the program that would eliminate the need for providing expenditure estimates.

With the downsizing of Local Sponsor staff there has been reduced oversight and time available to prepare lengthy applications. To continue to meet the Trail Grant program requirements, Local Sponsors are relying more on the TMEs to perform grant preparation and documentation review once handled by Sponsor staff. OPRHP is very concerned that there must be a separation of duties between the Sponsors and the TMEs. The situation uncovered in Herkimer County reinforces the clear need for separation of duties and responsibilities.

- Documentation supporting grooming, development and maintenance activities: By requiring grooming logs for all groomers listed on Appendix B in the Local Sponsor application and in the ATGP, OPRHP continues to have the ability to monitor grooming practices statewide. Utilizing the ATGP, OPRHP will be able to monitor grooming in near real time occurrence and identify which trails were groomed and by which groomer. OPRHP is also actively seeking a GPS Groomer tracking program that will be integrated into the ATGP accounting program. Groomer usage tracking and accounting will assure greater accountability of Trail Funds.
- Trail inspections: The legal statute for the entire Trail Grant program provides for a maximum level of 3 staff to maintain the program. The current program requirements fully occupies the time staff has to insure integrity to the grants awarded. The implementation of a trail inspection

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for the 10,500 mile of trail by 3 staff is virtually impossible given time and distance constraints. OPRHP has been discussing the implementation of trail inspections and a cost benefit analysis along with a risk assessment has been proposed for the 2012/13 season.

- **Equipment purchases and sales:** OPRHP will be eliminating the approval of equipment purchases and will no longer provide the trail funds to be used directly for the payment of maintenance and grooming equipment. TMEs are subcontractors, thus they will be expected provide their own tools necessary to accomplish the development, maintenance and grooming of trail they take responsibility for. The reimbursement rate for the use of equipment by TMEs will be adjusted using the NYS DOT equipment Rental Rate Schedule.
- **Subcontracting practices:** The current program does allow TMEs to contract with companies to perform work on the trails they are responsible for. These contracts encourage the use of local businesses furthering the local economy. OPRHP will continue to monitor the use of contractors to perform work that volunteers are not skilled to perform.

State Comptroller's Comments

1. The final report has been modified to address Park's response to the draft report.
2. Every dollar matters and because Parks did not properly monitor to ensure that only eligible expenses were paid, \$41,780 was not available to maintain the snowmobile trails.
3. We understand that the 5 to 7 mile range is a recommendation. However, since reimbursement is, in part, based on the amount of time it takes to groom the trails, there is incentive to submit grooming logs that state it took longer than it did to groom the trails. When grooming speeds are as low as .08 to 3 miles per hour, it is an indicator that Parks may want to increase its monitoring efforts to ensure that the documentation submitted is accurate and that the payments made are justified.
4. Every dollar matters and because Parks did not properly monitor to ensure that only eligible expenses were paid, \$2,141 was paid in sales tax and not available to maintain the snowmobile trails.