



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

DAVID A. PATERSON
GOVERNOR

October 1, 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-52
Drawdown of Federal Funds

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 audit's recommendations:

Recommendation 1: *Formally evaluate FHWA drawdown activity and establish criteria for more frequent drawdowns during periods of high expenditures.*

Draft Report Response: While NYSDOT agrees with the intent of this recommendation, at this time it is not feasible for NYSDOT to conduct more frequent FHWA drawdowns. During these times of lower interest rates, the benefits of more frequent drawdowns would be offset by the increased resource costs. NYSDOT will; however, attempt to identify high disbursement volume in the Federal Grants - Capital Projects fund on a daily basis and if economic conditions change, we will reconsider this recommendation.

90-Day Update: NYSDOT maintains that more frequent FHWA drawdowns at this time are not feasible. The increased resource costs and the negative impact on our Cash Management Improvement Act (CMIA) interest calculation would outweigh any benefits derived from conducting drawdowns more than once per week. NYSDOT attempted to identify high disbursement volume in the Federal Grants – Capital Projects fund to

facilitate additional drawdowns but has not been able to develop a means to identify high disbursement volume to date.

Recommendation 2: *Monitor the status of expenditures that are rejected for reimbursement to ensure that they are promptly corrected and resubmitted.*

Draft Report Response: NYSDOT agrees with the recommendation. In September 2009, the Accounting Bureau implemented a process for tracking and monitoring the interface errors, which will assist in timely resolution. It is important to understand that an error will not necessarily result in a lack of Federal-aid billing; for instance, some errors are attempts to give FHWA a credit while others are dependent upon FHWA for correction.

90-Day Update: NYSDOT continues to track and monitor the interface errors with FHWA. For the seven-month period from January 1, 2010, through July 31, 2010, 77 rejections occurred during the FHWA billing process; 87 percent of those rejections were corrected and resubmitted by the next Federal-Aid billing.

Recommendation 3: *Monitor the FTA reimbursement process to determine whether the Department's 23-day goal is being met, and take corrective action when it is not met.*

Draft Report Response: NYSDOT agrees with the recommendation. In October 2009, supervision of the grants unit changed and process improvements were implemented. As of January 2010, FTA drawdowns have been completed within the 23 business days from the end of the month in which the expenditure shows up in the ledger reports.

90-Day Update: With additional staff and process improvements, all FTA drawdowns from February to August 2010, on average, were completed within 13 business days from the end of the month. Completing FTA drawdowns efficiently and accurately continues to be the grants unit's top priority.

Recommendation 4: *Formally investigate and analyze alternatives to improve, and possibly automate, the FTA reimbursement process, within the existing constraints, to increase efficiency and allow claims to be filed monthly, if not more frequently.*

Draft Report Response: NYSDOT agrees with the recommendation. Analysis of the reimbursement process began immediately after the above-mentioned change in supervision. More efficient methods of downloading information from databases to excel spreadsheets has already been implemented and resulted in improved timeliness of the overall drawdown process. As resources allow, NYSDOT will continue to assess the possibility of doing more frequent drawdowns; however, in our current business

environment information necessary for the drawdowns is only available after the end of each month.

90-Day Update: In anticipation of the Statewide Financial System, there is no change in our systems capability of retrieving expenditure information by project identification numbers (PINS) before the end of the month. The FTA reimbursement process has been fully analyzed and improved to the best of our available resources. FTA claims are filed and cash is drawn in an efficient manner monthly in accordance with the FTA grant agreement.

Recommendation 5: *Monitor and control disallowed costs including the reason for the disallowance, any action taken to recoup the costs and any corrective action taken to prevent such disallowances in the future. Retain documentation of all actions taken regarding disallowances.*

Draft Report Response: NYSDOT agrees with the recommendation. As indicated in the report, NYSDOT does have a process in place to minimize and control disallowed costs. Disallowed costs are analyzed to ensure that the disallowances are appropriate; NYSDOT appeals any costs that appear to be incorrectly disallowed. In addition, NYSDOT takes action to recover costs, which were deemed ineligible as a result of a third party's non-compliance with Federal rules. As part of NYSDOT's ongoing effort, the staff will monitor disallowed costs and proactively take action to prevent similar occurrences in the future. NYSDOT will track these instances and maintain documentation of corrective actions.

90-Day Update: NYSDOT will continue to monitor disallowed costs and take action proactively to prevent similar occurrences in the future. There were no Federal-Aid Ineligible Notifications (FAINS) issued from April through August 2010.

Recommendation 6: *Immediately account for the full \$257 million in disallowed FHWA reimbursements, and reduce the balance in the Department's Federal Fund accordingly.*

Draft Report Response: The various project costs in the Federal Grants - Capital Projects Fund that have been disallowed or declared ineligible by the FHWA are being transferred to the Dedicated Highway and Bridge Trust Fund in accordance with a multi-year plan developed by the Division of the Budget in March 2008. To date, \$86.4 million has been transferred, with approximately \$170 million remaining. Transfers are done once a year, in March. The plan calls for NYSDOT to transfer \$33.5 million per year until the remainder of the ineligible costs are removed from the Federal Grants - Capital Projects Fund. The plan is to complete these transfers by SFY 2015-16.

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90-Day Update: Disallowed or ineligible project costs in the Federal Grants – Capital Projects Fund are being transferred to the Dedicated Highway and Bridge Trust Fund in accordance with the multiyear plan developed by the Division of the Budget in March 2008.

Should you need further 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". The signature is fluid and cursive, with the first name "Stanley" written in a larger, more prominent script than the last name "Gee".

Stanley Gee
Acting Commissioner