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

Division of State Government Accountability

Selected Employee Travel Expenses

Department of Transportation

Report 2012-S-93

February 2014

Executive Summary

Purpose
To determine whether the use of travel monies by selected government employees complied with rules and regulations and is free from fraud, waste, and abuse.

Background
New York State's executive agencies spend between $100 million and $150 million each year on travel expenses. These expenses, which are discretionary and under the control of agency management, include car rentals, meals, lodging, transportation, fuel, and incidental costs such as airline baggage and travel agency fees. As part of a statewide audit initiative to determine whether the use of travel money by selected government employees was appropriate, we audited travel expenses for the highest-cost travelers in the State. These travelers incurred over $100,000 in travel expenses during our three-year audit period and/or exhibited unusual travel characteristics.

We examined a total of $639,218 in travel expenses for 20 Department of Transportation (Department) employees. Of the 20 employees, eight had long-term assignments in Tarrytown, New York for work related to the Tappan Zee Bridge. From September 2007 through September 2011, the Department paid travel reimbursements to the eight Tarrytown employees totaling $320,756.

Key Findings
- The Department's travel payments for the 12 employees who were not assigned to Tarrytown were correct. However, the Department incorrectly designated Poughkeepsie as the official station of the eight Tarrytown employees and, as a result, made improper travel reimbursements totaling $320,756 for the employees' normal commuting costs to and from work. Department officials attributed the error, in part, to the lack of management awareness of official State policies regarding travel reimbursements.
- As a result of the improper travel reimbursements made to the eight Tarrytown employees, the Department may have failed to report nearly $227,000 in taxable travel expenses to taxing authorities for the three calendar years 2009-2011.

Key Recommendations
- Ensure each employee's official station is established in compliance with State travel rules and is in the best interest of the State.
- Work with the Comptroller's Division of Payroll, Accounting and Revenue Services to take any necessary corrective action related to the potential taxable status of the eight Tarrytown employees' commuting expenses.

Other Related Audit/Report of Interest
Department of Labor: Selected Employee Travel Expenses (2012-S-75)

State of New York
Office of the State Comptroller

Division of State Government Accountability

February 18, 2014

Ms. Joan McDonald
Commissioner
New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

Dear Commissioner McDonald:

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 Department of Transportation entitled *Selected Employee Travel Expenses.* 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

Table of Contents

State Government Accountability Contact Information:
Audit Director: John Buyce
Phone: (518) 474-3271
Email: StateGovernmentAccountability@osc.state.ny.us
Address:
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

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

Background

New York State's executive agencies spend between $100 million and $150 million each year on travel expenses incurred by State employees in the course of performing their duties. These expenses, which are discretionary and under the control of agency management, include car rentals, meals, lodging, transportation, fuel, and incidental costs such as airline baggage and travel agency fees.

The mission of the Department of Transportation (Department) is to ensure those who live, work and travel in New York State have a safe, efficient, balanced and environmentally sound transportation system. The Department spent $23.4 million on travel expenses from April 1, 2008 through March 31, 2011. Of that amount, $18.8 million (80 percent) was for reimbursements to employees for travel expenses and direct payments to vendors. The remaining $4.6 million related to charges on State-issued travel cards.

This audit at the Department is part of a statewide initiative to determine whether the use of travel monies by selected government employees complied with rules and regulations and is free from fraud, waste, and abuse. We focused our audit efforts on the highest-cost travelers in the State, each of whom incurred over $100,000 in travel expenses during the three-year period ended March 31, 2011, and we considered other factors as well. As a result of this analysis, we examined the travel costs of 13 Department employees that totaled $393,459. We selected these employees based on high personal car mileage or train fare expenses.

We expanded our review to include the travel expenses of seven additional employees who, along with one from the initial group of 13, had an incorrect official station designation. We reviewed travel expenses totaling $245,759 for calendar years 2009-2011 for the additional seven employees. In total, we examined $639,218 of these 20 employees' travel expenses.

The Office of the State Comptroller sets rules and regulations for payment of expenses employees incur while traveling on official State business. The Comptroller's Travel Manual (Travel Manual) helps agencies and employees understand and apply the State's travel rules and regulations, and provides instructions for reimbursing expenses. In general, when traveling on official State business, only actual, necessary and reasonable business expenses will be reimbursed.

According to the Travel Manual, agencies are responsible for ensuring:

- all authorized travel is in the best interest of the State;
- all charges are actual, reasonable and necessary;
- all expenses comply with travel rules and regulations;
- the most economical method of travel is used in the best interest of the State;
- compliance with Internal Revenue Service (IRS) regulations;
- the official station of each employee is designated in the best interest of the State;
- employees obtain appropriate approvals prior to traveling, and exceptions or waivers are justified and necessary; and
- adequate funds are available for travel.

Audit Findings and Recommendations

The Department's travel payments for 12 of the 20 selected employees were correct. The payments for these employees were properly documented and adhered to State travel rules and regulations. However, travel payments for the remaining eight employees were improper because Department officials incorrectly designated the employees' official work station. Although the eight employees worked in Tarrytown, the Department designated Poughkeepsie as their official station. As a result, the Department made improper travel reimbursements totaling $320,756 for the employees' normal commutation costs to and from work. Also, as a result of these improper reimbursements, the Department may have failed to report nearly $227,000 in taxable travel reimbursements to taxation authorities for the calendar years 2009-2011. Potentially, this could have tax-related consequences for both the Department and the affected employees.

Incorrect Official Station for Tappan Zee Bridge Project Employees

According to the Travel Manual:

- The official station is the employee's usual work location. It is designated by the agency and must be in the best interest of the State. The purpose of an official station is to establish when the employee is in travel status and eligible for reimbursement of travel expenses. Travel between the employee's home and official station is considered commuting and is not reimbursable;
- The designation of official station will be determined by agency management in the best interest of the State and not for the convenience of the employee;
- When employees are on assignment at a work location more than 35 miles from both their official station and their home, they are considered in travel status and are eligible for reimbursement of travel expenses in accordance with this manual; and
- No transportation costs will be allowed between any employee's home and his or her official station.

For several years, the Department has been working on the Tappan Zee Bridge (TZB) project, a large-scale effort related to State plans to rebuild the heavily-used bridge connecting Rockland and Westchester counties. Pursuant to a 2007 Memorandum of Agreement, the Department committed to a Project Office and Community Outreach Center (Project Office) in the vicinity of the TZB project. The Center was intended to enhance public participation in the project's environmental review process. In August 2007, the Department selected property at 660 White Plains Rd. in Tarrytown for the Project Office and began negotiations for the building's renovation and occupancy. A two-year lease of the building occupied by the Project Office began on October 1, 2007; Department personnel began working at the Project Center on that date. Subsequently, the lease was extended for two years, through September 30, 2011.

In August and September 2007, the Department assigned six employees to work on the TZB project and designated the Department's Poughkeepsie Regional office as the employees' official work station. In October 2007, Department assigned another employee to the project, and an eighth employee was assigned to the project in April 2008 (six months after the Project Office opened). Although all eight employees worked at the Project Office (in Tarrytown), Department officials inappropriately designated Poughkeepsie as each employee's official station. Moreover, because the Project Office is about 55 miles from the Poughkeepsie Regional Office, and more than 35 miles from each employee's home and official station, the eight employees were incorrectly in travel status when they commuted to and from their homes to the Project Office each day. Thus, the Department inappropriately allowed these employees to claim car mileage and toll costs for their commute from their homes to the Project Office and back each day.

In March 2011, the Department issued an internal audit report that questioned the official station designation (Poughkeepsie) of the eight employees working on the TZB project at the Project Office. The audit further concluded that the eight employees should not have been in travel status when they traveled from their homes to their usual place of work in Tarrytown. For the period from September 2007 through May 2010, the internal audit identified improper travel reimbursements totaling $219,050 that were made to the eight employees.

Our analysis of time and travel data found that seven TZB project employees continued to work at the Project Office through September 2011. Moreover, the Department continued to designate Poughkeepsie as the employees' official station and improperly paid them for their regular commuting costs subsequent to the audit period and issuance of the Department's internal report. As previously noted, the internal audit covered the period from September 2007 through May 2010. For the period June 2010 through September 2011, we identified $101,706 in personal car mileage, tolls and other travel expenses. In total, the Department reimbursed TZB personnel $320,756 for commuting expenses incurred from September 2007 through September 2011. The payments included $299,602 for personal car mileage and $21,154 for tolls and other expenses.

Department officials acknowledged the official station designation (of Poughkeepsie) was incorrect and attributed the problem to administrative error. According to Department officials, pertinent managers were unaware of State travel guidance and the Department lacked sufficient formal policy for the designation of employees' official station. Officials also noted that the Project Office was not available to the first six TZB project employees when they were assigned to that work.

At that time, however, Department managers were aware of the impending lease of the Project Office facility and, therefore, they should have assessed the Project Office's impact on employees' official stations and the related travel reimbursement costs. In addition, Department management had multiple opportunities to assess and correctly designate the official station for the staff in question. Such assessments should have occurred when the first six employees were moved to the Center and again when the remaining two employees were assigned to the TZB project during the five months after the Project Office opened. Moreover, the improper travel reimbursements continued for several years because management did not take timely action to mitigate the problem.

Department officials acknowledged that better guidance on this matter was needed. As a result of our audit, in August 2013, the Department issued a new policy that: assigns responsibility for designating official station; spells out roles and responsibilities of key participants and the process for decisions and approvals; and gives guidance on the locations (e.g., Regional Headquarters and Regional Signal Shops) that can be designated as an official station. The new policy requires the official station to be an employee's primary work location, unless another official station is in the best interest of the State.

Potential Tax Implications for Tappan Zee Bridge Project Employees

According to the Taxable Fringe Benefit Guide for Federal, State and Local Governments issued by the Internal Revenue Service (IRS), "commuting" refers to travel between an employee's personal residence and main or regular place of work. Reimbursements for commuting are taxable and are never excludable from income. During calendar years 2009 through 2011, the eight employees received nearly $226,994 in reimbursements for commuting expenses between their respective homes and the TZB Project Office in Tarrytown. About $211,875 of this, or 93 percent, was for personal car mileage; the remaining $15,119 was for tolls and other expenses.

The Department, however, did not report these expenses as taxable payments to the employees. Generally, when necessary, corrected employee Wage and Tax Statements (W-2 Forms) may be issued up to three years after the due date of an affected person's individual tax return for the year in which the expense was incurred. For example, adjustments related to travel expenses that should have been reported on an employee's 2010 W-2 Form must generally be corrected by April 2014.

Department officials have expressed their commitment to resolving these issues and preventing their recurrence. They have also been working with the Comptroller's Office to properly determine and address any tax implications of these travel payments.

Recommendations

1. Ensure that each employee's official station is established in compliance with State travel rules and is in the best interest of the State.

2. Work with the Comptroller's Division of Payroll, Accounting and Revenue Services to take any necessary corrective action related to the potential taxable status of the eight Tappan Zee Bridge project employees' commuting expenses.

Audit Scope and Methodology

The objective of our audit was to determine whether the use of travel monies by selected government employees complied with rules and regulations and is free from fraud, waste, and abuse. Our audit included travel expenses for selected employees for the three years ended March 31, 2011.

To accomplish our objective, we focused audit efforts on travelers who incurred over $100,000 in travel expenses during the audit period and/or exhibited unusual travel characteristics. Based on our initial analysis, we examined the travel costs of 13 Department employees that totaled $393,459. We selected these employees based on high personal car mileage or train fare expenses. The official station of one of these 13 employees was incorrect. We expanded our review to include the travel expenses (totaling $245,759) of seven additional employees whose official stations were similarly incorrect. In total, we examined travel expenses totaling $639,218 for 20 employees.

We reviewed the Department's internal controls for employee travel expenses and assessed their adequacy in relation to the transactions we tested. We examined selected travel expenses, including reimbursements and credit card charges. We placed particular focus on the expenses and supporting documents of eight employees with high personal car mileage claims resulting from their assignment at the Department's Project Office in Tarrytown, New York. In addition, we considered the possible tax implications of these employees' travel reimbursements in calendar years 2009-2011.

We obtained Department data to verify support for the travel expenses we reviewed. This included determining whether the expenses: were for legitimate business purposes; were approved; and complied with OSC and Department guidance. Also, we matched time sheet and travel records to determine whether employees were working on days for which they claimed travel expenses. We communicated our findings to Department officials, and considered information they provided to us through September 18, 2013.

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 we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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

A draft copy of this report was provided to Department officials for their review and comment. The Department's response was considered in preparing this final report and is attached in its entirety to this report. Department officials concur with the audit's recommendations and state actions they have taken to address them.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Transportation 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

John Buyce, Audit Director
Melissa Little, Audit Manager
Nadine Morrell, Audit Supervisor
Sharon Salembier, Audit Supervisor
Scott Heid, Examiner-in-Charge
Heather Pratt, Examiner-in-Charge
Panika Gupta, Staff Examiner
Jacqueline Keeys-Holston, Staff Examiner
Michele Krill, Staff Examiner
Stephon Pereyra, Staff Examiner
Andre Spar, Staff Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Brian Mason, Acting Assistant Comptroller
518-473-0334, bmason@osc.state.ny.us

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

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

WWW.DOT.NY.GOV

JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

December 5, 2013

Ms. Melissa Little
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY, 12236-0001

Dear Ms. Little:

The New York State Department of Transportation (NYSDOT) appreciates the opportunity to respond to the Office of the State Comptroller's (OSC) draft audit report on Selected Employee Travel Expenses. NYSDOT concurs with the audit's recommendations and has taken several actions to address matters discussed in the report.

As noted in the report, NYSDOT issued a new policy on designating an employee's official station that identifies roles and responsibilities of key participants and the process for decision and approvals. Although NYSDOT's previous policy was adequate for the overwhelming majority of assignments, it did not clearly address the relatively rare instances where employees were assigned to a work location for an initially undetermined amount of time and the assignment exceeded one year. Additionally, NYSDOT has:

- revised agency Personnel Status Change forms for employees so that location of official station is clear;
- implemented a process improvement that requires executive management approval of requests to change an employee's assigned official station; and
- instituted a process whereby supervisors will be required to review and to verify a listing of their employees' current home, official station and work hours and to immediately notify NYSDOT's Personnel Bureau and Travel Unit of any modifications to an employee's travel profile.

NYSDOT also has worked with OSC's Division of Payroll, Accounting and Revenue Services regarding any potential tax consequences related to the commuting expenses identified in the audit report. NYSDOT will continue to provide notice to employees annually that reimbursements received for commuting between an employee's home and official work station or regular place of work are taxable and not excludable from wages.

Ms. Melissa Little
Page 2

Should you need additional information, please contact Michael Fazioli, Director, Accounting Bureau, at (518) 457-9767.

Sincerely,

Phillip Eng, P.E.
Executive Deputy Commissioner