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

Department of Environmental Protection
Site Remediation and Waste Management Funds

July 1, 2004 to May 31, 2006

Richard L. Fair
State Auditor
The Honorable Jon S. Corzine  
Governor of New Jersey

The Honorable Richard J. Codey  
President of the Senate

The Honorable Joseph J. Roberts, Jr.  
Speaker of the General Assembly

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services

Enclosed is our report on the audit of the Department of Environmental Protection Site Remediation and Waste Management Funds for the period of July 1, 2004 to May 31, 2006. If you would like a personal briefing, please call me at (609) 292-3700.

Thomas R. Meseroll  
Assistant State Auditor  
December 19, 2006
Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope</td>
<td>1</td>
</tr>
<tr>
<td>Objectives</td>
<td>1</td>
</tr>
<tr>
<td>Methodology</td>
<td>1</td>
</tr>
<tr>
<td>Conclusions</td>
<td>2</td>
</tr>
<tr>
<td>Findings and Recommendations</td>
<td></td>
</tr>
<tr>
<td>Oversight Cost Recovery</td>
<td>3</td>
</tr>
<tr>
<td>Indirect Cost Rate</td>
<td>3</td>
</tr>
<tr>
<td>No Further Action</td>
<td>4</td>
</tr>
<tr>
<td>Accrued Interest</td>
<td>4</td>
</tr>
<tr>
<td>Auditee Response</td>
<td>6</td>
</tr>
</tbody>
</table>
Department of Environmental Protection
Site Remediation and Waste Management Funds

Scope


The prime objective of these special revenue and agency funds within our scope is to fund activities related to solid and hazardous waste, environmental site clean ups and restoration. Total expenditures for these activities for fiscal year 2005 were $99 million. Revenues for fiscal year 2005 totaled $108 million and were primarily derived from environmental taxes and assessments.

Objectives

The objectives of our audit were to determine whether financial transactions and balances were related to the site remediation and waste management funds, were appropriate per enabling legislation, were reasonable, and were recorded properly in the accounting systems. This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section 1, 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, administrative code, circular letters promulgated by the State Comptroller, and policies of the department. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of financial transactions. We reviewed financial trends, and interviewed department personnel to obtain an understanding of the programs and internal controls.

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 that the financial transactions and balances included in our testing were related to the site remediation and waste management funds, were appropriate per enabling legislation, were reasonable, and were recorded properly in the accounting systems. In making this determination, we noted weaknesses in the automated Direct Billing System and other matters that warrant management’s attention.
Oversight Cost Recovery

The department needs to strengthen its billing system.

The department utilizes an automated system entitled the Direct Billing System (DBS) to accumulate the costs incurred by the department when overseeing environmental clean ups. These costs are billable to the responsible parties. During our audit period these recoveries totaled $30 million and were used to reimburse the Hazardous Discharge Site Cleanup Fund and the New Jersey Spill Compensation Fund. DEP employees code their timesheets for time spent on specific projects through the Electronic Cost Accounting and Time Sheet System (ECATS). Through an interface with the state’s centralized payroll system, actual salary costs are derived. Salary costs applicable to projects that are billable to responsible parties are then uploaded to the DBS. The DBS applies a salary additive rate for employee leave time, a fringe benefit rate, and an indirect cost rate to the direct salary costs. Since 2002 homeowners and developers have been exempt from the indirect cost rate. On occasion other direct costs may be added manually to the DBS. These costs are then forwarded to the Department of the Treasury’s Bureau of Revenue for billing and collection. Our audit found that since January 1998 approximately $10 million in oversight costs was never billed to responsible parties because DEP management failed to ensure that project managers submitted the necessary documentation that would initiate the creation of a proper project number on the DBS for the accumulation of billable costs.

Indirect Cost Rate

The department has not updated the site remediation program’s indirect cost rate of 95.29 percent since 1996. The New Jersey Administrative Code 7:26C-9-3.2i entitled Oversight Cost Formula states that the department should develop this rate on an annual
basis. The billing for indirect costs was suspended from 1998 to 2002 in accordance with P.L. 1997, chapter 278 and subsequently reinstated with P.L. 2002, chapter 37. Since the department has not recalculated the program's indirect cost rate, there exists the risk that the department has either overbilled or underbilled for their oversight services.

**No Further Action**

Once the department has completed its oversight of an environmental clean-up and concluded that the site has been adequately remediated, a No Further Action (NFA) letter is issued. This letter is increasingly required in real estate transactions and to obtain development funding. Currently, NFA's are issued even though the responsible party has an outstanding oversight cost balance. There is a normal time lapse between the completion of the oversight and the next billing cycle and it would be unreasonable to hold the NFA until the current charges are paid. However, the department should request any past due amounts be paid prior to releasing the NFA. This would increase the collection rate and reduce the effort necessary to collect past due accounts.

**Accrued Interest**

The Oversight Cost Formula allows for the accrual of interest on the unpaid balance of oversight costs after 30 days. The DBS does not allow for the calculation of interest and therefore, interest is not charged to overdue balances resulting in lost revenue to the program. Also, responsible parties may be more inclined to settle their debt if interest was accruing. The DBS is not capable of providing an aging of its accounts receivable, and therefore, an estimate of lost interest earnings could not be calculated.

As a result of our review, the department
strengthened its initiative of developing a new automated system for billing. This new system would interface with the department’s New Jersey Environmental Management System and capture all projects that should be billed to responsible parties. The new system is also expected to calculate accrued interest and provide an aging of the accounts receivable.

**Recommendation**

We recommend that the department:

- Attempt to collect the $10 million oversight costs from those responsible parties who were not billed.
- Calculate their indirect cost rate on an annual basis.
- Consider not issuing NFAs’ until the responsible parties’ past due accounts are settled.
- Accrue interest on unpaid balances.
- Continue to develop the enhancements to the new automated billing system.
December 15, 2006

Richard L. Fair, State Auditor  
Office of Legislative Services  
Office of the State Auditor  
125 S. Warren Street  
PO Box 067  
Trenton, NJ 08625-0067

Dear Mr. Fair:

Thank you for the opportunity to review and respond to the audit report regarding the Department of Environmental Protection, Site Remediation and Waste Management Funds, for the period July 1, 2004 to May 31, 2006. We are pleased that the audit concluded that the financial transactions and balances tested were indeed program-related, reasonable, and properly recorded in the State’s accounting systems.

The Department would like to take this opportunity to respond to the findings and recommendations presented in the report in order to offer our planned corrective actions. The Department agrees with the conclusions of the audit report and is pleased that it reflects some of the vulnerabilities that the program managers have also noted through an internal review. The program has already begun to address some of these issues, especially those related to Site Remediation Program’s direct billing system. Specific actions for replacing the antiquated database are outlined below. In addition, procedural changes were made in the last 2 years that allowed bills to go out faster, a major effort was undertaken to correct billing address errors, we began taking advantage of collection agencies under state contract, and new procedures were put in place to ensure that billing accounts were established when a new case enters the Site Remediation Program. As a result of these changes, the Department realized an increase in revenue of approx. $4 million per year over the last two years.

I offer the following comments on the specific findings and recommendations of the report.

Strengthen the Billing System  
The DEP agrees with this recommendation and have been working with the Department's IT contractor. This contractor developed our enterprise environmental management system and will now develop a new automated billing system that will be integrated into this system. We have
already completed the application development sessions and will be entering the design phase for the system in the near future, funding dependent. The system will also accrue interest on unpaid balances and provide comprehensive reporting on accounts receivable.

**Calculate the Program Indirect Rate Annually**
The DEP agrees with this recommendation and has engaged our audit contractor to begin work on determining an updated indirect cost rate for the Site Remediation Program. We believe it is important to have an independent CPA firm calculate the rate since it may be challenged by the regulated community in the event that it is significantly increased.

**Attempt to Collect Oversight Costs Responsible Parties Not Previously Billed**
The DEP agrees and has initiated a process to correctly bill these delinquent accounts as soon as possible. Unfortunately, we anticipate that some parties will no longer be located at the addresses we have so we do not expect all funds to be recovered. Additionally, the effort required to find site and address information on some of the oldest cases, so that we can process bills may be worth more than the outstanding oversight costs themselves. As such, we will be prioritizing the projects we work on based on the amount of outstanding debt and the age of the case. The first batch of letters will go out to responsible entities in December 2006.

**Consider Not Issuing NFAs until Past Due Accounts are Settled**
The DEP agrees and will implement a procedure to check oversight account status before issuing an NFA to developers, private homeowners and responsible parties.

In closing, the Department accepts the findings and recommendations presented in the report and will strive to comply with those recommendations in order to safeguard the State’s assets and interests. To that end I have requested that the Assistant Commissioner of the Site remediation and Waste Management Program, Irene Kropp, provide appropriate follow-up relative to your recommendations and the implementation of our corrective actions identified in our response.

Sincerely yours,

Lisa P. Jackson
Commissioner