

APPENDIX A – AUDITEE RESPONSE



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June 20, 2022

Mr. Kevin D. Walsh
Acting State Comptroller
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P.O. Box 024
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RE: Follow-up Report - Department of Environmental Protection – A Performance Audit of Controls Over Revenue at Selected State Parks

Dear Mr. Walsh:

Thank you for the opportunity to review and respond to the Office of the State Comptroller's (OSC) follow-up report regarding the New Jersey Department of Environmental Protection (DEP) controls over revenue at selected parks. The Department has carefully reviewed the report and is pleased to note that many of the recommended changes are currently in process.

Please see the following responses to the "partially implemented" recommendations denoted in the follow-up report. Note that recommendations with a status of "Implemented" do not have a response.

Recommendations Concerning Lease and Concession Agreements

Recommendation #1

Develop and implement policies and procedures for lease management and administration. At a minimum, ensure that the policies and procedures address the issues raised in this report including lease review/renewal, the use of standard lease terms that are consistently used in all similar leases, payment monitoring, late fee penalty assessment, and annual rate escalation adjustments. All staff roles and responsibilities should be defined, and the Department should consider centralized and decentralized operations for effective and efficient operations. Once adopted, training should be provided to all appropriate staff.

Status: Partially Implemented

Response #1

In response to the initial audit findings, the Department revised its leases, licenses, and concessions policy to address Recommendation #1. Last year the Department received additional feedback, identifying shortcomings with this newly implemented policy. Prior to fully implementing the policies to address these deficiencies, the Department announced a restructuring plan that included the creation of the

Office of Transactions and Public Land Administration (OTPLA) in the Office of the Deputy Commissioner for Legal, Regulatory and Legislative Affairs. The intent of the restructuring was to standardize policies and procedures for all transactional agreements for public lands in the Department, including those examined by this audit; to improve the administration, management and monitoring of those agreements; and to serve as a centralized document processing unit. The reorganization was effective April 1, 2022, and resulted in the Office of Leases and Concessions (which is now referred to as the Public Land Administration (PLA) section within OTPLA) retaining its small office and focus but having the benefit of various experts and additional resources including lawyers and paralegals and reporting to the Director for OPTLA, Assistant Director for OTPLA, and Deputy Commissioner who are all attorneys. OTPLA is systematically reviewing all policies and procedures related to transactional documents to ensure that the state's interests are protected by creating favorable and consistent requirements for all agreements. The leases, licenses and concessions policy is being reviewed as part of this effort and will be revised to fully address Recommendation #1.

Recommendation #2

Establish appropriate management oversight and monitoring of lease and concession agreements.

Status: Partially Implemented

Response #2

In response to this recommendation, the Department created a lease, license and concession module in its department-wide database (NJEMS). Operational constraints caused by the COVID-19 pandemic, along with limited resources and personnel, hindered the Department's ability to enter agreements into NJEMS resulting in the lack of ability to monitor all agreements.

Within the last year, the Department has hired two entry level individuals and is in the process of training those individuals to create and administer agreements. The Department is also in the process of backfilling a currently vacant position. These resources will help to migrate the lease, license and concessions agreements into NJEMS, an essential step that will lead to fully implementing Recommendation #2. These efforts will be further bolstered by the reorganization, as additional staff and expertise is now available to PLA to focus on policy, procedures, and overall agreement administration issues.

Recommendation #3

Implement a lease management system that monitors compliance with the lease terms and conditions. At a minimum, the system should provide timely identification and notification of issues, so the Department can take appropriate action for all instances of noncompliance, including, but not limited to the issues identified in this report: notification of nonpayment or late rent, assessment and collection of late payment penalties, receipt and retention of insurance certificates, completion of concessionaire evaluations, and receipt of concessionaire annual reports.

Status: Partially Implemented

Response #3

The staffing limitations and impacts due to the Covid-19 pandemic that resulted in the Department not being able to fully deploy NJEMS are discussed in the Response #2. As mentioned, the Department is in



the process of hiring additional staff and training recently hired staff that will help with this effort. Further, the Department agrees with the audit's findings regarding needed improvements for administration and oversight of agreements and has reorganized, in part, to address this concern and elevate these functions within the Department to ensure it receives the necessary attention, resources and legal review. PLA is now part of the newly formed OTPLA, a centralized document processing unit for the agency reporting directly to the Department's Deputy Commissioner for Legal, Regulatory and Legislative Affairs. Incorporating PLA into a centralized document processing unit and reallocating the support functions to other Department staff has allowed PLA staff to focus more on agreement administration. Additionally, as PLA is part of a larger cross-department unit, more resources are available to the group which provides for better access to Department resources, including the information technology support needed to complete the payment system component of NJEMS. The restoration of staffing levels, the ability to focus solely on contract administration and the recent structural changes will allow the Department to fully implement Recommendation #3.

Recommendation #5

In consultation with legal counsel, assess the merits of conducting property appraisals and the actions required to adjust current leases to fair market value. As appropriate, devise a plan to adjust rental rates in current leases and to ensure that all future leases are monitored for changes in fair market value.

Status: Partially Implemented

Response #5

Under normal operating conditions, the time required to enter into a new lease agreement is often more than one year, as there are many steps involved. The staffing limitations and the operational impacts of the COVID-19 pandemic, described in previous responses, further elongated this process. As a result, the Department has yet to enter into new agreements to adjust the rental values for 4 of the 5 property appraisals that were reviewed as part of this audit. No agreement is being entered into for the remaining appraisal as that activity was abandoned. The Department is committed to continuing the practice of performing appraisals to determine fair market value as outlined in the Department's policies and within the 2011 New Jersey Interagency State Land Lease Valuation Panel Report. This will ensure implementation of Recommendation #5 for any future agreements.

For existing leases where historic rental values are below current market value, the Department is now in a better position to create a plan to align rental rates due to the recent reorganization. The creation of the OTPLA merged legal, policy and management experts, including appraisers, from various parts of the Department into one office under one Director. The PLA will have more direct access to staff with knowledge of property issues, transactional agreements, and system planning and design. This office is charged with creating policies to effectively administer agreements, including devising the plan described in this recommendation. The PLA is addressing this recommendation and OTPLA's broader focus on policies and transactional documents and additional support, will ensure implementation of systems that the Department receives adequate compensation for the use of state land and resources under its management and that this Recommendation is effectively implemented.



Recommendation #6

Evaluate all current leases and renew those leases deemed in the state’s best interest, using a lease template with consistent terms for all similar properties. Ensure all agreements include a defined term and are signed by all parties to the lease. All newly executed leases should, at a minimum, include appropriate lease terms for annual escalation adjustments, late fee penalties, security deposits, and proof of insurance.

Status: Partially Implemented

Response #6

PLA administers approximately 500 lease, license, and concession agreements. The majority of these agreements were executed prior to the Department implementing the use of standard agreement templates and need to be transitioned to these templates. As such, this is a large undertaking and will take a considerable amount of time. While the Department started this process in response to this audit, the number of agreements needing to be transitioned to a standard agreement template, as well as the staffing issues and operational constraints described in other responses, have delayed the implementation of this recommendation.

As discussed, OTPLA is in the process of onboarding and training additional staff and redistributing work to allow staff to focus on document processing. Additionally, OTPLA is modifying the Department computer system, NJEMS, to integrate the standard agreement into the system, thereby reducing processing times and ensuring consistency. These changes will allow the Department to fully implement Recommendation #6.

Recommendations Concerning Cash Receipts and Deposit Practices

Recommendation #8

Review and revise policies and procedures for cash receipts and deposit handling operations that ensure the issues noted in this report are addressed. Provide appropriate training to park management staff to educate and improve compliance with the recording of cash receipts, recording of transactions, including the appropriate handling of voided transactions, the proper documentation requirements and reporting submission requirements, transportation of deposits, and reconciliation of deposits as reported to the Department of Treasury.

Status: Partially Implemented

Response #8

The NJ State Park Service (SPS) has a workgroup that is currently reviewing and revising Policy 1.07 “Revenue, Records and Inventory Policy and Procedures” which will provide guidance for all State parks aside from Island Beach State Park, as it has historically had its own separate policy. The workgroup intends to have a final draft for DEP senior management review by the end of December 2022.

DEP continues to monitor and audit cash handling procedures through both on-site spot checks and periodic audits conducted by the Division of Budget & Financial Operations. SPS has placed an emphasis on training, which occurs annually for both full-time employees and seasonal help. All staff are required



to complete acknowledgement forms to confirm they have taken the training and will adhere to SPS cash handling policies and procedures.

Recommendation #9

Implement oversight and monitoring activities to improve compliance with cash receipts and deposit activities required by OMB Circular Letter and DEP Policy.

Status: Partially Implemented

Response #9

In addition to the actions identified in Response #8, NJ SPS monitors cash receipt reports and follows up on any discrepancies. SPS will perform the monthly reconciliations as recommended and will work with the Division of Budget & Financial Operations, Budget and Account Management staff to engage Treasury to discuss available options to improve revenue tracking. SPS will continue to track individual park revenue through our Cash Receipt Reconciliation (CRR) database where data is entered into the system prior to being submitted to Treasury.

Further, the Division of Budget and Financial Operations, Internal Audit Unit (IAU) performs periodic reviews of cash handling procedures at each park. The IAU provides recommendations and assistance to SPS staff in implementing procedures that will mitigate the reoccurrence of any potential issues.

Thank you again for the opportunity to respond to this report. We appreciate the work of your audit staff and DEP looks forward to maintaining the positive relationship that it has established with the Office of the State Comptroller so that we can continue to improve our operations throughout the State of New Jersey. Please do not hesitate to contact me in all areas of mutual concern.

Sincerely,

Sean D. Moriarty

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cc: John Cecil, Assistant Commissioner, Parks and Forestry, DEP
Adrienne Kreipke, Assistant Commissioner, Management and Budget
Stephen C. Matis, Director, Division of Budget & Financial Operations

