

LEGISLATIVE AUDIT COMMISSION



Review of
Environmental Protection Agency
Year Ended June 30, 2010

622 Stratton Office Building
Springfield, Illinois 62706
217/782-7097

REVIEW: 4354
ENVIRONMENTAL PROTECTION AGENCY
TWO YEARS ENDED JUNE 30, 2010

FINDINGS/RECOMMENDATIONS - 10

ACCEPTED - 5
IMPLEMENTED - 5

REPEATED RECOMMENDATIONS - 4

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 9

This review summarizes the financial audit for the year ended June 30, 2010 and the compliance examination for the two years ended June 30, 2010 of the Illinois Environmental Protection Agency, filed with the Legislative Audit Commission February 24, 2011. The auditors conducted a compliance examination and financial audit in accordance with State law and *Government Auditing Standards*. The auditors stated that the financial statements for the Water Revolving Fund are fairly presented.

The mission of the EPA is to safeguard environmental quality, consistent with the social and economic needs of the State, so as to protect health, welfare, property and quality of life. The EPA is organized into three Bureaus: Air, Water, and Land. The Agency has laboratory facilities in Champaign and Springfield. Regional offices are located in Rockford, Des Plaines, Elgin, Elk Grove, Peoria, Springfield, Champaign, Collinsville, and Marion. Activities of the Agency include issuing permits for air, land and water to restrict pollutants into the environment from industrial and commercial sources; regulating pollution control facilities and solid waste disposal sites; testing the quality of water processing procedures for operators of sewage treatment plants and public drinking supplies and testing gasoline vehicles in Chicago and Metro-East ozone non-attainment areas. The Agency also administers grants and loans to local government for wastewater and drinking water treatment facilities and for Brownfields redevelopment projects.

Appendix A lists some of the Agency's service efforts and accomplishments. Included are the number of vehicles tested for air pollution control, the number of leaking underground storage tank incidents reported, and the number of wastewater facilities inspected.

Doug Scott was the Director of the Illinois Environmental Protection Agency during the audit period. Lisa Bonnett was appointed Interim Director in March 2011. Director Bonnett has served the Agency in fiscal and administrative capacities since 1991.

The average number of employees during the fiscal years indicated was:

2010 - 936; 2009 - 969; 2008 - 1,016.

Expenditures From Appropriations

Appendix B presents a summary of appropriations and expenditures for the two-year period under review. The Agency received appropriations from 30 different funds, including the General Revenue Fund. Total expenditures increased from \$419,911,843 in FY09 to \$535,206,593 in FY10, an increase of \$115.3 million, or 27.5%. This amount includes almost \$2 million in expenditures from non-appropriated funds.

Examples of significant variations in expenditures from FY09 to FY10 include:

- \$116 million increase in the Water Pollution Control Revolving Fund from ARRA funds for loans for clean water programs;
- \$7 million increase in the U.S. Environmental Protection Fund;
- \$5 million decrease in the Hazardous Waste Fund due to reduction in revenue from cost recoveries and collection of fees;
- \$3 million decrease in Solid Waste Management Fund due to reduction in revenue and cost savings; and
- \$3 million decrease in Build Illinois Bond Fund due to a lack of matching funds.

Lapse period expenditures were almost \$16.6 million, or 3.1% of FY10 total expenditures.

Cash Receipts

Appearing in Appendix C is a summary of cash receipts of the Agency for FY10, FY09 and FY08. Cash receipts were \$365,885,207 in FY09 compared to \$489,262,829 in FY10, an increase of \$123.4 million, or 33.8%. The primary reason for the increase was \$134.8 million received in the Water Pollution Control Revolving Fund from ARRA funds for loans for clean water and drinking water programs. Receipts in the Hazardous Waste Fund decreased \$7.3 million as a result of no payment received for the Lake Calumet site and fewer recovery settlements in FY10. Receipts from interest deposited directly into the State Treasury decreased \$8.8 million.

Accounts Receivable

Appendix D is a summary of the Agency's total accounts receivable which were \$2 billion at June 30, 2010. Receivable was \$1.8 billion at June 30, 2009. Of the \$2 billion in accounts receivable, the vast majority is current. Almost \$24.9 million, or 1.2%, is over 180 days past due, and \$1.984 billion, or 98.8%, is current.

Property and Equipment

The summary of property and equipment transactions of the Illinois Environmental Protection Agency is limited solely to equipment. The balance decreased from

REVIEW: 4354

\$26,211,381 as of June 30, 2009, to \$25,242,781 as of June 30, 2009. Appendix E reflects all Agency property, including amounts falling below the capitalization thresholds set for financial statement reporting purposes.

Accountants' Findings and Recommendations

Condensed below are the ten findings and recommendations presented in the audit report. There were four repeated recommendations. The following recommendations are classified on the basis of updated information provided by Lisa Bonnett, Interim Director, via electronic mail received July 14, 2010.

Accepted or Implemented

- 1. Comply with internal procedures, Administrative Code rules, and prudent business practices by performing annual evaluations for all employees in a timely manner. Also, ensure personnel files contain all required payroll deduction and withholding documentation and obtain the missing documents from the employees. (Repeated-1994)**

Finding: The Agency did not adequately maintain employee personnel files. During a review of 60 employee personnel files, auditors noted the following:

- 24 of 60 employees tested did not have performance evaluations for the evaluation period tested. The time elapsed from the employee's previous performance reviews ranged from 12 to 64 months.
- 32 of 60 employee evaluations were performed after the due date. The time elapsed from the due date to the performance review approval date ranged from one to 353 days.

In addition, auditors also noted that seven employee files tested had either a missing Federal/Illinois W-4 card or signed withholding authorizations for credit union, college savings, or charities.

Agency management stated that staff shortages and additional management assignments led to the Agency's inability to evaluate all employees in a timely manner. In addition, missing payroll deduction authorization cards may have been misplaced because of the relocation of the Fiscal Services office.

Updated Response: Accepted. The Agency continues to strive to timely complete performance evaluations. The payroll deduction and withholding documentation that was previously missing have been re-submitted by the employees. In addition, the Agency has begun a review of all payroll files to ensure each file contains the documentation required to support the current payroll deductions.

Accepted or Implemented – continued

2. Ensure compliance with statute by performing the inspections of the release of radionuclides at nuclear power plants on a quarterly basis. (Repeated 2008)

Finding: The Agency, in cooperation with the Illinois Emergency Management Agency, failed to perform inspections on the release of radionuclides at nuclear power plants.

During testing, auditors noted two quarterly inspections were not made for two of the six nuclear power plants in Illinois during FY09. In addition, quarterly inspections for the first, second and fourth quarters of FY10 for another two of the six nuclear power plants were not made.

Agency management indicated the exception in FY09 was due to time constraints since there was a delay in the development of the framework on how to implement the mandate in 2008 and the proposed procedures were just adopted by the Pollution Control Board on May 1, 2008. During FY10, the inspections were not performed due to lack of trained staff.

Updated Response: Implemented. As originally stated, the Agency has added one additional staff, provided training on inspections of nuclear power plants to all staff performing these inspections, made direct assignments to staff for all tritium inspections, and directed the Field Operations Section manager to monitor inspection progress. The Agency has completed quarterly inspections at each nuclear power plant during the quarters ending December 31, 2010; March 31, 2011; and June 30, 2011.

3. Improve controls over property management and maintain accurate records of State property.

Finding: The Agency did not properly maintain records of State property. In the physical identification of 20 items in the property control records, auditors noted the following:

- Four equipment items tested totaling \$22,393 were not found.
- One equipment item tested amounting to \$9,659 was not tagged with the Agency decal.
- Three equipment items tested totaling \$6,602 were found to be obsolete to the needs of the Agency and should have been considered transferable property.
- One equipment item tested amounting to \$10,010 had a serial number different from what was recorded in the property records.

During tracing to the property control records of 20 equipment items physically identified, auditors noted the following:

- Three equipment items tested totaling \$972 were found to be obsolete to the needs of the Agency and should have been considered transferable property. The Agency could not provide the cost of one of the three equipment items.

REVIEW: 4354

- Two equipment items tested were not included in the Agency's property records.
- Two equipment items tested totaling \$3,639 were located but at a different location than was recorded on the property records.

During a review of 20 equipment deletions, auditors also noted that two stolen projectors totaling \$5,152 were still recorded in the property records.

The Agency subsequently updated the property control records as a result of the exceptions noted above, and indicated the above exceptions were primarily due to oversight.

Updated Response: Implemented. The Agency has corrected the specific property discrepancies identified in the audit finding. In addition, the Agency has begun the FY12 annual physical inventory to ensure similar discrepancies are identified and resolved.

4. Strengthen controls over voucher processing to ensure accuracy and compliance with State and Agency regulations.

Finding: The Agency did not have adequate controls over voucher processing. During a review of vouchers, auditors noted the following:

- Fifteen of 245 vouchers tested, totaling \$108,193, were approved for payment from one to 24 days late.
- In two of 25 travel vouchers tested, the vouchers were submitted six to nine days late.
- In three of 270 vouchers tested, the vouchers were not properly coded with the correct expenditure detail object codes.
- In three of 270 vouchers tested, overpayments were made by the Agency.

Agency management indicated that the untimely approval of vouchers, delayed submission of travel vouchers and improper coding of expenditures were due to an oversight by those employees reviewing and processing these vouchers. In relation to overpayments, overruns have been historically paid by the Agency but they now realize that these should not have been paid. The overpayment on the purchase of vehicle parts was due to a misunderstanding between Agency personnel.

Updated Response: Implemented. The Agency has reminded personnel to submit travel vouchers in a timely manner and to document the situation causing voucher approval to be delayed when there are problems with the goods or services. In addition, voucher processing personnel are more mindful of timeframes in the voucher process.

Accepted or Implemented – continued

REVIEW: 4354

5. Ensure compliance with statute by performing timely update of the proper classification of community water supply (CWS) facility and maintenance of required documentation.

Finding: The Agency failed to update and maintain records on changes in community water supply (CWS) treatment services for proper classification. During testing of 25 CWS facilities, auditors noted the following:

- Two CWS facilities tested were not updated to show the proper level of classification required for that facility.
- Two CWS facilities tested showed that the Notification of Ownership, Responsible and Operational Personnel forms were not signed by either the owner or official custodian of the CWS facility.
- For eight CWS facilities tested, no written Agency approval was indicated on the agreement between the CWS facility and the operator.

Agency management indicated that the exceptions noted were due to lack of internal procedures for timely updating classifications resulting from treatment process upgrades and the processing of improperly signed Notification of Ownership, Responsible and Operational Personnel forms.

Response: Accepted. The Agency will work to improve internal communications between the drinking water permit section and operator certification section to ensure that treatment upgrades to CWS that impact the level of operators required will result in the proper re-classification of CWS. Agency procedures will be changed to ensure that all Notification of Ownership, Responsible and Operational Personnel forms are properly signed by either the owner or official custodian and approved in writing by the Agency, as appropriate.

Updated Response: Implemented. The Agency modified its data entry process to better coordinate the Operators' Certification database with the Safe Drinking Water Act Information System (SDWIS). The Notification of Ownership, Responsible and Operational Personnel forms filed by the Community Water Supply facilities will be properly signed by the owner or the official custodian as appropriate for each situation.

6. Comply with statute by ensuring that press releases are distributed as required.

Finding: The Agency failed to notify the public by issuing a press release for distribution to newspapers of general circulation in relation to granting provisional variances. Provisional variances are orders that only the Agency can issue to give a petitioner very short-term relief from an environmental regulation, usually in emergency situations.

REVIEW: 4354

Auditors tested three of the ten (30%) provisional variances granted during the examination period and noted the Agency did not issue press releases for distribution to newspapers of general circulation in the counties where the provisional variances were sought.

Agency management indicated the failure to issue press releases was due to requests for issuance not being forwarded to the Public Information Officer.

Updated Response: Implemented. Agency administrative rules have been amended and are being used as a checklist to ensure proper notification to the communication personnel of each provisional variance so that a press release can be issued. In FY11, the Agency has issued a press release for each of the nine provisional variances granted during this period.

7. Comply with the Industrial Hygienists Licensure Act requirements or seek legislative remedy to the statutory requirement. (Repeated-2004)

Finding: The Agency's Director appointed an Industrial Hygiene Examining Board (Board) as required by the Industrial Hygienists Licensure Act in October 1994. However, the Board has been inactive since then.

Agency management stated that a survey of the Licensed Industrial Hygiene (LIH) community was sent in August 2009 requesting willingness to serve on the Board and suggestions regarding how board meetings will be conducted. If responses are not sufficient, the Agency will move at a later date to change the law regarding the LIH Board.

Updated Response: Accepted. Senate Bill 100 amends the Industrial Hygienists Licensure Act to require "the Board to meet at the call of the Director." This Bill was sent to the Governor on June 2, 2011.

8. Ensure the Lake Michigan water quality report is submitted to the Governor and General Assembly on an annual basis. (Repeated-2004)

Finding: The Agency did not submit the 2009 and 2010 Lake Michigan water quality reports as required by the Rivers, Lakes and Streams Act.

Agency management stated they believed the Illinois Integrated Water Quality Report (IR) and Section 303(d) List, which incorporates a section regarding Lake Michigan water quality, submitted under federal regulation supported compliance with the annual report required by State statute.

Updated Response: Accepted. Throughout each year, the Agency conducts water quality and lake bed surveys to evaluate the ecology and the quality of water in Lake Michigan. The information is included in the Illinois Integrated Water Quality Report and Section 303d list report that was submitted to USEPA on March 29, 2010. The Agency

Accepted or Implemented – concluded

continues to hold discussions with USEPA while awaiting their approval. The Agency anticipates filing this report with the required State offices in July 2011.

The Agency is also considering legislation to amend the Illinois Rivers, Lakes, and Streams Act to be consistent with the biennial reporting to the United States Environmental Protection Agency.

9. Ensure submission of the assessment schedules determination, review appointment terms of Committee members, and ensure the Committee meets as required.

Finding: The Agency did not comply with the Environmental Laboratory Certification Assessment Program. The Environmental Protection Act states that upon the concurrence of the Environmental Laboratory Certification Committee (Committee), the Agency shall determine the assessment schedules for participation in the environmental laboratory certification program. It also states that on or before August 1 of each year, the Agency shall submit its assessment schedules determination and supporting documentation for the forthcoming year to the Committee. Also, no member of the Committee shall serve more than two consecutive 3-year terms, and the Committee shall hold at least two regular meetings each year.

During the examination period, the Agency did not submit the assessment schedules determination for participation in the environmental laboratory certification program and supporting documentation to the Committee. Also, the Agency failed to appoint new members of the Committee. All nine existing Committee members have served beyond the two consecutive three-year term limits. In addition, the Committee has not held two regular meetings annually since its last meeting in April 2002.

Agency management stated there was no submission or re-assessment made to the Committee since no changes to the 2002 schedule have been needed. This also resulted in the Committee not meeting in several years. Replacement appointments for expired terms have not been made since there was no need for the Committee to meet.

Response: Accepted. The Agency will review the assessment fees. If a change in the assessment is necessary, the Agency will submit its recommendation to the Council.

Updated Response: Accepted. The Agency will seek legislation to amend this program to be more reflective of the State's needs and requirements for laboratory certification.

10. Fill the vacancies in the Community Water Supply Testing Council and ensure that the Council holds the required number of meetings.

REVIEW: 4354

Finding: The Community Water Supply Testing Council did not have a sufficient number of council members and did not meet as required.

During testing, the Council was not composed of 15 members as required. Since January 2007, the Council was deficient in membership representation creating three vacancies. In addition, the Council had not held meetings at least twice annually during the examination period. The last meeting held by the Council was on February 8, 2007.

Agency management indicated that during the February 8, 2007 meeting between the Council and the Agency, the community water supply testing program fee structure was agreed to reflect the Agency's actual costs which would be nonnegotiable, thus subsequent face-to-face meetings were not needed. The Agency provided cost analyses performed by a contractor to the Council via email for their review during the examination period.

Updated Response: Accepted. The Agency has proposed legislation for the Council to meet upon the call of the Director to consider a change in the methodology of establishing fees charged to communities to have their drinking water supplies tested.

Emergency Purchases

The Illinois Purchasing Act (30 ILCS 505/1) states, "The principle of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts..." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption for emergencies "involving public health, public safety, or where immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage ... prevent or minimize serious disruption in State services or to insure the integrity of State records, or to avoid lapsing or loss of federal or donated funds. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make 'quick purchases', including but not limited to items available at a discount for a limited period of time."

State agencies are required to file an affidavit with the Auditor General for emergency procurements that are an exception to the competitive bidding requirements per the Illinois Purchasing Act. The affidavit is to set forth the circumstance requiring the emergency purchase. The Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

The Agency filed no affidavits for emergency purchases during FY09 or FY10.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Environmental Protection Agency indicated on July 15, 2010 that 41 employees assigned to locations other than official headquarters.