



**New York State Office of Parks,
Recreation and Historic Preservation**

Albany, New York 12238

www.nysparks.com

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

June 12, 2013

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

Dear Ms. Little:

The New York State Office of Parks, Recreation and Historic Preservation has reviewed the Office of the State Comptroller's audit report 2011-S-05 entitled "*Use of New York State Snowmobile Trail Development and Maintenance Funds.*" Enclosed, please find the Agency's response to the final audit report.

As summarized by the attached, we generally concur with the recommendations made in the audit report. The audit is generally a positive one and OPRHP understands there is always room for improvement. We thank the OSC team for their professionalism and their efforts on our behalf in conducting this review.

Thank you for the opportunity to respond to the report. If you have any questions regarding the Agency's response, please contact Brian D. Jackson of OPRHP's Office of Internal Audit at (518) 473-3390.

Sincerely,

Mindy Scott
Deputy Commissioner for
Finance and Administration

cc: Commissioner Harvey
Andy Beers
Tom Alworth
Marc Talluto
Chris Pushkarsh
Brian D. Jackson

**New York State Office of Parks, Recreation & Historic Preservation
Response to the Office of the State Comptroller's Final Audit Report
Use of New York State Snowmobile Trail
Development and Maintenance Funds
Audit 2011-S-05**

The Office of Parks, Recreation and Historic Preservation's (OPRHP) response to the Office of the State Comptroller's (OSC) final audit report number 2011-S-05, entitled "*Use of New York State Snowmobile Trail Development and Maintenance Funds*" is presented below. OPRHP has reviewed the findings and recommendations presented in the final audit report. In the following sections, we have noted the portions of the report where we differ in opinion to or feel the need to clarify the described conditions, findings and/or recommendations.

Questionable or Unsubstantiated Fund Payments:

- ***Page 7, Paragraph 2, first sentence:*** "Additionally, we canvassed local sponsors participating in the 2010-11 snowmobile programs and identified six local sponsors that, subsequent to disbursing the Parks funds to TMEs, charged the TMEs administrative fees totaling more than \$41,780 for the three years ending March 31, 2011."

Agency Response: It should be noted that the \$41,780 is approximately \$13,927 for each season (and \$2,321 for each of the six counties under review). The \$13,927 is less than one half of one percent (0.28%) of the total annual program funding of \$5 million.

OPRHP will modify the Phase 2 Local Sponsor Application (Phase 2) formal application process for local sponsors to request program oversight expenses. Local sponsors will need to document their expenses just as the TMEs do.

- ***Page 8, Paragraph 1, first sentence:*** "We found seven of twelve sponsors, representing 23 TMEs, submitted grooming logs to Parks with grooming speeds that, on average, ranged from .08 mph to about three miles per hour, considerably slower than Parks guidance recommends."

Agency Response: The process of recommending optimal grooming speeds has several variables such as size of groomer, experience of the operator, weather conditions, traffic on the trails, length of wait at crossings, amount of snow to process, trail characteristics (hilly vs flat, straight vs tight turns) that it is virtually impossible to set a speed for grooming each day or season. The recommendation is just that - a recommendation.

- ***Page 8, Paragraph 3, first sentence:*** "The Fund also reimbursed two sponsors, Herkimer and Cattaraugus counties, for sales tax that was claimed by TMEs and is ineligible for reimbursement."

Agency Response: As OSC noted, "Parks receives State aid from the Fund of about \$5 million annually." OSC did not indicate the amount of sales tax reimbursed,

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therefore OPRHP questions the materiality of the amount and the potential impact on the program.

Parks Oversight and Communication:

- ***Page 9, Paragraph 1, first sentence:*** “*In addition to Parks not enforcing the requirement to collect expenditure estimates, we found lapses in Parks' oversight and communication that resulted in differing practices and expectations among sponsors and TMEs, as well as reduced assurance that Fund payments are helping to achieve its objectives.*”

Agency Response: The statute does not require TMEs to submit 100 percent of their trail development and maintenance expenses. The TMEs only have to show expenses and donations that meet the trail grant award amount. The requirement for submitting grooming activity was to monitor groomer use vs repair expenses and to collect total grooming hours by region and for the amount of snow cover.

The installation of GPS tracking devices will be evaluated for cost effectiveness, and accuracy and reliability.

Response to Recommendations 1-6 (Pages 6 - 10)

The following section presents OPRHP's response to each recommendation contained in the draft audit report.

- ***Recommendation 1:*** *Take corrective action to ensure the affected club received the funds entitled to; conversely, recover any improperly funds or adjust future payments accordingly.*

Agency Response: **Agree.** OPRHP will take corrective action and will recover any funds improperly received.

- ***Recommendation 2:*** *Assess the risks associated with the misappropriations of snowmobile trail funds and develop control to mitigate these risks.*

Agency Response: **Agree.** OPRHP is assessing the risks associated with the misappropriation of snowmobile trail funds and develop controls to mitigate any risks identified. This assessment should be completed by August 1st, 2013 in order to implement findings in the Phase 2 of the Trail Grant funding. Additionally, Parks will encourage local sponsors to enter into contracts with both TMEs and associations stipulating the roles and responsibilities of all parties. Phase 2 will require local

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sponsors to provide a copy of all subcontracts used to develop and maintain the trails within their jurisdiction.

- **Recommendation 3:** *Develop and communicate clear guidance to local sponsors and TMEs about administrative fees being ineligible for Fund reimbursement.*

Agency Response: **Agree.** OPRHP is also assessing the effects of local sponsors claiming administrative cost to determine if the expenses should be allowable. The Phase 2 application will also contain provisions for local sponsors to identify and document any use of trail grant funds in the administration/oversight of the trail grant program within their jurisdiction.

- **Recommendation 4:** *Provide stronger program oversight by assessing the effects that sponsor and TME practices, such as using paid groomer operators, have on the effectiveness and value provided to the snowmobiling public. Use the results to monitor and communicate about identified risk areas.*

Agency Response: **Agree.** With the development and implementation of the Automated Trail Grant Program (ATGP), OPRHP has an improved means to monitor eligible, accurate and accountable expenditures by the TMEs. The ATGP restricts the time period TMEs have to enter expenses into the program. This will help limit the opportunity TMEs have to back fill expense data when potential award amounts are greater than actual expenses. In addition, local sponsors and OPRHP will have close to real time oversight of expenses entered into the ATGP.

The use of paid groomer operators by Franklin County did not directly impact the Trail Fund. The documentation provided by the local sponsor identified that groomer rates paid were within the allowable rate. The rate includes labor, fuel, lubricants and minor maintenance expenses. OPRHP monitors the hours of groomer usage but does not require documentation of the labor, fuel, lubricants and minor maintenance expenses within the allowable grooming rate. In addition, the TME may be using its own membership revenue to pay for this.

Part 454.2 of the OPRHP rules and regulations provides that the local sponsors are permitted to submit employee normal hourly rates of wages spent performing trail construction and maintenance which includes grooming. This allows for the payment of groomer operators.

OPRHP will also address the use of trail funds to pay groomer operators and association officers.

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- **Recommendation 5:** *Reassess the practice of allowing the Fund to pay for insurance for trails outside the statewide system.*

Agency Response: **Agree.** OPRHP agrees to reassess the practice and in that reassessment has determined that it is appropriate to utilize trail funds to insure trails not in the statewide trail system.

The New York State Snowmobile Association (NYSSA) has indicated there are approximately 2,000 miles of non-funded trails and that these trails should be maintained in the same manner as funded trails. In addition, the insurance provider has stated that insurance costs are not increased with the addition of the non-funded trails. Therefore, it is the recommendation of OPRHP to include insurance coverage for all snowmobile trails recognized by OPRHP and NYSSA. Consistent coverage for landowners and snowmobilers is in the best interest of the sport.

- **Recommendation 6:** *Develop and communicate clear guidance and controls, where applicable, on the requirements for:*
 - *Annual application requirements, including addressing expenditure estimates;*
 - *Submission of documentation supporting trail grooming, development and maintenance activities;*
 - *Trail safety inspection;*
 - *Equipment purchases and sales; and*
 - *Subcontracting practices.*

Agency Response: **Agree.**

Annual Application Requirements: Each year OPRHP's Snowmobile Unit produces a detailed set of guidelines on the requirements of the Trail Grant program. These guidelines are annually updated to clearly detail any program changes and provide direction for local sponsors and TMEs on any deviations or misinterpretations of program requirements. The practice of providing estimates for expenditures was eliminated from the application since the trail fund award process is based on the number and type of trails rather than on estimates that the sponsors provide. Sponsor estimates were not soundly based as they had no means to establish actual costs and the estimates had no basis for assuring a fair and equitable distribution of funds. The submission of three-year work plans provides a means to assess local sponsor and TME progress in improving trail conditions and safety. OPRHP is considering proposing legislative changes to the program that would eliminate the need for providing expenditure estimates.

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With the downsizing of local sponsor staff there has been a reduction of time available to prepare lengthy applications. To continue to meet the Trail Grant program requirements, local sponsors are relying more on the TMEs to perform grant preparation and the review of documentation once handled by sponsor staff. OPRHP is also very concerned there must be a separation of duties between the sponsors and the TMEs. The situation uncovered in Herkimer County reinforces the clear need for separation of duties and responsibilities. The Phase 2 will clearly provide for local sponsors to perform the expenditure audit function.

Documentation supporting grooming, development and maintenance activities: By requiring grooming logs for all groomers listed on Appendix B in the Phase 2 application and in the ATGP, OPRHP continues to have the ability to monitor grooming practices statewide. Utilizing the ATGP, OPRHP will be able to monitor grooming in near real time and identify which trails were groomed and by which groomer. OPRHP is also actively seeking a GPS Groomer tracking program that will be integrated into the ATGP accounting program. Groomer usage tracking and accounting through the use of GPS tracking and recording devices will assure greater accountability of Trail Funds.

Trail inspections: The legal statute for the entire Trail Grant program provides for a maximum level of three staff to maintain the program. Current program requirements fully occupy the time staff has to ensure integrity of the grants awarded. The implementation of a trail inspection for the 10,500 mile of trail by three staff is virtually impossible given time and distance constraints. OPRHP has been discussing the implementation of trail inspections and a cost/benefit analysis along with a risk assessment has been proposed for the upcoming season.

Initial discussions on finding a cost effective means to verify trail availability and maintenance may be through the use of the existing trail patrols performed by the State Park Police. The inspection of trails could be as simple as completing and submitting a form after a patrol. This type of inspection accomplishes trail verification and places officers throughout the trail system.

Equipment purchases and sales: OPRHP has eliminated the approval of equipment purchases and will no longer provide the trail funds to be used directly for the payment of maintenance and grooming equipment. TMEs are subcontractors, thus they will be expected to provide their own tools necessary to accomplish the development, maintenance and grooming of trails they are responsible for. The reimbursement rate for the use of maintenance equipment by TMEs will be adjusted using the NYS DOT equipment rental rate schedule. The hourly grooming rate will be adjusted to accommodate depreciation/replacement of existing equipment.

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Subcontracting practices: The current program does allow TMEs to contract with companies to perform work on the trails they are responsible for. These contracts encourage the use of local businesses, thereby supporting the local economy. OPRHP will continue to monitor the use of contractors to perform work that volunteers are not skilled enough to perform.