

**COLORADO****Department of Transportation**

Office of Policy and Government Relations

4201 East Arkansas Avenue, Room 275
Denver, CO 80222-3406

May 2, 2014

Ms. Diane Ray, CPA
State Auditor
1525 Sherman Street, 7th Floor
Denver, CO 80203-1700

Re: Status Report - CDOT Outdoor Advertising Control Program

Dear Ms. Ray:

This letter provides an update of the current status of CDOT's efforts to implement all recommendations contained in the 2013 performance audit of the CDOT Outdoor Advertising Control Program ("OACP"). As you know, the Office of the State Auditor ("OSA") issued its performance audit in May 2013 containing four multi-part recommendations for CDOT's Outdoor Advertising Program. At the time, CDOT management agreed to implement all recommendations by April 2014.

As CDOT worked to meet the April 2014 deadline, unanticipated changes became apparent; the most significant being the revision of the rules which date from 1983 and compliance with the seven month rule-making process. CDOT initially intended to only update those sections of the rules impacted by the 2013 audit. When beginning the revision process, however, it became clear that the rules required a complete revision. These rules involve complex issues, governed by lengthy state and federal statutes. Additionally, other documents and procedures responsive to the audit findings are tied to or are driven by the rules.

CDOT began its rule revision immediately after receiving the May 2013 audit. Meeting weekly for almost a year, CDOT staff completed the first draft of the rules on April 1, 2014. On April 11, 2014, CDOT provided the draft rules to the U.S. Federal Highway Administration and the state Attorney General's Office for review. After making any necessary changes, CDOT will provide a draft of the rules to key stakeholders, make any necessary revisions, and commence the formal rule-making process proscribed by the State Administrative Procedure Act, § 24-4-103, C.R.S., in August 2014. It is my intention to complete the formal rule making process in November 2014 by reviewing and adopting the rules following a public rule-making hearing.

As I have said before, the recommendations provided by your staff, once implemented, will significantly strengthen the OACP program. Please be assured that I, along with all of CDOT management, remain committed to implementing all recommendations included in the OSA's report on a timely basis. The attached Audit Recommendation Status Report provides CDOT's current status and goals to achieve full implementation of all OSA recommendations from the 2013 performance audit. CDOT will provide documents upon request to demonstrate the state of completion set forth in the Status Report; "Implemented" or "Partially Implemented."

Should you have questions, please contact either me or Kurt Morrison, CDOT Legislative Liaison, at (303) 757-9703.

Sincerely,

Don Hunt
Executive Director

AUDIT RECOMMENDATION STATUS REPORT

AUDIT NAME: Outdoor Advertising Program

AUDIT NUMBER: 2195

DEPARTMENT/AGENCY/ENTITY: Department of Transportation

DATE: May 2013

SUMMARY INFORMATION

*Please complete the table below with summary information for all audit recommendations. **For multi-part recommendations, list each part of the recommendation SEPARATELY.** (For example, if Recommendation 1 has three parts, list each part separately in the table.)*

Recommendation Number <i>(e.g., 1a, 1b, 2, etc.)</i>	Agency's Response <i>(i.e., agree, partially agree, disagree)</i>	Original Implementation Date <i>(as listed in the audit report)</i>	Implementation Status <i>(Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable)</i> <small>Please refer to the attached sheet for definitions of each implementation status option</small>	Revised Implementation Date <i>(Complete only if agency is revising the original implementation date.)</i>
1a	Agree	April 2014	Partially Implemented	July 2014
1b	Agree	April 2014	Partially Implemented	July 2014
1c	Agree	April 2014	Partially Implemented	November 2014
1d	Agree	April 2014	Partially Implemented	November 2014
1e	Agree	December 2013	Implemented	May 2014
2a	Agree	August 2013	Implemented	
2b	Agree	April 2014	Implemented	
3a	Agree	January 2014	Implemented	
3b	Agree	April 2014	Partially Implemented	November 2014
4	Agree	April 2014	Implemented	

DETAIL OF IMPLEMENTATION STATUS

Recommendation #: 1a

Agency Addressed: Department of Transportation

Recommendation Text in Audit Report:

The Department of Transportation should establish adequate controls over outdoor advertising signs located along interstates and controlled highways to ensure compliance with federal and state requirements by:

- a. Establishing a comprehensive monitoring process through written policies and procedures and training staff on this process. This monitoring process should include a standardized monitoring schedule for both the Program Manager and regional inspectors and a description of the monitoring efforts that should be undertaken, including how the inventories and surveillance should be conducted. The process should also address how, when, and by whom data should be entered into the sign inventory database and provide for a quality control review to ensure the database is accurate and complete.

Agency's Response (*i.e., Agree, Partially Agree, or Disagree*): Agree. Implementation Date: April 2014.

Agency's Written Response in Audit Report:

The Department will establish a comprehensive monitoring process in governing documents including a Procedural Directive which applies to all Department personnel who are involved in the Outdoor Advertising Program. In addition to the Procedural Directive, a step-by-step process will be developed in a written manual. The governing documents shall include specifics with regard to:

- Requirements for monitoring, including schedules, inventories, and surveillance;
- Controls on data entry into the device inventory database;
- Training implementation for staff; and
- Steps for quality control review (routine random sampling of inventory).

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Partially Implemented

Agency's Current Comments on Implementation Status of Recommendation:

The comprehensive monitoring process applicable to all Department personnel involved in providing effective control of outdoor advertising on controlled routes in Colorado is detailed in a Procedural Directive. The draft Procedural Directive has been completed and will be finalized in July 2014.

Recommendation #: 1b

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should establish adequate controls over outdoor advertising signs located along interstates and controlled highways to ensure compliance with federal and state requirements by:

- b. Ensuring that regional inspectors are informed of their roles and responsibilities related to the Outdoor Advertising Program and that they fulfill those responsibilities. Alternatively, the Department could consider centralizing all monitoring activities into one unit, with staff who are dedicated full-time to the Program.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: April 2014.

Agency's Written Response in Audit Report:

The Department will put procedures in place to ensure that regional inspectors are evaluated on the timeliness, adequacy, and completion of monitoring activities. The Department considered a centralized monitoring plan, but determined that day-to-day inspection at a regional level is more effective because of regional access to the signs, permit holders, and documentation. Regional offices have established ties to the local jurisdictions, and have a better ability to resolve issues at a local level. While day-to-day inspections will be conducted by the regional offices, annual inspections will be performed by the Department's headquarters office. Note that effective July 1, 2013, the Department reduced the number of regions from six to five. Procedures will be implemented through:

- Revising performance documentation and work plans for inspectors and the Program Manager;
- Utilizing Federal Highway Administration training and scheduling other means of training for all inspectors; and
- Developing clear direction in a *Roadside Advertising Manual* for inspection procedures, data recording, and reporting.

These changes will be initiated in June 2013 and completed by April 2014.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Partially Implemented

Agency's Comments on Implementation Status of Recommendation:

The Department conducted an FHWA Training for CDOT Outdoor Advertising Inspectors in June 2013. Additionally, it required the Program Manager and two inspectors to attend the National Alliance of Highway Beautification Agencies (NAHBA) portion of the 2014 AASHTO Conference in Salt Lake City, Utah on April 27 through May 1.

The Department intends to hold at least one training session per year, to advise all CDOT inspectors and traffic engineers of the changes to relevant law, regulations or practice.

No later than June 2014, the Department will hold a meeting with all CDOT personnel responsible for Outdoor Advertising to afford an opportunity to those who attended the national conference to share the information they gathered. The FHWA will be requested to attend.

Every week from January 16 through March 28, the Department held a 3 hour training meeting and included all CDOT inspectors. During these meetings, the Department reviewed all relevant state and federal requirements with inspectors, gathered input on the challenges facing implementation of outdoor advertising control, and responded to questions on specific issues.

The roles and responsibilities related to the Outdoor Advertising Program for all CDOT personnel involved in the effective control of outdoor advertising are spelled out in the Procedural Directive. The Procedural Directive draft has been completed and will be completed by the end of July 2014.

The *Roadside Advertising Manual* has been completed, but is considered to be a living document, which will be added to as issues are raised and addressed. The manual will be submitted to the FHWA for review no later than June 6, 2014, with the intent that the review period will be completed by July 2014.

Recommendation #: 1c

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should establish adequate controls over outdoor advertising signs located along interstates and controlled highways to ensure compliance with federal and state requirements by:

- c. Establishing a standard process for enforcing federal and state laws and Department regulations when illegal signs are identified. This process should include documenting the presence of illegal signs identified during monitoring and the steps taken to notify property owners and to remove the illegal signs identified.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: April 2014.

Agency's Written Response in Audit Report:

The Department will create, through a Procedural Directive and a step-by-step guide set forth in a manual, a standard process for enforcing federal and state laws and Department regulations when illegal signs are identified. This process will include notifying property owners and removing devices when necessary.

These changes will be initiated in June 2013 and completed by April 2014.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Partially Implemented

Agency's Comments on Implementation Status of Recommendation:

Removal of illegal signs is among the most important aspects of effective Outdoor Advertising control. The Department therefore determined to include the procedure required for removal of illegal signs in the rules, which have the effect of law. The Department has completed a revised set of rules which include directions on the removal of illegal signs. The draft rules are currently being reviewed by the FHWA and the Office of the Attorney General. Following their review, CDOT will take the next steps in the rule making process by providing a draft of the rules to key stakeholders, then open the rules, hold a public hearing, and complete the rules by November 2014. The Department has "Partially Implemented" this audit finding by the completion of the training on illegal sign identification and removal for field staff.

Recommendation #: 1d

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should establish adequate controls over outdoor advertising signs located along interstates and controlled highways to ensure compliance with federal and state requirements by:

- d. Ensuring that permit holders affix their permit decals to the signs in a conspicuous location, amending rules to include a requirement for owners to affix the renewal stickers, and taking enforcement action, as warranted, against property owners who do not comply. This action may include taking steps to reclassify signs that do not comply as illegal signs.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: April 2014.

Agency's Written Response in Audit Report:

The Department agrees that procedures must be put in place to ensure that permit holders affix their permit decals to the signs in a conspicuous location. The Department will include this requirement either in rules or in other governing documents. The Department agrees that it should enforce this requirement, but does not agree that the absence of a renewal sticker would warrant reclassification to an illegal sign. The correct recourse in this case may be, for example, to direct that the owner affix a sticker. The procedures will include a time by which stickers must be posted.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Partially Implemented

Agency's Comments on Implementation Status of Recommendation:

The procedures for ensuring that permit holders affix their permit decals to the signs in a conspicuous location are included with the total rewriting of the *Rules Governing Outdoor Advertising in Colorado*. The Department has entirely revised the rules over a nine month period and submitted the rules for review on April 11, 2014 to the FHWA and the Office of the Colorado Attorney General. The Department anticipates commencing the required review involving representatives of local government, industry, and other stakeholders in May and June in compliance with the requirements of the State Administrative Procedure Act. The CDOT Office of Policy and Governmental Relations anticipates the completion of the rulemaking process by the end of November 2014.

Recommendation #: 1e

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should establish adequate controls over outdoor advertising signs located along interstates and controlled highways to ensure compliance with federal and state requirements by:

- e. Providing training to the Department's regional field staff on Outdoor Advertising Program laws and regulations to help them with identifying and reporting illegal advertising signs.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: December 2013

Agency's Written Response in Audit Report:

The Department agrees that it should provide training to Department field staff on Outdoor Advertising Program laws and regulations with regard to identifying illegal advertising signs. The Department will develop training tools and set a fixed annual schedule for training appropriate personnel.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Implemented

Agency's Comments on Implementation Status of Recommendation:

CDOT has developed and provided to field staff all training materials, and is keeping a running log of CDOT staff who complete the training. The training presentation was approved by the CDOT Maintenance Supervisors and Outdoor Advertising Program Supervisor prior to implementation. CDOT will ensure that all CDOT field staff will be trained by 6.1.14.

Recommendation #: 2a

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should strengthen its internal controls over the Outdoor Advertising Program's renewal permit process by:

- a. Implementing a segregation of duties framework to ensure that more than one individual is responsible for sending invoices, collecting payments, recording payments, updating the database, and distributing renewal decals.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: August 2013

Agency's Written Response in Audit Report:

The Department will develop a segregation of duties framework and documentation to ensure that separate individuals are responsible for all accounting safeguards and processes. The Department will incorporate new processes which will involve oversight from the Department's business office prior to engaging in any further financial transactions. All financial data will be recorded for auditing purposes.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Implemented

Agency's Comments on Implementation Status of Recommendation:

Completed in May 2013 and approved by the CDOT Audit Division.

Recommendation #: 2b

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should strengthen its internal controls over the Outdoor Advertising Program's renewal permit process by:

- b. Seeking clarification, through consultation with the Attorney General's Office, as to when late fees should be charged and implementing rules and policies as needed to ensure such fees are applied consistently. Should the Department wish to retain the authority to waive late fees beyond the established due date, it should seek statutory change for the explicit authority to do so.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: April 2014.

Agency's Written Response in Audit Report:

The Department agrees that it should strengthen controls over the Outdoor Advertising Program's renewal permit process. Through consultation with the State Attorney General's Office, the Department will not seek to amend statute to include authority to waive late fees. Instead, as recommended, it will include in a manual or rules a thirty day grace period within the scope of current statutory authority.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Implemented

Agency's Comments on Implementation Status of Recommendation:

With further guidance from the Attorney General's Office, CDOT decided that no fees shall be waived or grace period granted for renewal of permits. The Department has included this prohibition in the draft Rules. The Department ceased granting waivers or grace periods upon receipt of the audit.

Recommendation #: 3a

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should ensure that it complies with all statutory requirements related to the Outdoor Advertising Program by:

- a. Creating and using a dedicated roadside advertising fund into which the revenues collected through permit application and renewal fees can be deposited and to which costs for operating the Program can be charged, or seeking statutory change to remove the requirement.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: January 2014

Agency's Written Response in Audit Report:

The Department will create a roadside advertising fund to achieve greater accountability of revenue and expenses. The Department will seek a statutory change to remove the TODS and LOGO Sign Programs from Roadside Advertising, given that the TODS and LOGO Sign Programs has developed into a separate self-funding program, generating revenue for the State Highway Fund.

Legislation will be introduced by January 2014.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Implemented

Agency's Comments on Implementation Status of Recommendation:

HB14-1188 has been signed into law, removing the requirement of the Roadside Advertising Fund, and separating TODS/LOGO funds from the Outdoor Advertising funds. CDOT has put into place all necessary accounting mechanisms to separate the funding.

Recommendation #: 3b

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should ensure that it complies with all statutory requirements related to the Outdoor Advertising Program by:

- b. Reviewing the fee schedule for outdoor advertising permit applications and renewals at least every 4 years, as directed by statute, to determine if the fees are appropriate or should be revised. The Department should then either pursue statutory change as necessary to revise the fees or remove the schedule and place the fees in rule so as to more easily revise them when appropriate going forward.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: April 2014.

Agency's Written Response in Audit Report:

The Department will, within six months, review the fee schedule and determine whether a fee increase is necessary. The Department will establish by rule or directive that the fee schedule must be reviewed and evaluated at a minimum, every 4 years. Upon review, the Department will request that the General Assembly adjust fees if the Department believes a fee adjustment is warranted. The initial review will be completed by October 2013, with the rules or directives completed by April 2014.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Partially Implemented

Agency's Comments on Implementation Status of Recommendation:

CDOT Outdoor Advertising staff has compiled fiscal data to provide an analysis for any increase in fees with regard to the fee schedule. This review will be presented to the CDOT Office of Policy and Governmental Relations and CDOT Management to decide if a fee increase will be requested of the General Assembly during the 2015 session.

The statutory requirement for a fee review every 4 years will be included in the *Rules Governing Outdoor Advertising in Colorado*. The CDOT Office of Policy and Governmental Relations anticipates the completion of the rulemaking process by the end of November 2014.

Recommendation #: 4

Agency Addressed: Department of Transportation

Original Recommendation in Audit Report:

The Department of Transportation should establish an effective monitoring process for the TODS and LOGO Sign Programs contract by conducting regular fiscal reviews of the financial data required in the contract to determine if the revenue and program data reported by the contractor are accurate. The Department should establish a process to periodically check the signs posted around the state to verify the number of placards sold equates to the number reported by the contractor.

Agency's Response (*i.e., agree, partially agree, disagree*): Agree. Implementation Date: April 2014.

Agency's Written Response in Audit Report:

The Department's Program Manager and business office, with oversight by the Department's Audit Division, will conduct annual fiscal reviews of the TODS and LOGO Sign Programs contractor. As a component of this annual review, the Department will request that the contractor provide a copy of the financial data compiled annually as stated in Exhibit "A" Section D of the Contract dated 10.20.2009. The Department will include these requirements in the TODS and LOGO Sign Rules, 2 CCR 601-7, and enforce this requirement in the contract. Rule revisions will be completed by September 2013 and review of the financial data will be completed by April 2014.

Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable): Implemented

Agency's Comments on Implementation Status of Recommendation:

The Department addressed this requirement in the Rules Governing Specific Information Signs ("LOGO") and Tourist Oriented Directional Signs ("TODS") on State Highways, 2 CCR 601-7. These rules took effect on July 30, 2013, ahead of the anticipated date (above) of September 2013. Specifically, Rule 2.02 provides:

A. The Department will establish and maintain an effective contract monitoring process that ensures the Contractor for the TODs and Logo Program complies with the terms of its contract. The Department will monitor the Contractor by:

- (1) Conducting annual fiscal reviews of the financial data required in the contract to determine if the revenue and program data reported by the contractor are accurate.

(2) Requesting that the contractor provide a copy of its financial data compiled annually.

(3) Establishing a regular field review process for the TODs and LOGO Program to determine if the Contractor is providing the services outlined in statute and established in the contract.

Further, the Department has implemented an internal process to ensure a full and comprehensive review is conducted.