



**Report
to
The LEGISLATIVE FINANCE COMMITTEE**



**Taxation and Revenue Department
Review of Collections and Distribution of Taxes
and Enhanced Delinquent Tax Collection Initiative
June 19, 2008**

Report # 08-09

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June 17, 2008

Rick Homans, Secretary Designee
Taxation and Revenue Department
P.O. Box 630
Santa Fe, New Mexico 87504

Dear Secretary Designee Homans:

On behalf of the Legislative Finance Committee (committee), I am pleased to transmit the Review of Collections and Distribution of Taxes and Enhanced Delinquent Tax Collection Initiative of the Taxation and Revenue Department (department).

The review team assessed accuracy and timeliness of processing, accounting, reporting and distribution of taxes and fee, except for fees collected by the Motor Vehicle Division, and reviewed the Department's enhanced delinquent tax collection initiative. The review team interviewed key personnel, examined documents, and analyzed data and reports provided by your staff. Discussions were held with you and your staff to address any concerns before the exit conferences, which were conducted on May 27, 2008 and June 12, 2008.

This report will be presented to the committee on June 19, 2008. We very much appreciate the cooperation and assistance we received from you and your staff.

The committee expects a corrective action plan from the department within 30-days from the date of the hearing. The committee staff will be available to clarify any issues covered in this report and will continuously monitor your progress.

I believe that this report addresses issues the committee asked us to review and hope the New Mexico Taxation and revenue Department benefits from our efforts. Thank you and your staff for outstanding cooperation and assistance.

Sincerely,

A handwritten signature in cursive script that reads "Manu Patel".

Manu Patel
Deputy Director for Program Evaluation

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EXECUTIVE SUMMARY

Taxation and Revenue Department FY08 Budget (in thousands) and Full-Time Equivalents

Budget	Total
Personal Services and Employee Benefits	\$56,734.4
Contractual Services	\$6,575.3
Other	\$17,683.3
Other Financing Uses	\$96.3
Total	\$81,089.3

Authorized Full-Time Equivalents: 1132 perm, 40 Term, 35.7 Temp

Source: Chapter 28 Laws of 2007

Major New Mexico Taxes (in millions)

	FY07
Gross Receipt Taxes	\$3,269.0
Personal Income Tax	\$1,164.0
Property Taxes	\$982.0
Oil and Gas Taxes	\$1,049.0
Selective Excise Taxes	\$594.0
All Other TRD Taxes	\$305.0
Corporate Income Tax	\$461.0
Total ⁽⁶⁾	\$7,824.0

Source: TRD Brief

Sections 9-11-1 through 9-11-13 NMSA 1978 create the Taxation and Revenue Department (Department) as a single, unified department to administer all laws and exercise all functions relating to taxation, revenue and vehicles charged to the department. The mission of the department is to administer and enforce New Mexico's Tax Administration Act and Motor Vehicle Code in a manner resulting in the highest degree of accuracy and fairness to taxpayers while ensuring that all taxes are paid in a timely manner.

The Department's budget for FY08 is \$81.1 million. The Department is the primary revenue collecting agency for the State of New Mexico from approximately 50 major tax types as well as fees received from various sources. During FY07 department collected and distributed approximately \$7.8 billion to the recipients as authorized by law.

Key Findings

Department Processed Tax Administration Act (TAA) Tax Payments Accurately and Timely.

The Department processes Tax Administration Act (TAA) tax revenues in a timely manner. Section 7-1-6 NMSA 1978 requires the Department to deposit TAA money received with the state treasurer's office before the close of the next succeeding business day after receiving the money. Of the 127 randomly selected tax payments from June 2006 to December 2007, all payments were processed and deposited in the bank within 48 hours. The payments were received in various forms: checks, cash, Automated Clearing House (ACH), credit card and payments collected by the field offices.

Department Complied with the State Public Money Statute.

The department is in compliance with the payment of state money into the state treasury as required by Section 6-10-3 NMSA 1978 and is in compliance with the 2007-1 State Treasurer's directive.

Significant Weaknesses Exist in Processing MVD Payments, Including Penalty Assessment.

LFC staff could not review Motor Vehicle Division (MVD) payments to ensure that the payments are processed timely and accurately. The Legislature appropriated the \$11.1 million in FY06 through FY09 to address the findings. According to the Department, the new system (Point-of-sale) will be completed and stabilized within 12 to 24 months.

Good Internal Controls are Implemented to Prevent and Detect Errors.

The Department has sound internal accounting controls in

Additional Funds Provided for Delinquent Tax Collection Initiative

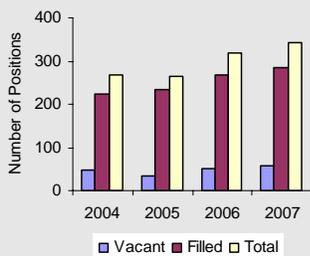
Year	Amount
FY05 ⁽¹⁾	\$2,500,000.00
FY05	\$2,300,000.00
FY06 ⁽²⁾	\$2,718,800.00
FY08 ⁽²⁾	\$1,606,000.00
Total	\$9,124,800.00

Source: Taxation and Revenue Department

⁽¹⁾ Additional funds were provided for 17 perm FTE to tax administration program

⁽²⁾ Included in the base budget.

Audit and Compliance Division's Human Resources Statistics



Sources: SPO Reports

place to ensure reliable and accurate financial data. Reconciliation process is time consuming because WAUSAU and GENTAX are not interfaced. According to the Department's staff, their priority is to first post tax payments to Statewide Human Resource, Accounting and Reporting System (SHARE) and then to GENTAX. The Department, in some cases, takes 10 to 15 days to post payments in the GENTAX. In fact, instead of a single reconciliation for each day the financial distribution bureau reconciles one day 10 to 15 times until all tax payments are posted in the GENTAX. Section 7-1-13.1 NMSA 1978 provides option of electronic payment to taxpayers if the taxpayer's average tax payment for the group of taxes during the preceding calendar equal or exceeded \$25 thousand.

GENTAX Cannot Produce Detailed Distribution Reports. Due to taxpayers confidentiality requirements the department cannot produce detailed distribution reports showing CRS tax collections and distributions to various beneficiaries. However, the Department produced redacted screen prints of various steps from GENTAX to facilitate the LFC review. The Department can manually trace distributions of tax payments to various beneficiaries through seven screen prints from the GENTAX; however, this process is time consuming.

Department does not have a Written Policies and Procedures Relevant to the Enhanced Tax Collection Initiative. The Department believes that since 2004 the GENTAX data marts system clearly tracks approximately 88 percent of the delinquent collections from taxpayers. Accounts are delinquent after being past due for 30 days. The department relies on the system controls and tracking mechanisms to document delinquent collections. However, establishing and maintaining clear policies and procedures is one of the key factors in having a successful business. Some of the benefits of written procedures:

- Helps prevent mistakes
- Saves time
- Ensures consistency and improves quality

The Department Received Additional Funds for the Delinquent Tax Collection Initiative. The Department received specific recurring and non-recurring appropriations to fund the Delinquent Tax Collection Initiative (Initiative) since its inception in FY05. The Department received a total of \$9.1 million dollars as shown in the table in the side bar. Out of \$9.12 million, \$6.82 million was recurring funds and \$2.3 million were non-recurring funds.

The Department Maintains Consistent number of Positions Vacant.

The Department has been maintaining an average of 17 percent vacancy factor since 2004 except in 2005. In 2005, the department's vacant positions were low at 12 percent. The department has projected 2008 vacancy rate of approximately 13.4 percent.

Methods to Establish Goals Have Changed between FY04 and FY08.

Since inception of the Initiative, the Department has continued to refine the methodologies to establish the annual baseline collection expectations and revenue initiative goals, which together make up the annual collection targets. The Department has continued to refine the systematic tracking of delinquent collections in each fiscal year. Following table provide the state General Fund targets and collections:

General Fund Targets and Collections

	FY04 ⁽¹⁾	FY05 ⁽²⁾	FY06 ⁽²⁾	FY07 ⁽²⁾
Baseline	\$57,000,000.00	\$75,900,000.00	\$95,560,221.00	\$103,516,537.00
Goal	\$50,000,000.00	\$25,000,000.00	\$7,500,000.00	\$3,829,765.00
Target	\$107,000,000.00	\$100,900,000.00	\$103,060,221.00	\$107,346,302.00
Collections	\$112,100,000.00	\$106,500,000.00	\$105,840,884.00	\$122,192,612.00
Excess over Target	\$5,100,000.00	\$5,600,000.00	\$2,780,663.00	\$14,846,310.00

Source: Audit and Compliance Division

⁽¹⁾ Target and collection for 17 months, February 2003-June 2004.

⁽²⁾ Target and collection for 12 months, July to June

Recommendations. Provide status reports on point of sale system deployment quarterly to LFC to ensure that the system is implemented as soon as possible and weaknesses are addressed. Conduct a study six months after implementing point of sale system to ensure that all weaknesses are identified and addressed. Provide a copy of the report to Legislative Finance Committee.

Analyze cost and benefits of interfacing "WAUSAU" and GENTAX. Interfacing may reduce chances of error and staff time can be used in conducting other important tasks. Consider re-submitting a legislative request to amend Section 7-1-13.1 NMSA 1978 to lower the threshold from \$25 thousand to \$10 thousand.

The Department should develop a written policies and procedures manual to document methodologies used to track delinquent collections.

Work with LFC and DFA to reduce the vacancy rate based on the return of investment analysis.



Department Responses. The Department has implemented balance and close-out procedures and an ongoing internal audit program to assure compliance. If compliance with procedures is below 90 percent corrective action and re-audits are done.

While, the department agrees that the focus on systematic parameters and controls is the best way to assure appropriate documentation of delinquent collections, the department agrees there is a need to document the system processes. In addition, the department agrees that written procedures are justified for the 12 percent of delinquent collections that are tracked manually.

The LFC requested that the department provide a return on investment analysis if additional positions were funded to bring down the forced vacancy rate. If the forced vacancy rate is reduced, department can deliver an \$8.00 return for every \$1.00 invested (Appendix D). This analysis has also been presented to the DFA but has not been considered at this time for funding

BACKGROUND INFORMATION

Sections 9-11-1 through 9-11-13 NMSA 1978 create the Taxation and Revenue Department (Department) as a single, unified department to administer all laws and exercise all functions relating to taxation, revenue and vehicles charged to the department. The mission of the department is to administer and enforce New Mexico's Tax Administration Act and Motor Vehicle Code in a manner resulting in the highest degree of accuracy and fairness to taxpayers while ensuring that all taxes are paid in a timely manner. The Department's six divisions and their responsibilities are:

- Administrative Services Division provides personnel, financial, procurement, information system services, training, and all administrative support services.
- Audit and Compliance Division provides public education and fair administration of the New Mexico tax laws. The Division also provides information and assistance in the formulation and revision of those tax laws.
- Motor Vehicle Division coordinates and administers the New Mexico Vehicle Code to provide customers with quality products and services to enhance safe, efficient motor vehicle operations.
- Revenue Processing Division processes and collects fee and tax from approximately 50 major programs administered by the Department. It provides information to taxpayers regarding state statutes or information pertaining to tax questions, refund claims and unclaimed property.
- Property Tax Division provides general supervision of the state's 33 county assessors and their related operational activities; assures the implementation and compliance of applicable statutes, rules and regulations; appraise and review the estimated of value of real property transactions for counties, schools, municipalities, and other state agencies and promotes fair and equitable assessments through administration of the Property Tax Code.
- Tax Fraud Investigations Division supports the overall mission of the Department by enforcing the criminal statutes relative to the New Mexico Tax Administration Act and other related financial crimes, as they impact New Mexico state taxes. The division identifies and prosecutes fraud while encouraging voluntary compliance with state of New Mexico tax laws. Additionally, the Division is involved in promoting efficiency, effectiveness, equity, honesty, and accountability within the Department through internal auditing, as well as conducting independent administrative and/or criminal investigations.

The Department's budget for FY08 was \$81.1 million as shown in the table below.

**Table 1. Taxation and Revenue Department
FY08 Budget (in thousands) and Full-Time Equivalents**

Budget	General Fund	Other State Funds	Internal Service Funds/Inter-Agency Transfer	Federal Funds	Total
Personal Services and Employee Benefits	\$45,175.5	\$9,937.1	\$378.0	\$1,243.8	\$56,734.4
Contractual Services	\$4,618.7	\$1,888.9	\$67.7	\$0.0	\$6,575.3
Other	\$15,034.4	\$2,381.5	\$88.6	\$178.8	\$17,683.3
Other Financing Uses	\$96.3	\$0.0	\$0.0	\$0.0	\$96.3
Total	\$64,924.9	\$14,207.5	\$534.3	\$1,422.6	\$81,089.3
Authorized Full-Time Equivalents: 1132 perm, 40 Term, 35.7 Temp					

Source: Chapter 28 Laws of 2007

The Department is the primary revenue collecting agency for the State of New Mexico, administering approximately 50 major tax types as well as fees received from various sources (Appendix A shows major tax programs). Collected revenues are deposited with the State Treasurer's Office and distributed to the recipients as authorized by law. The table below shows taxes and fee collected from major taxes and fees programs.

**Table 2. Major New Mexico Taxes
(in millions)**

	FY03	FY04	FY05	FY06	FY07
Gross Receipt Taxes ⁽¹⁾	\$2,262.0	\$2,408.0	\$2,643.0	\$2,997.0	\$3,269.0
Personal Income Taxes	\$941.0	\$1,031.0	\$1,106.0	\$1,038.0	\$1,164.0
Property Taxes ⁽²⁾	\$735.0	\$817.0	\$840.0	\$910.0	\$982.0
Oil and Gas Taxes ⁽³⁾	\$564.0	\$765.0	\$941.0	\$1,190.0	\$1,049.0
Selective Excise Taxes ⁽⁴⁾	\$463.0	\$520.0	\$548.0	\$573.0	\$594.0
All Other TRD Taxes ⁽⁵⁾	\$232.0	\$219.0	\$254.0	\$282.0	\$305.0
Corporate Income Taxes	\$103.0	\$142.0	\$251.0	\$383.0	\$461.0
Total	\$5,300.0	\$5,902.0	\$6,583.0	\$7,373.0	\$7,824.0

Source: TRD Brief

⁽¹⁾ Includes the gross receipt tax, compensating tax, governmental gross receipt tax, gasoline tax, special fuels tax, petroleum products loading fee, motor vehicle excise and gaming tax.

⁽²⁾ Excludes oil and gas ad valorem taxes.

⁽³⁾ Includes the oil and gas emergency school tax. Oil and gas severance tax, oil and gas conservation tax, natural gas processors tax, oil and gas ad valorem production tax and the oil and gas production equipment ad valorem tax.

⁽⁴⁾ Includes the liquor excise, local liquor excise, cigarette tax, tobacco products tax, gasoline tax, special fuels tax, petroleum products loading fee, motor vehicle excise, and gaming taxes.

⁽⁵⁾ Includes the estate tax, severance tax, resources excise tax, copper production ad valorem tax, trip tax, special permits, weight-distance tax, motor vehicle taxes and fees, workers' compensation fee, water conservation fee, water conservation fee and unclaimed property.

Review Objectives.

- Assess accuracy and timeliness of processing, accounting, reporting and distribution of taxes and fee revenues, including penalty assessment.
- Review Department's enhanced tax collection initiative and follow-up on delinquent taxpayers.

Review Procedures.

- Review of laws, rules, and regulations.
- Review of Department financial audits and performance audits from other state relevant to this review.
- Interview Department staff.
- Review of GENTAX and other reports.
- Review of bank deposit documents.

Authority for Review. The Legislative Finance Committee (Committee) has the statutory authority under Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies and institutions of New Mexico and all of its political subdivisions, the effects of laws on the proper functioning of these governmental units and the policies and costs. The Committee is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, the Committee may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state law.

Review Team.

Manu Patel, Deputy Director for Program Evaluation
Usha Shannon, Program Evaluator

Exit Conference. The contents of this report were discussed on May 27, 2008 and June 12, 2008, with Taxation and Revenue Department: Rick Homans, Secretary Designee; Dona Cook, Deputy Secretary; Wanda Helms, Director, Administrative Services Division; Libby Gonzales, Director, Revenue Processing Division; Phillip Salazar, Director, Audit and Compliance Division; Frank Shaffer, Financial Distribution Bureau Chief; Ronald Cruz, Deputy Director, Revenue Processing Division.

Report Distribution. This report is intended for the information of the Office of the Governor, Taxation and Revenue Department, the Office of the State Auditor, Department of Finance and Administration, and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report which is a matter of public record.



Manu Patel
Deputy Director for Program Evaluation

FINDINGS, RECOMMENDATIONS, AND RESPONSES

PROCESSING, ACCOUNTING, DISTRIBUTION AND REPORTING OF TAX PAYMENTS

The Department Processes Tax Administration Act (TAA) Tax Revenues in a Timely Manner. Section 7-1-6 NMSA 1978 requires the Department to deposit TAA money received with the state treasurer's office before the close of the next succeeding business day after receiving the money. Payments made at the department's district tax offices on a given day are sent via courier to the Revenue Processing Division (RPD) the following day. Once received by RPD, deposits are made within 24 hours. However, from April 10 through April 25, by law, TRD has 10 business days to make deposits, due to tax season volumes.

The RPD is responsible for collecting and processing mail every day. The Division's processing center picks up the mail three times a day starting at 5:00 a.m. from the post office. Each major tax program is designated to a specific post office box at the post office. The mail is brought from the post office and distributed to the designated person for each tax program. The designated person processes the mail and sends it to an exception processing area or remittance processing unit. The revenue processing unit scans batch headers, checks and documents. Then the revenue processing unit staff key enters the documents and checks into a computer system (WAUSAU). Key entered information is balanced and totals are written on the batch headers. The checks are separated from the documents and run through the I-Tran to encode the front of the check and endorse the back for the bank. The revenue processing unit sends the checks to the cash control unit with a daily cash report. The cash control unit prepares a deposit for the bank. The scanned documents and the information key entered into the WAUSAU system are image indexed and the data file is sent to respective computer systems, such as GENTAX and ONGARD. (See Appendix B for revenue processing flowchart)

Of the 127 randomly selected tax payments from June 2006 to December 2007, all payments were processed and deposited in the bank within 48 hours. The payments were received in various forms: checks, cash, Automated Clearing House (ACH), credit card and payments collected by the field offices.

Recommendation. None

Compliance with the State Public Money Statute. The department is in compliance with the payment of state money into the state treasury as required by Section 6-10-3 NMSA 1978 and is in compliance with the State Treasurer's Office Directive 2007-1.

Per Section 6-10-3 NMSA 1978, all money in the custody or under the control of any state official or agency obtained or received by any official or agency, except education, charitable and penal institutions, from any source shall be paid into the state treasury before the close of the next succeeding business day after the receipt of the money.

Directive 2007-1 from the State Treasurer's Office (STO) requires agencies to enter all deposits into SHARE same day or within two days as the deposit is delivered or posted to the bank. For

unidentified deposits, STO will post the deposit within two days into SHARE to the receipt held in suspense account (operating fund) and will work with agencies to identify the deposit and initiate a transfer to a correct account of agencies, if needed. According to the department staff, deposits are posted in the SHARE within two business days. The staff also issues a certification of balance and bank reconciliation summary for each month to the State Treasurer's Office. However, in August 2007, State Treasurer's Office transferred unidentified deposits totaling \$65 million into the Department's general operating fund. In March 2008, the Department worked with the State Treasurer's Office to identify those transactions and make necessary transfer of cash to the TAA account. Therefore, the Department makes sure that payments are posted within 48 hours in the SHARE.

Recommendation. None.

Significant Weaknesses Exist in Processing MVD Payments, Including Penalty Assessments. LFC staff could not review Motor Vehicle Division (MVD) payments to ensure that the payments are processed timely and accurately. The Department is aware of various weaknesses in the current MVD system as reported in a study performed by IBM and by financial auditors. The Department became aware of these findings from financial auditors and a study conducted in 2005. Therefore, the Department requested to postpone the review of the MVD payment processing until a new point-of-sale system is implemented. According to the Department, the new system will be completed and stabilized within 12 to 24 months. The Legislature appropriated the following funds to address the findings:

Table 3. Additional Funds to Motor Vehicle Division

Year	Amount
FY06 ⁽¹⁾	\$750,000.00
FY07 ⁽²⁾	\$3,500,000.00
FY09 ⁽³⁾	\$6,872,500.00
Total	\$11,122,500.00

Source: Laws of 2005, 2006 and 2008

⁽¹⁾ For planning and modeling phases of MVD.

⁽²⁾ \$1.5 million for equipment and \$2 million to address network and security deficiencies.

\$4.12 million for system replacement and \$2.75 million to implement point-of-sale system at MVD.

In 2005, IBM team conducted a study, MVD Needs Assessment Project, to identify weaknesses and make recommendations to correct identified weaknesses. The study included analysis of fee collections and disbursements and concluded a need exists to install a point-of-sale system designed to establish sound financial accounting/management practices to:

- Collect accounting data at the time of a MVD transaction linked to a fee matrix;
- Support automated daily reconciliation of transaction revenues at the MVD field offices summed up to the department level;
- Prepare automated deposit slips and provide revenue distribution information to the administrative service division; and

- Link transaction and cash collected to the driver/vehicle record automatically.

In a FY06 financial audit, the State Auditor's Office reported several findings relating to MVD under the category of inadequate internal control at the field offices including:

- Cash collected and verified by a supervisor had several mistakes,
- One cashier (teller) had a cash shortage on all reports,
- Cash records were incorrect.

Recommendation. Provide status reports on point of sale system deployment quarterly to LFC to ensure that the system is implemented as soon as possible and weaknesses are addressed.

Conduct a study six months after implementing point of sale system to ensure that all weaknesses are identified and addressed. Provide a copy of the report to LFC.

Department Response. The Department has implemented balance and close-out procedures and an ongoing internal audit program to assure compliance. If compliance with procedures is below 90 percent corrective action and re-audits are done.

Good Internal Controls are Implemented to Prevent and Detect Errors. The Department has sound internal accounting controls in place to ensure reliable and accurate financial data, except at MVD. Internal accounting control is a series of procedures designed to promote and protect sound management practices, both general and financial. Implementation of sound internal controls ensures:

- Financial information is reliable and accurate for making programmatic and other decisions;
- Assets and records of the organization are not stolen, misused, or accidentally destroyed;
- The organization's policies and procedures are followed; and
- Government regulations are met.

To ensure taxpayers receive accurate credits for the tax payments, the Department reconciles the daily cash deposit reports to daily cash detail reports. The cash deposit reports are generated from WAUSAU and show the total tax payments processed by the revenue processing division. The daily cash detail reports are generated from GENTAX and show payments posted in taxpayers' accounts.

Reconciling Process is Arduous and Time Consuming. Because WAUSAU and GENTAX are not interfaced, the Department reconciles tax payments manually.

According to the Department's staff, their priority is to first post tax payments to SHARE and then to GENTAX. Therefore, the Department, in some cases, takes 10 to 15 days to post payments in the GENTAX. Because the Department takes 10 to 15 days to post payments in GENTAX, the financial distribution bureau has to reconcile both reports daily until all the payments are posted in GENTAX. In fact, instead of a single reconciliation for each day the financial distribution bureau reconciles up to 15 times per day until all tax payments are posted in the GENTAX. Section 7-1-13.1 NMSA 1978 provides an option of electronic payment to taxpayers if the taxpayer's average tax payment for the group of taxes during the preceding

calendar equaled or exceeded \$25 thousand. This high threshold limits the number of taxpayers that files electronically results in increased manual transactions. The manual transactions require longer time to process and increases data entry errors.

Recommendation. Analyze cost and benefits of interfacing “WAUSAU” and GENTAX. Interfacing may reduce chances of error and staff time can be used in conducting other important tasks. Consider re-submitting a legislative request to amend Section 7-1-13.1 NMSA 1978 to lower the threshold from \$25 thousand to \$10 thousand.

Department Response. RPD prioritizes posting of the largest tax payments first. These are usually posted within five days from the deposit date assuming there are no tax return errors. For returns with errors, RPD is usually able to resolve the errors and posts most of these to GENTAX within 10 to 15 days. The RPD target is to post as many returns as possible in time to make the next distribution.

The Department requested legislation during the 2007 Session to amend 7-1-13.1 NMSA (Method of Payment of Certain Taxes) to lower the threshold from \$25 thousand to \$10 thousand to require more taxpayers to pay electronically. If more taxpayers paid electronically, the error rate would be less and more resources would be available to post the payments in GENTAX.

TRD believes that the current WAUSAU and GENTAX interface is adequate. The current system posts the WAUSAU payments for all tax programs except the combined reporting system (CRS), e.g. gross receipts taxes. To include CRS would be a major undertaking. In addition, improved interfaces would not improve the time it takes to post returns to GENTAX, because WAUSAU deals only with the payment and not the return information, which is necessary to post to GENTAX.

GENTAX Cannot Produce Detailed Distribution Reports. Due to taxpayers confidentiality requirements, the department cannot produce detailed distribution reports showing CRS tax collections and distributions to various beneficiaries. However, the Department produced redacted screen prints of various steps from GENTAX to facilitate the LFC review.

Section 7-1-6 NMSA 1978 requires that all TAA revenues collected or received by the Department shall be credited to the tax administration suspense fund and the funds distributed to authorized beneficiaries.

LFC staff selected five months between June 2006 and December 2007 to test distribution of personal income tax (PIT), corporate income tax (CIT) and combined reporting system (CRS) funds to various beneficiaries. However, the Department requested to postpone review of CIT and PIT distribution until deployment and stabilization of a new back end revenue accounting system for CIT and PIT. This new system is in the final stages of deployment. Also, the CRS distribution review was scaled down from five months to 100 payments.

LFC staff selected two CRS batches totaling 31 payments processed in December 2006 for review of the distributions of the payments. The Department provided relevant documents for both the batches. (Appendix C shows CRS distribution matrix)

The Department provided the following seven screen prints for each item selected to demonstrate various steps in distribution process. The second batch included seven CRS payments totaling \$487,770.62. The payments were received on December 6th, deposited, posted into GENTAX on December 12th and distributed on December 13th of the same month.

- Payment Header
- List of Payment Items
- Payment Detail
- Revenue History List
- Monthly Processing Summary
- Monthly Processing Summary by Beneficiary
- Revenue Detail by Taxpayer and Period

The Department can manually trace distributions of tax payments to various beneficiaries through seven screen prints indicated above from the GENTAX; however, this process is time consuming.

Recommendation. Discuss with FAST Enterprises LLC staff to determine if it is cost effective to produce distribution reports showing batch number, received and distribution date, beneficiary name, and amount distributed.

Department Response. The Department does not foresee a useful need for this report. Due to the large dollar amount and high number of transactions that process through GenTax on a monthly basis, this report would be quite large, expensive and an inefficient use of system processing time. The report is not required for staff to perform their job functions as the ability to track information in the system electronically is relatively easy and accurate. This report could only be used internally due to taxpayer confidentiality without redacting all taxpayer identifying information. Due to taxpayer confidentiality, this screen print process, with all taxpayer identifying information redacted, was developed to allow the LFC auditor to trace a batch of payments. TRD contract auditors can see confidential taxpayer information. The TRD audit has confirmed that the system processes correctly.

Direct Relationship Exists Between Collections and Suspense Fund Balance. A direct relationship exists between CRS tax collections in a year and suspense fund balance from all tax programs at the year end.

As mentioned above, the Department is responsible to distribute TAA revenues collected or received by the department to various beneficiaries. The state General Fund receives 100 percent of CIT and PIT collections and approximately 70 percent of CRS collections each month. Counties, municipalities and other beneficiaries receive 30 percent of CRS collections. The Department's goal is to distribute tax collections to beneficiaries before or on the 15th of the month following receipt of taxes. To distribute tax collections on the 15th, the Department closes tax collections between the 10th and 12th day of each month. Days between closing of collection and distribution date is used to address discrepancies.

At the fiscal year end, the Department had not distributed approximately 15 days of collections to the beneficiaries and it is shown in the suspense fund balance at the year end. If the Department collects a significant amount of CRS taxes in last 15 days of a fiscal year then the CRS suspense funds will show a high balance. The table below shows beginning balance, collections, distributions and suspense fund balances at the fiscal year end.

Table 4. Suspense Funds at Fiscal Year End

	FY04	FY05	FY06	FY07
Beginning Balance	\$455,724,513.00	\$496,347,636.00	\$545,087,493.00	\$656,330,983.00
Collections	\$5,267,191,627.00	\$6,015,058,146.00	\$6,832,727,211.00	\$7,917,046,002.00
Sub Total	\$5,722,916,140.00	\$6,511,405,782.00	\$7,377,814,704.00	\$8,573,376,985.00
Distributions	\$5,226,568,505.00	\$5,966,318,288.00	\$6,721,483,721.00	\$7,830,618,329.00
Ending Balance	\$496,347,635.00	\$545,087,494.00	\$656,330,983.00	\$742,758,656.00

Source: Financial Statements

Recommendation. None

Since the Implementation of GENTAX, the Department has been able to Identify Unmatched Suspense Funds. According to Department staff, GENTAX was implemented in October 2004. After 2004, the Department has implemented three upgrades. After implementation of these upgrades, the Department has been able to report unmatched funds in various tax programs.

The table below shows unidentified/unmatched funds.

Table 5. Unmatched Suspense Funds at Fiscal Year End

Tax Programs	FY04	FY05	FY06	FY07
CRS	\$0.00	\$0.00	\$29,285,191.00	\$0.00
PIT	\$0.00	\$0.00	\$2,036,549.00	\$3,157,626.00
CIT	\$0.00	\$0.00	\$230,335.00	\$201,157.00
TAA Other	\$0.00	\$0.00	\$1,059,639.00	\$1,893,854.00
Motor Vehicle	\$4,035,998.00	\$3,706,568.00	\$5,257,389.00	\$5,536,801.00
Oil and Gas	\$0.00	\$0.00	\$9,722,301.00	\$25,653,410.00
Other Funds	\$0.00	\$0.00	\$0.00	\$823,260.00
Total	\$4,035,998.00	\$3,706,568.00	\$47,591,404.00	\$37,266,108.00

Source: Financial Statements

Recommendation. None

DELINQUENT TAX COLLECTION INITIATIVE

Department does not have a Written Policies and Procedures Manual Relevant to the Enhanced Tax Collection Initiative. The Department believes that since 2004 the GENTAX data marts system clearly tracks approximately 88 percent of the delinquent collections from taxpayers. Accounts are delinquent after being past due for 30 days. A delinquent collection case is created within two weeks of an account becoming delinquent. The data marts include: assessment source, TRD collector name, TRD collection office, collection period, collection stage, debt type, offset information, payment allocation date, payment type, taxpayer ID number, and taxpayer name. Manual tracking is used for the following delinquent tax collections: fairs, fiestas, special events, oil and gas, and on-time collection (e.g. energy rebate offset against tax liability). TRD relies on the system controls and tracking mechanisms to document delinquent collections.

However, establishing and maintaining clear policies and procedures is one of the key factors in having a successful business. Some of the benefits of written procedures:

- Helps prevent mistakes
- Saves time
- Ensures consistency and improves quality

The Department has a separate Audit and Compliance Division. The responsibility of this division is to ensure that the taxpayers pay tax owed to the state. In FY03 and FY04, the Department received additional funds from the Legislature to enhance delinquent tax collections. Since the inception of the initiative in 2003 and November 2007, the Department has collected \$276.5 million in additional General Fund delinquent tax collections above the historical collection rate when compared to fiscal year 2002. . When delinquent collections for all funds, including General Fund and other funds, are included, the Department has collected an additional \$356.1 million. In that same time period, TRD received \$9.12 million in specific additional appropriations to support the collection initiative. On this basis, for every one dollar appropriated to support the initiative, the Department returned \$39.03 in delinquent collections. However, when specific appropriations are added to base budget expansions for the initiative, \$11.8 million has been invested. On this basis, for every one dollar appropriated to support the initiative, the Department returned \$30.18 in delinquent collections. In addition, TRD expects to meet its FY08 General Fund delinquent collection target of \$126.8 million. As of June 6, 2008, 94 percent of the collection target has been met.

Recommendation. The Department should develop a written policies and procedures manual to document methodologies used to track delinquent collections.

TRD Response. While, the department agrees that the focus on systematic parameters and controls is the best way to assure appropriate documentation of delinquent collections, the department agrees there is a need to document the system processes. In addition, the department agrees that written procedures are justified for the 12 percent of delinquent collections that are tracked manually. The department agrees to undertake this effort to document system processes and procedures for manual tracking. The November 2007 “Enhanced Tax Collection Initiative

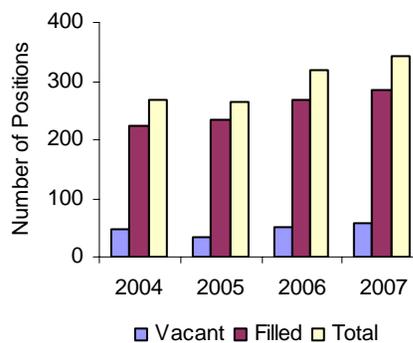
Review” provided to the Department of Finance and Administration (DFA) and LFC contains most of this information, which will be pulled together into a process and procedures document.

By way of background, prior to the first initiative that covered part of fiscal year 2003 and all of fiscal year 2004, delinquent collections were tracked manually. Since the first initiative, the department has been working to automate the tracking of delinquent tax collections. Currently 88 percent of the delinquent tax collections are tracked using data mart reports developed over several years within the department’s integrated tax processing system.

The 12 percent collections manually tracked relate to compliance efforts at fairs, fiestas, and other special events, and from oil and gas collections. Some one-time collections and special project collections that do not fit into the parameters established for any of the data mart reports are also tracked manually.

The Department Maintains Consistent number of Positions Vacant. The Department has been maintaining a vacancy rate of about 17 percent since 2004, except in 2005. In 2005, the department’s vacant positions were low at 12 percent. The department has projected 2008 vacancy rate of approximately 13.4 percent.

Chart 1. Audit and Compliance Division's Human Resources Statistics



Sources: SPO Reports

The Department received specific recurring and non-recurring appropriations to fund the Delinquent Tax Collection Initiative (Initiative) since its inception in FY05. The Department received a total of \$9.1 million as shown in the table below. Out of \$9.12 million, \$6.82 million was recurring funds and \$2.3 million were non-recurring funds.

Table 6. Additional Funds Provided for Delinquent Tax Collection Initiative

Year	Amount
FY05 ⁽¹⁾	\$2,500,000.00
FY05	\$2,300,000.00
FY06 ⁽²⁾	\$2,718,800.00
FY08 ⁽²⁾	\$1,606,000.00
Total	\$9,124,800.00

Source: Taxation and Revenue Department

⁽¹⁾ Additional funds were provided for 17 perm FTE to tax administration program

⁽²⁾ Included in the base budget.

Recommendation. Work with LFC and DFA to reduce the vacancy rate based on the return of investment analysis.

Department Response. For FY09, the Audit and Compliance Division forced vacancy rate requires holding 59 FTE vacant to balance the budget. Hiring and retaining tax auditors and collection staff has been challenging. The department has been working with the University of New Mexico and Central New Mexico Community College on recruitment. Both believe that for the expertise level required, the department's salaries are significantly below market. The department has placed a focus on increasing the entry level salary to improve our ability to hire in the marketplace. In order to do this the department has been required to increase salaries of the current staff in the interest of fairness and retention. Department has used reclassifications and in-bands pay increases to accomplish this. To pay for these increases, positions have been held vacant. The department believes this is a sound strategy that best supports the delinquent collection initiative and provides the level of expertise needed. The department needs qualified auditors with accounting education and other staff to be able to quantify and document the tax liability, interface with taxpayers and collect the delinquency.

The LFC requested that the department provide a return on investment analysis if additional positions were funded to bring down the forced vacancy rate. If the forced vacancy rate is reduced, department can deliver an \$8.00 return for every \$1.00 invested (Appendix D). This analysis has also been presented to the DFA but has not been considered at this time for funding.

Methods to Establish Goals Have Changed between FY04 and FY08. Since inception of the Initiative, the Department has continued to refine the methodologies to establish the annual baseline collection expectations and revenue initiative goals, which together make up the annual collection targets. The Department has continued to refine the systematic tracking of delinquent collections in each fiscal year. The total delinquent collection target has increased each year.

New revenue initiatives have been decreasing in recent years, but the baseline target has been increasing based on increasing baseline revenues from prior fiscal years.

The tables 7 and 8 show general fund and overall targets and collections.

Table 7 General Fund Targets and Collections

	FY04 ⁽¹⁾	FY05 ⁽²⁾	FY06 ⁽²⁾	FY07 ⁽²⁾
Baseline	\$57,000,000.00	\$75,900,000.00	\$95,560,221.00	\$103,516,537.00
Goal	\$50,000,000.00	\$25,000,000.00	\$7,500,000.00	\$3,829,765.00
Target	\$107,000,000.00	\$100,900,000.00	\$103,060,221.00	\$107,346,302.00
Collections	\$112,100,000.00	\$106,500,000.00	\$105,840,884.00	\$122,192,612.00
Excess over Target	\$5,100,000.00	\$5,600,000.00	\$2,780,663.00	\$14,846,310.00

Source: Audit and Compliance Division

⁽¹⁾ Target and collection for 17 months, February 2003-June 2004.

⁽²⁾ Target and collection for 12 months, July to June

Table 8 Overall Targets and Collections

	FY04	FY05	FY06 ⁽¹⁾	FY07 ⁽²⁾
Baseline	\$78,973,754.40	\$98,000,000.00	\$132,008,582.00	\$145,561,306.00
Goal	\$68,000,000.00	\$34,500,000.00	\$10,360,633.00	\$5,253,774.00
Target	\$146,973,754.40	\$132,500,000.00	\$142,369,215.00	\$150,815,080.00
Collections	\$145,542,964.00	\$143,280,381.00	\$147,885,653.00	\$176,501,214.00
Excess over Target	-\$1,430,790.40	\$10,780,381.00	\$5,516,438.00	\$25,686,134.00

Source: Audit and Compliance Division

⁽¹⁾ Collections include energy rebate of \$2.3 million.

⁽²⁾ Collections include \$10 million for CIT.

At the inception of the delinquent tax collection initiative (initiative) in FY03-FY04, the Department established its collection goals based on prior years' collections which were tracked manually. However, the Department changed its methodology to establish its collection baseline goals between FY05 and FY08 through system tracking and reports to identify 88% of the delinquent collection results. To establish the baselines and goals from FY03 through FY08, the Department used the following methods:

- **FY03-FY04** Average collections of 30 months, July 2000 to December 2002. The total collection baseline was \$79 million and the General Fund collection baseline was \$57 million. A \$50 million goal for new delinquent collections to the General Fund was established, which created the General Fund target of \$107 million.
- **FY05** Average collections of FY02, FY03 and FY04. In the calculation, the department included percent average of manual and GENTAX collections for FY05. The average total collection baseline was \$98 million and General Fund collection baseline was \$75.9 million. A \$25 million goal for new delinquent collections to the general fund was established, which created the general fund target of \$100.9 million.
- **FY06** Average collections of FY04 and FY05. FY04 collections were based on GENTAX tracked collections. The total collection baseline was \$132 million and the general fund collection baseline \$95.6 million. A \$7.5 million goal for new delinquent

collections to the general fund was established, which created the general fund target of \$103 million.

- **FY07** collections (\$147.9 million) less one time Personal Income Tax (PIT) energy rebates (\$2.3 million), for a total of \$145.6 million and a general fund collection baseline of \$103.5 million. A \$3.8 million goal for new delinquent collections to the general fund was established, which created the general fund target of \$107.3 million.
- **FY08** collections (\$176.5 million) less \$10 million for one time CIT collection, for a total collection baseline of \$166.5 million and a general fund collection baseline of \$121.9 million. A \$4.9 million goal for new delinquent tax collections to the General Fund was established, which created the General Fund target of \$126.8 million. Of the \$4.9 million goal, \$2.6 million is from new delinquent tax collections, and \$2.3 million is from stopping erroneous refunds from being issued.

Delinquent Tax Collection Initiative Reports. The Department produces a weekly report showing baseline, goals, and cumulative collections from the beginning of the fiscal year. This report is distributed to the Department's management, governor's office, DFA and LFC analysts.

The Department reported total collections of \$12.3 million from all tax programs between July 1st and July 25th, 2007. CRS is the largest tax program in the State and it contributed 71 percent of total collections, \$8.8 million. To review accuracy of payment collections, LFC staff randomly selected 50 CRS delinquent tax collections, totaling \$9,667.98, and reviewed supporting documents. Review of the documents showed the following results:

- 12 out of 50 payments were discussed with TRD staff:
 - 1 payment of \$1,263.12 (7.63 percent of amount of reviewed) was reported in FY07 and FY08. This double counting had been discovered by the department and corrected and it was disclosed to the LFC reviewer.
 - Envelopes or their image could not be located for 9 payments making it difficult to verify the payment received date in the system. Department does not have a system or staff to scan all taxpayer envelopes into the taxpayer account record.
 - 1 payment was received in 2005 but released in 2007 because taxpayer was under fraud investigation.
 - 1 payment was received in 2005 but released in 2007 because taxpayer was considered for audit.

Recommendation. Develop processes to ensure double counting does not occur.

Department Response. The Department recently found that payments reallocated/ matched in future fiscal years were being counted as new delinquent collections in the fiscal year that they were reallocated. Manual review of payments counted in fiscal years 2007 and 2008 indicates that these situations are rare and not material to the overall results. Larger payments have been manually excluded, and a report has been requested to identify all reallocated/ matched payments that have been counted in two fiscal years. Once the report is complete, collection totals will be manually reduced to correct this error on a weekly basis until a systematic solution can be incorporated.

The Department does not Include Collections in the Initiative if Taxpayer is Under Investigation or Audit. The Department does not include delinquent tax payments in collections unless they are allocated or matched to a return in GENTAX. If the taxpayer is under fraud investigation or audit, the Department does not consider the money paid as matched until completion of the fraud investigation or the audit is assessed. Payments made by the taxpayers are posted timely to the taxpayer account. The Department performs several types of audits, including managed audits.

A taxpayer can opt to conduct a managed audit, a variation of a traditional field audit by the Department. The managed audit allows taxpayers to conduct an audit on their own. Section 7-1-11.1 NMSA 1978 defines managed audits and how to conduct them. A taxpayer can choose one of the following options to conduct a managed audit:

- Option 1-The taxpayer prepares the audit work papers with minimum guidance from the Department. The Department issues a written statement stating that the taxpayer may remain subject to audit by the Department for the audit period.
- Option 2-The taxpayer works with an assigned auditor to develop an audit plan, an auditor reviews work papers, after completion and acceptance of the audit will be issued a written statement from the Department stating that the audit period covered by the agreement is closed to further audit by the Department.

Taxpayers have up to 180 days to pay an assessment created as the result of a managed audit.

Recommendation. None

Daily and Weekly Collection Reports to LFC and Other Executive Agencies. The daily and weekly tax collection reports are a very useful tool to track the state general fund revenues. This reports helps LFC staff discharge their duties efficiently and timely manner. The issue of not receiving these reports on a regular basis was discussed with the department staff. The department took immediate actions to ensure that necessary reports are being submitted to LFC and other executive agencies on a timely basis.

Recommendation. Continue to provide a daily collection reports during the tax season due to high volumes and weekly reports thereafter to LFC and other executive agencies.

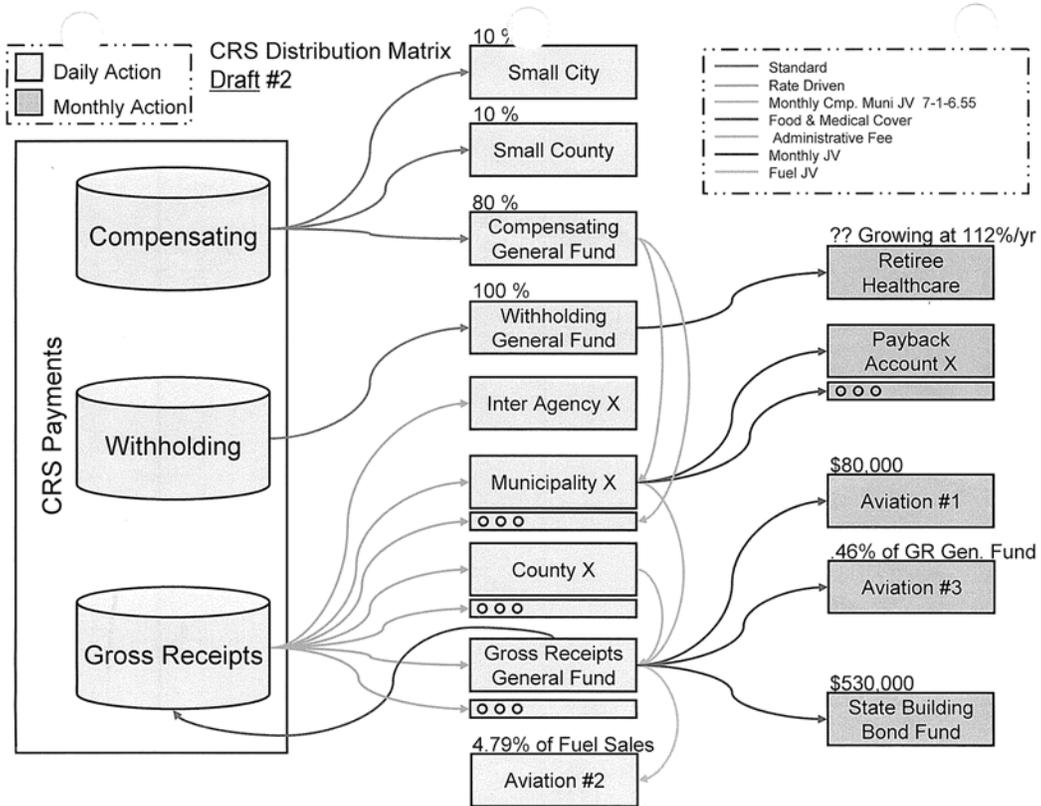
Department Response. The department has agreed to continue providing these reports.

Major Tax Programs

Code	Tax program
AFD	Alternative Fuels
BRT	Bingo & Raffle
CAVT	Copper Ad Volerem
CFT	Combined Fuel Tax
CIG	Cigarette Tax
CITATIONS	MVD citations
CIT	Corporate Income Tax
CNS	Conservation Fee
CRS	Gross Receipts, Withholding, compensating
DBSGEN	Daily Bed Surcharge
DPT	Delinquent Property Tax
ENHGEN	Enhanced E-911
EST	Estate tax
FIDGEN	Fiduciary Tax
GMDGEN	Gaming-Distributors
GMOGEN	Gaming-Operators
IFTA	International fuel tax agreement
IRP	International Registration Program
LIQGEN	Liquor Excise
LLQGEN	Local Liquor
MVD	Motor Vehicle Registration
OGP	Oil & Gas proceeds
ONGARD	Oil & Gas
ONGARD ROYALTIES	Royalties
PIT	Personal Income Tax
RES	Resource Tax
SEV	Severance
T.O.P	IRS taxpayer offset program
TPT	Tobacco Products Tax
TRS	Telecommunication Relay surcharge
UEF	Uninsured Employment Fee
UNP	Unclaimed Property
WAT	Water conservation Fee
WC	Workers Compensation
WEIGHT DISTANCE	Weight Distance

Source: Revenue Processing Division

CRS DISTRIBUTION MATRIX



Number of FTE	Classification	Hourly rate	Total per FTE (2)	Additional funding	Vacancy	Vacancy%	Total Collections Year 1 (net of expenses)	Collector ROI (3) (net of expenses)		Total Auditor ROI (3) (net of expenses)			Auditor ROI GF (3) (net of expenses)									
								Total	GF	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3							
Balanced Budget																						
3	TX EX/COLL/REV AGENT - O	16.885	\$ 49,460	\$ 148,380	58.66 FTE (4)	17.25%	2.4 M (5)	1.9 M	1.3 M	.51 M	.67 M	.83 M	.36 M	.47 M	.58 M							
2	ACCT & AUDITOR - O	18.473	\$ 53,623	\$ 107,246																		
	OVERHEAD		\$ 44,374	\$ 300,000	53.66 FTE	15.78%																
6	TX EX/COLL/REV AGENT - O	16.885	\$ 49,460	\$ 296,760			4.8 M	3.8 M	2.6 M	1.02 M	1.34 M	1.66 M	.72 M	.94 M	1.16 M							
4	ACCT & AUDITOR - O	18.473	\$ 53,623	\$ 214,492																		
	OVERHEAD		\$ 88,748	\$ 600,000	48.66 FTE	14.31%																
9	TX EX/COLL/REV AGENT - O	16.885	\$ 49,460	\$ 445,140			7.2 M	5.7 M	3.9 M	1.53 M	2.01 M	2.49 M	1.08 M	1.41 M	1.74 M							
6	ACCT & AUDITOR - O	18.473	\$ 53,623	\$ 321,738																		
	OVERHEAD		\$ 133,122	\$ 900,000	43.66 FTE	12.84%																
12	TX EX/COLL/REV AGENT - O	16.885	\$ 49,460	\$ 593,520			9.6 M	7.6 M	5.2 M	2.04 M	2.68 M	3.32 M	1.44 M	1.88 M	2.32 M							
8	ACCT & AUDITOR - O	18.473	\$ 53,623	\$ 428,984																		
	OVERHEAD		\$ 177,496	\$ 1,200,000	38.66 FTE	11.36%																
15	TX EX/COLL/REV AGENT - O	16.885	\$ 49,460	\$ 741,900			12.0 M	9.5 M	6.5 M	2.55 M	3.35 M	4.15 M	1.80 M	2.35 M	3.90 M							
10	ACCT & AUDITOR - O	18.473	\$ 53,623	\$ 536,230																		
	OVERHEAD		\$ 221,870	\$ 1,500,000	33.66 FTE	9.90%																
	more FTE's																					

FY09 Projected Expenses \$ 16,479,098
Projected Deficit \$299,398 (1)
 FY09 Projected Expenses using current number of FTE's

FY09 OBUD GF \$ 16,179,700

Footnotes:
 (1) \$299,398 is projecting current salaries plus the FY 09 compensation package and insurance increases of .07%, less probationary employees adjustment
 (2) Amounts include 39% for benefits
 (3) ROI is net of expenses, which includes salaries, benefits, and overhead costs
 (4) 58,66= current vacancies of 44,66 + 6 additional forced vacancies to cover deficit + 8 FY09 expansion positions
 (5) Total Collections Year 1 (net of expenses) was calculated as follows:

	Collectors	Auditors	Total
TX EX/COLL/REV AGENT = Collector, ACCT & AUDITOR = Auditor			
Collections	2,100,000	640,000	2,740,000
Less: Salaries & Benefits	(148,380)	(107,246)	(255,626)
Less: Overhead	(24,405)	(19,989)	(44,374)
Total	1,927,215	512,765	2,440,000
Rounded	\$1.9 M	\$.5M	\$2.4 M

Note:
 a. The audit return on investment is based on the following facts. Auditors are expected to produce 8 audits in their first year, 10 in the second, and 12 by their third year. Auditors average approximately \$100K per audit. Using a 40% collection rate for each audit will result in ROI of \$320K per auditor in year 1, \$400K in year 2 and \$480K in year 3.
 b. Though Collectors appear to generate a higher ROI, part of their collections are from audit assessments, in particular the 60% of audit assessments not collected in the first year.
 c. ROI= Total additional Revenue