

**Department of Public Works  
Building Permits and Inspection Section**

**Performance Audit  
October 1, 2008 through September 30, 2010**

**OPA Report No. 11-05  
August 2011**



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## **EXECUTIVE SUMMARY**

### **Department of Public Works Building Permits and Inspection Section**

Report No. 11-05, August 2011

The Department of Public Works (DPW) Building Permits and Inspection (BP&I) Section continues to process and issue building permits manually, and does not effectively supervise, monitor or collect building permit and plan checking fees. DPW also does not reconcile its records with the Department of Administration's (DOA) financial management system (AS400), increasing the risk for errors. Specifically, we found:

- Inconsistencies in the assessment and application of fees, resulting in lost revenues of \$199,657, consisting of \$112,645 from an unpaid construction project and \$87,012 in undercharged construction projects;
- Overassessment of \$55,965 in construction project fees due to the utilization of the wrong fee schedule;
- Instances in which fees were partially or entirely waived without explanation or acknowledgment from management resulting in lost revenues of \$71,441;
- A lack of independent verification on the value of the construction projects submitted by the contractors in the building permit application;
- A significant decline of \$903,278 in building permit and plan checking fees in Fiscal Year (FY) 2010 to \$791,029 when compared to the FY 2009 of \$1.7 million (M), and FY 2008 of \$1.6M;
- No link to the Department of Revenue and Taxation (DRT) to ensure the update of real property tax values; and
- No fees or other benefits from military-related construction activities because DPW does not have any oversight over these projects.

These conditions exist because of ineffective supervision, monitoring, and the outdated manual processing of building permit fees.

#### **Ineffective Supervision, Monitoring, and Collection of Fees**

Title 21, Guam Code Annotated (GCA) § 66408(a) grants DPW the authority over public and private construction and to charge building permit fees as set in the Uniform Building Code and to remit those fees to the Treasurer of Guam. We found instances where fees were not collected, were undercharged, or were waived partially or entirely with no explanation. The lack of revenue reconciliation between DPW and DOA allowed for these deficiencies to occur. Communication between DPW and DRT regarding adjustments in real property tax values was also deficient.

#### ***Unpaid Construction Project***

The building permit for a \$24M project was approved but fees of \$112,645 were not collected and construction was allowed to start prior to the issuance of the permits. Upon conducting a site visit,

the Guam Environmental Protection Agency discovered that the contractor had exceeded its ground permit, had not paid for the ground permit and had proceeded with construction anyway.

### ***Undercharged Construction Projects***

Building permits for 179 projects were issued, but fees totaling \$87,012 were either incorrectly assessed or undercharged. Based on the project cost schedule, we estimate that fees should have totaled \$865,820, but only \$778,508 was collected. DPW's use of an incorrect fee schedule led to the undercharges. In addition, we found no evidence that construction and/or renovation cost estimates were verified as reasonable and accurate.

### ***Overassessment of Construction Project Fees***

Building permits for 505 projects were overassessed fees totaling \$55,965. DPW had assessed residential applicants the non-residential rates. DPW cited the residential and non-residential fee schedules as looking identical to each other and may have played a role in the overcharging as staff may have utilized the incorrect fee schedule.

### ***Arbitrary and Inconsistent Fee Waivers***

We found 16 projects for which permit and plan checking fees of \$71,441 were waived. All files with full or partial fee waivers lacked sufficient documentation to justify the waivers. DPW BP&I Administrator could not explain the short, hand-written words, "waived," "waived by DPW Director," or "waived – DPW project" on the files. None of the files contained the Director's signature or other verification of approval.

We also identified lost opportunity of up to \$548,063 for a building permit issued in July 2010 estimated at \$124M to erect a building shell. This project was amended twice decreasing the value to \$90M and then to \$3.2M. Had DPW assessed the initial \$124M, building permit fees would have totaled \$566,396. DPW instead only collected \$18,223 based on the lower value of \$3.2M. There was no independent verification or rationale for the significant decrease in the cost valuation to \$3.2M.

### ***Outdated Manual Processing of Building Permits***

The BP&I Section's permitting process is done manually and staff is barely able to keep up with the task. Permits are logged into ledgers, which the BP&I Administrator admits, are not reconciled against DOA's AS400. At fiscal year's end, the Administrator prepares a summary of the permits issued and submits it to the Bureau of Statistics and Plans. DPW's manual process is time consuming and susceptible to error. Inputting data onto computer spreadsheets could identify and help resolve discrepancies and ensure that (1) permit applications and permits comply with rules and regulations; (2) permits are numbered for proper tracking and monitoring; (3) relevant fees are assessed and full or partial waivers are justified; and (4) reconciliation with DOA is performed.

### ***Conclusion and Recommendations***

DPW's lack of supervisory review, ineffective monitoring and other internal control deficiencies have cost \$271,098 in lost revenues, \$55,965 in overcharged fees and \$548,063 in lost opportunity. The figure may be higher due to the potential for understated project values. Good internal controls and proper checks and balances are critical for ensuring that revenues are accurately assessed, collected, processed, and recorded. An electronic system, as simple as an Excel spreadsheet, would do well to preclude errors. Among the seven recommendations to DPW are to:

- Collect unpaid and undercharged fees totaling \$199,657 and re-assess the decisions on waived projects of \$71,441 and establish formal criteria for waivers;
- Require independent verification of the construction amount upon which building permit fee are assessed; and
- Implement Excel or other electronic tracking and monitoring software for the building permit application and issuance process.

A draft report was transmitted to the DPW Director and Deputy Director in June 2011. In a joint response, they provided a detailed response and indicated general concurrence with our findings and recommendations. To address our findings and recommendations, DPW has entered into a Memorandum of Agreement with DRT and the Department of Land Management to upgrade the Building Permitting System utilizing American Recovery and Reinvestment Act funding. See Appendix 5 for DPW's management response.

Doris Flores Brooks, CPA, CGFM  
Public Auditor



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## Introduction

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This report presents the results of our audit of the Department of Public Works' (DPW) Building Permit and Inspection Section (BP&I). The audit was conducted as part of the Office of Public Accountability's (OPA) efforts to examine and identify funds and programs for revenue enhancement. Our objective was to determine the accuracy and completeness of revenues derived from building permit and inspection fees.

The scope, methodology and prior audit coverage are detailed in Appendices 2 and 3.

## Background

Title 5 Guam Code Annotated (GCA) § 5262(b) directs the Director of DPW to prepare, issue, revise, maintain and monitor the use of specifications for construction required by the Territory. The Director must also establish and maintain programs for the inspection, testing and acceptance of construction. The Engineering Division's Capital Improvement Projects Building Permit and Inspection Section carries out these functions, which consist of a Building Inspection & Permits Administrator, Construction Inspectors, Building Inspectors, and Customer Service Representatives.

DPW administers the Uniform Building Code (UBC) and laws and regulations pertaining to the design, construction and use of all public and private structures on Guam. The BP&I Section enforces the UBC and reviews and issues building permit applications to authorize construction accordingly. The Section's architects and engineers review design plans for compliance with the building code and its inspectors conduct on-site inspections to ensure continued compliance. The Guam Contractors Licensing Board (GCLB) hears any appeals filed on DPW decisions.

All new construction and any renovation of existing structures require building permits, whether or not fees are waived or exempted. For government projects, the successful contractor applies for the building permit. All agencies are required to go through an application process. Only DPW projects are exempt. At the Director's discretion, fees can be waived for other government projects or if DPW performs the work. Residential construction projects must be cleared by all agencies, *except* DPHSS and GFD. Commercial projects require sign off by the following agencies as appropriate:

- Department of Land Management (DLM)
- Guam Power Authority (GPA)
- Professional Engineering, Architects and Land Surveyors Board (PEALS)
- Guam Waterworks Authority (GWA)
- Guam Environmental Protection Agency (GEPA)
- Department of Parks and Recreation (DPR)

- Fire Prevention Bureau (required only for multi-family dwellings and commercial, industrial and institutional buildings)
- Department of Public Health and Social Services (DPHSS), if applicable – for food service equipment and systems only

Although DPW must notify all builders of any amendments to the UBC, the permitting procedure and the fee schedule has not changed since the 1980s. See Appendix 4 for DPW Building Permit Fee Schedule.

Applicants are given a routing slip with correlating account numbers for the types of fees and the amounts to be charged. The cost of the permit is based on the value of the project. DPW uses a schedule of charges based on value. The plan checking fee is 65% of the permit cost. Applicants then present the routing slip with payment to the Treasurer of Guam (TOG), which maintains a branch in the One Stop Center in the DPW compound. The cashier acknowledges payment and the paid receipt is returned to BP&I for the permit. Once the plans are approved and the fees are paid, the building permit is issued.



**Image 1:** Building permits are required to be posted in a conspicuous location at all times during construction.

Permits do not expire unless the project is suspended or abandoned for more than 90 days. In such cases, DPW may grant a three-month extension. If a permit expires, the customer must pay a renewal fee of 65% of the original permit cost.

The contractor/owner must stick to the approved plans and arrange for the required inspections. The BP&I must approve change orders or any deviations from the original plan. Depending on the type of project; inspections are required at certain intervals. Before walls can go up, DPW must inspect and approve the project’s foundation. Between groundbreaking and occupancy, six inspections are made on the site. Construction projects are not complete until they pass the final inspection and an occupancy permit is issued. Before a certificate of occupancy can be issued, the applicant must submit:

1. A final inspection request form and four copies of the occupancy permit application
2. Certification of agency clearance
3. Copies of all inspection reports
4. GPA’s original inspection report and a master electrician’s certification
5. The house number assigned by DPW, the street address and location map

**Central Processing and Collection of Revenues from Fees**

DOA is responsible for processing and recording building permit and inspection fees for the Guam Preservation Trust (GPT) Fund and DPW’s Building and Design Fee, which are the recipients of the fees. GPT is a public non-profit corporation dedicated to preserving and promoting Guam’s historic sites and culture and the recipient of building permit fees, the main source of income for the GPT. The Building and Design Fee was re-established by Public Law (P.L.) 30-118 to fund the operations of the BP&I Section and requires DPW’s Director to report on the fund quarterly to the Governor, Legislature and OPA.

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## Results of Audit

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The BP&I is not effectively supervising, monitoring, or collecting revenues from building permit and plan checking fees and continues to use an outdated manual system to process applications and issue permits. DPW does not reconcile its records with DOA's financial management system or with DRT to ensure proper accounting of the fees and avoid mishandling and/or errors, to update real property values as development occurs. The value of construction projects on building permit applications are not independently verified, nor are fees adjusted when change orders are made.

We found inconsistencies in how the fees were applied and assessed. Some were not charged, not collected, or were waived entirely or partially. We estimate lost revenues of \$271,098 resulting from these shortcomings, \$55,965 in overcharged fees, and \$548,063 in lost opportunity revenues. We also saw a decline of \$903,278 in building permit and plan checking fees in FY 2010, from \$1.7M in FY 2009 to just \$791,029. These conditions occurred because of a lack of supervisory review, ineffective monitoring, a lack of checks and balances, and good internal controls.

### **Ineffective Supervision, Monitoring and Collection of Fees**

We found numerous examples of uncollected, undercharged, waived or partially waived building permit and plan checking fees. DPW's BP&I Section continues to process and issue building permits manually, and does not effectively supervise, monitor or collect building permit and plan checking fees, to include reconciling its records with DOA's AS400. Without reconciliation of revenues between DPW records and DOA, discrepancies abound.

#### ***Unpaid Construction Project***

In May 2010, a contractor was issued a building permit to lay the foundation for a new housing development in Dededo. The foundation was estimated to cost \$24M. Upon reviewing the application, we found that the fee section had been struck through, suggesting fees of \$112,645 were not collected. In July 2010, the same contractor applied for and was given a second building permit to erect the building shell only. The total cost for this improvement was \$124M, and again the building permit application fees were "waived." Upper management beyond the BP&I Administrator did not independently review both waivers. In November 2010, GEPA cited the contractor for numerous violations and issued a stop-work order on the project. The stop-work order would remain in effect until all issues were addressed. As of July 2011 DPW could not confirm whether payment was received.

#### ***Undercharged Construction Projects***

We found 179 projects for which building permits were issued, but fees totaling \$87,012 were either incorrectly assessed or undercharged. Based on DPW's project cost schedule, we calculated fees totaling \$865,520 should have been charged, but only \$778,508 was collected. The undercharges may be due to how the projects were assessed. In all 179 projects, we noted differences between our calculations and what DPW actually charged. We provided this information to DPW and received an



**Image 2:** Construction project in the northern part of the island.

explanation on two of the 179 projects. One project was paid in the prior year out of our scope and the other project was charged a residential rate, rather than the commercial rate. With no verification or reconciliation process in place, DPW is likely to continue losing revenue to assessment errors.

An example of an undercharged construction project:

- In November 2009, a permit was issued to renovate a Barrigada building at an estimated cost of \$150,000. According to the schedule, the building permit should have cost \$1,145 and the plan checking fees \$744, or \$1,889 total. However, the contractor received a building permit after being assessed and paying only \$859. The contractor was undercharged \$1,030, which remains uncollected. The project began almost a year and a half ago, but to date, no further payment has been made.

### ***Overassessment of Construction Project Fees***

Building permits for 505 projects were overcharged fees totaling \$55,965. DPW had assessed residential applicants the non-residential rates. DPW cited the residential and non-residential fee schedules as looking identical to each other and may have played a role in the overcharging as staff may have utilized the incorrect fee schedule.

### ***Arbitrary and Inconsistent Fee Waivers***

We found inconsistencies on how fee waivers are made. We reviewed 16 projects for which the fees were waived partially or entirely. The estimated value of the projects was \$27.2M, collectively, and the total in fees should have been \$71,441. We found no sufficient documentation or justification for the waivers, just hand-written remarks, such as “*waived*,” “*waived by DPW Director*,” or “*waived – DPW project*.”

Examples of waived projects:

- In January 2008, a temporary permit was issued for construction of a warehouse/office, estimated to cost \$3M in Harmon. The contractor was assessed \$17,358 (\$10,520 for the building permit and \$6,838 in plan checking fees). According to the formula schedule, the assessment was accurate. The contractor paid the checking fees and was given the temporary permit. There was no indication in the file as to why only a partial payment was allowed. We could not determine whether the building permit fee of \$10,520 was ever paid.
- In May 2008, a permit was issued for construction of a \$53,500 VFW (Veterans of Foreign Wars) project in Agat. The \$993 in building permit and plan checking fees were waived without explanation.

According to the BP&I Administrator, the Director has discretion to waive some fees on government projects or on those performed by DPW staff. The Administrator also stated that all the building permit and plan checking fees on the on-going 2010 highway projects have been waived. He also stated that except for the GCLB ensuring that contractors on military projects are licensed, DPW has no jurisdiction over military construction and thus no building permits are required.

Such arbitrary and inconsistent practices stem from the absence of formal guidelines and strong internal controls, such as supervision and monitoring. Waivers are only applicable to (1) filing plans when work is minor in nature (Section 66204); and (2) plot plans when work is minor in

nature (Section 66205). We recommend DPW re-assess the justification and decisions on waived and partially waived projects and take corrective action to collect on unmerited waivers. We also recommend DPW establish formal criteria for waiving fees and require an approval signature from the Director or his/her designee on all waivers.

### ***Lack of Independent Verification***

We found no evidence to indicate that DPW personnel verified the estimated value of construction and renovation projects to ensure costs are accurate and fees are precise. BP&I solely relied on the construction value self-reported by applicants. Since permit costs are based on the estimated value of construction, lower value means less expensive permits and smaller revenues for the Government of Guam. We recommend DPW obtain an independent verification on the contract amount submitted in the building permit application.

As an example of the lack of independent verification, we identified a building permit issued in July 2010 estimated at \$124M to erect a building shell. This project was amended twice decreasing the value to \$90M and then to \$3.2M. Had DPW assessed the initial \$124M, building permit fees would have totaled \$566,396. We noted that there was no independent verification as to the rationale for the significant decline in construction costs. For a major housing project, more emphasis should have been placed in verifying the cost of the project. DPW did confirm that permit fees of \$18,333 was collected in March 2011, based on the lower valuation of \$3.2M rather than the initial \$124M. The result was a significant reduction in potential revenues and lost opportunity of \$548,063 for the government of Guam. The decline may be attributed to the uncertainty of when the anticipated military buildup will occur which has impacted the island's real estate housing industry, with several multi-million dollar development projects at a standstill. Investors are weary of supporting a project that may fall flat and contractors are hesitant in breaking ground on projects without clear time lines of when the buildup money will start to flow.<sup>1</sup>

To address this concern, we recommend DPW require independent verification, i.e. a copy of the construction contract, and the construction/renovation costs when the building permit application is submitted. Requiring the applicant's acknowledgement that the amount is true and correct and enforceable under penalty of perjury will further enhance the accuracy of information reported.

### ***Change Orders***

We identified 229 change orders totaling \$11,271 for which building permits were re-issued. Little to no verification or fee assessment on cost changes to on-going projects was recorded. The change orders included revisions, change of contractors, and other miscellaneous purposes.

## **Outdated Manual Processing of Building Permits**

Despite the availability of more efficient automated systems, the BP&I Section continues to process building permit applications manually. DPW has no system to track the number of applications against the number of permits issued or to ensure that all permitted customers pay in full. Instead, personnel log the issuance of permits in ledgers. The Administrator admitted that their records are not reconciled with DOA's AS400. At the end of the fiscal year, the administrator prepares a summary report on the types and numbers of applications received and building permits issued monthly. The report then goes to the Bureau of Statistics and Plans. Between 2008 and 2010, 3,499

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<sup>1</sup> Excerpts from March 2011 article published in "The PACIFIC MARKETPLACE."

building permits were issued and over \$3.8M in fees was collected. However, these numbers differ from what was reported in the AS400. See Table 2 for a comparison.

The BP&I’s manual processing system is obsolete, inefficient and extremely vulnerable to errors and intentional manipulation. Given the numerous tasks and the large number of construction projects in progress at any given period, the Section should consider automation.

Because DPW’s building permit information was in manual ledgers, we developed an Excel database for analysis. We entered DPW’s formula schedule, to automatically calculate the fees due per project. We entered specific data from permit applications into an Excel spreadsheet for fiscal years 2008, 2009 and 2010. The data included:

1. Permit Number and Issue Date
2. Applicant and Owner of Building Permit
3. Proposed Use and Location of Project
4. Building Permit and Plan Checking Fee Amount

The information was used to determine the accuracy of revenue assessment and collection, to gauge the effectiveness of the Section’s internal controls, and to identify any deficiencies. The spreadsheet made calculating permit fees quicker, easier and more accurate. An Excel spreadsheet, or some other software, can help resolve discrepancies to ensure applications and permits comply with rules and regulations and waivers are justified and documented. It can be used to track fee assessment and collection, reduce the processing time for issuing permits and allow staff more time to review plans and monitor construction. It can improve record keeping and ensure monthly reconciliation with DOA. Our effort in analyzing the data illustrates the effectiveness of an automated system.

### **Significant Decline in Building Permit and Plan Checking Fees**

Revenues from building permit and plan checking fees declined significantly in FY 2010, down \$903,278 from \$1.7M in FY 2009. The Section Administrator attributed the decline to an increase in fee waivers on government projects and a decrease in the value of construction projects. Additionally, a six-month construction moratorium in central areas affected by GWA’s overburdened wastewater system was also a factor. See Table 1<sup>2</sup> below.

**Table 1: Revenues from Building Permit & Plan Checking Fees**

<b>Fiscal Year</b>	<b>Guam Preservation Fund</b>	<b>DPW Building and Design Fund</b>	<b>Total Revenues</b>
2008	\$1,015,076	\$601,680	\$1,616,756
2009	\$1,170,994	\$523,313	\$1,694,307
2010	\$ 628,828	\$162,201	\$ 791,029
<b>TOTAL:</b>	<b>\$2,814,898</b>	<b>\$1,287,194</b>	<b>\$4,102,092</b>

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<sup>2</sup> Information derived from the Basic Financial Statements and Single Audit Reports for FY 2008, 2009, and 2010.

### ***Accuracy and Completeness of Building Permit and Plan Checking Revenues***

Building permit fees fund the operations of Guam Preservation Trust and are recorded at DOA in a special fund. The Trust's accounting services provider compiles a quarterly financial report. Plan checking fees are recorded in DPW's Building and Design Fund used for BP&I's operations. The decrease in FY 2010 revenues is reflected in the funding available to fee beneficiaries.

#### ***Guam Preservation Trust Fund***

- Revenues for GPT totaled \$628,828, a 46% decrease from FY 2009's \$1.2M. The moratorium on construction activity was lifted in April 2009. GPT and DPW expect an overwhelming increase of construction activity in FY 2011.
- FY 2009's revenues increased by 15.36% from FY 2008's \$1.01M.

#### ***Building and Design Fund***

- Revenues for the Building and Design Fund totaled \$162,201, a decrease of \$361,112 from FY 2009's \$523,313.
- Revenues for FY 2009 decreased by \$78,367 from FY 2008's \$601,680.

In comparing the Government of Guam's audited Basic Financial Statements and DPW's Annual Reports, we noted significant differences in the amounts recorded at DPW and DOA. See Table 2 for the figures reported by the DPW Annual Reports.

**Table 2: Comparison of BFS and DPW Annual Reports**

<b>Fiscal Year</b>	<b>Basic Financial Statements (Revenues)</b>	<b>DPW Annual Reports (Revenues)</b>	<b>Variance</b>
2008	\$ 1,616,756	\$ 1,391,066	\$ 225,690
2009	\$ 1,694,307	\$ 1,533,305	\$ 161,002
2010	\$ 791,029	\$ 939,301	\$ (148,272)
<b>Total</b>	<b>\$ 4,102,092</b>	<b>\$ 3,863,672</b>	<b>\$ 238,420</b>

Revenues for the three years reported in the audited Basic Financial Statements totaled \$4.1M. DPW's records totaled \$3.9M, a difference of \$238,420. Although the plan checking fees augment the BP&I's operations, we noted that the Administrator's arbitrary waiving of the fees lacked proper supervision and monitoring to assess the effect it will have on revenues for the BP&I section.

Auditors for GPT noted similar concerns in GPT's FY 2010 financial audit, to include:

- No routing slip was filed or referenced for a building permit that was tested. The application indicated the fee was paid, but no date was given. Auditors could not confirm that payment was made.
- No building permits were found for six receipts. The auditors surmised that the building permits could have been prepaid. Approved permits could be issued at a later date, but auditors could not pinpoint when the tested permits were actually issued.
- The date on a routing slip differed from the TOG's stamped receipt date.

- Routing slips were stamped inconsistently; some were stamped either electronically or manually, and not all bore the cashiers' initial.

GPT's audits for fiscal years 2008 and 2009 identified similar deficiencies. We also noted similar problems with non-collection of fees owed, undercharging, and waivers of fees. We recommend DOA, DPW and GPT meet regularly to reconcile their records to ensure their figures correspond.

### **Other Matters**

During our review of DPW's building permit and plan checking fees, we found other matters that we believe warrant management's attention.

#### ***No Link to Department of Revenue and Taxation***

We asked DRT's Property Tax Appraisal Supervisor how the department correlates appraisal values with construction costs for tax purposes. His response was that DPW does not communicate with DRT on new construction and renovations and that construction cost estimates on building permit applications do not factor into property tax assessments. Those assessments are based on the 1993 Real Property Assessment Valuation Manual. Thus, DRT has no way of knowing when renovations occur or what effect they have on property values, since they do not conduct inspections. Establishing communications with DRT would help ensure the update of real property tax values.

#### ***No Oversight of Military Contracts***

With the impending military buildup, construction related activities are expected to increase significantly. We inquired with DPW on the potential impact the increased activity will have on operations. DPW stated that they see little to no benefit since they have no jurisdiction over construction projects on military property nor can DPW charge fees for projects that fall under the sovereign immunity of the United States Government. However, we disagree because there will be an indirect impact on businesses who apply for building permits for construction projects outside the military installations in anticipation of the military buildup.

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## Conclusion and Recommendations

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The lack of supervisory review, ineffective monitoring, and the lack of good internal controls have cost the department \$271,098 in lost revenues, \$55,965 in overassessment of fees, and \$548,063 in lost opportunity in potential revenues over the past three years. The government-wide Financial Audit and the GPT Fund audit reports show that revenues declined significantly over the past years, from \$1.6M in FY 2008 and \$1.7M in FY 2009 to just \$791,029 in FY 2010, a difference of \$903,278.

Establishing good internal controls at BP&I is critical to ensuring that all revenues from building permits and plan checking fees are properly processed, assessed, recorded, and collected. Without an electronic system to track and monitor the issuance of building permits, the risk for undetected errors is high. Without independent verification of estimated construction values submitted by building permit applicants, the potential for undercharging permit and checking fees is intensified. Additionally, without proper communication with DRT, new construction and renovation projects would go unreported and the corresponding adjustment to real estate taxes would go unassessed. DPW's BP&I will not receive additional revenues from the military buildup because of jurisdictional issues with the federal government.

To improve the BP&I's revenue assessment and collection and record management processes, we recommend the following:

1. Take corrective action to collect all unpaid and undercharged projects, totaling \$199,657<sup>3</sup>.
2. Re-assess the justification and decisions on waived and partially waived projects, totaling \$71,441, and take corrective action to collect on unmerited waivers.
3. Require independent verification, i.e. a copy of the construction contract, and the construction/renovation costs when the building permit application is submitted with the applicant's acknowledgement that the amount is true and correct and enforceable under penalty of perjury.
4. Establish formal criteria for waiving fees and require an approval signature from the Director or his/her designee on all waivers.
5. Implement Excel or other software application specific to monitoring and tracking permit applications and issuance (to include numeric assignment of permits), types of fees and assessment amounts and payment collection by date for monthly reconciliation with DOA.
6. Meet regularly with the DOA and GPT to reconcile records and ensure revenues are accurate and complete.
7. Establish a communication protocol with the DRT to ensure proper assessment of real properties.

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<sup>3</sup> Figure derived from unpaid construction project of \$112,645 and undercharged projects of \$87,012.

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## Management Response and OPA Reply

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A draft of this report was transmitted to DPW's Director and Deputy Director in June 2011 for review and response to our recommendations. We met with the Director and Deputy Director on June 1, 2011 and briefed them on our report findings and recommendations.

The Director and Deputy Director jointly submitted a response on June 24, 2011, indicating general concurrence with our recommendations. In addition, the management response contained extensive comments to the various findings and provided a plan of action for most of the recommendations. According to DPW's management response, a Memorandum of Agreement has been entered into between DPW, the Department of Revenue and Taxation, and the Department of Land Management to upgrade the Building Permitting System utilizing American Recovery and Reinvestment Act funding. The anticipated implementation date for this new system is December 2011/January 2012 timeframe. The implementation of this new system will coincide with DPW's initiative to improve the overall customer service environment and insure compliance with the Americans with Disabilities Act within the One Stop Center. See Appendix 5 for details.

The legislation creating the Office of Public Accountability requires agencies to prepare a corrective action plan to implement audit recommendations, to document the progress in implementing the recommendations, and to endeavor to have implementation completed no later than the beginning of the next fiscal year. Accordingly, we will be contacting the DPW to provide the target date and title of the official(s) responsible for implementing the recommendation.

We appreciate the cooperation shown by the Department of Public Works, the Department of Administration, the Department of Revenue and Taxation, the Guam Preservation Trust, and the Guam Contractors Licensing Board during the course of this audit.

OFFICE OF PUBLIC ACCOUNTABILITY



Doris Flores Brooks, CPA, CGFM  
Public Auditor

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**Appendix 1:**  
**Classification of Monetary Impact**

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Finding Area	Lost Revenues	Other Financial Impact
<b>1 Ineffective Supervision, Monitoring and Collection of Fees</b>		
Unpaid Construction Project	\$ 112,645	
Undercharged Construction Projects	\$ 87,012	
Overassessment of Construction Project Fees		\$ 55,965 <sup>4</sup>
Arbitrary and Inconsistent Fee Waivers	\$ 71,441	
Lost Opportunity income due Lack of Independent Verification	\$ -	\$ 548,063
Change Orders	\$ -	
<b>2 Outdated Manual Processing of Building Permits</b>	\$ -	\$ -
<b>3 Significant Decline in Building Permit and Plan Checking Fees</b>		
Accuracy and Completeness of Building Permit and Plan Checking Fees	\$ -	\$ -
<b>4 Other Matters</b>		
No Oversight of Military Projects	\$ -	\$ -
No link to Department of Revenue and Taxation	\$ -	\$ -
<b>Total:</b>	\$ 271,098	\$ 604,028

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<sup>4</sup> Overassessment of DPW projects due to the use of the wrong fee schedule.

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**Appendix 2:**  
**Scope and Methodology**

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The audit scope included the review of applicable laws, rules and regulations, policies, prior audit findings, and relevant documents between October 2007 and September 2010. We interviewed officials from DPW, DOA, DRT, and the Treasurer of Guam. We also performed a walk-through, made observations and project site visits, and performed an analysis of transactions on a sample basis.

Due to the lack of electronic data, we created an Excel spreadsheet and entered specific data for fiscal years 2008, 2009, and 2010. We used the data to analyze the count and amount of building permits issued, fees waived, fees paid and unpaid, and fees undercharged.

We conducted this performance audit in accordance with the standards for performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. These standards require that we plan our audit objectives and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

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**Appendix 3:**  
**Prior Audit Coverage**

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**Office of the Public Auditor**

In November 2002, the Office of the Public Auditor performed an *Investigative Audit on Permit for Use of Matapang Beach Park, 1984 through 1994*, OPA Report No. 02-07. The audit found that DPW miscalculated the building permit/plan review fee for the expansion of the Suehiro Hotel, resulting in an underpayment of \$62,700. At the time, neither DPW nor the Department of Land Management had an occupancy permit on file for the Parc Hotel.

**Bureau of Budget and Management Research Audit**

In 1986, the Bureau of Budget and Management Research's (BBMR) Office of Internal Audit performed the *Audit of Building Permit and Inspection, Department of Public Works*, Report No. IA-86-6. The audit found that the BP&I Section did not comply with the procedures for the issuance and handling of field receipts. Specifically, duties were not segregated, remittances were not timely, and collections were not deposited but held overnight for safekeeping.

**Guam Preservation Trust Financial Audit**

The Trust must undergo an annual financial audit separate from the General Fund. In 2010, the financial audit had one finding related to the completeness of revenues for building permits. Similar deficiencies were also noted in GPT audits for fiscal years 2008 and 2009.

**Appendix 4:**  
**DPW Building Permit Fee Schedule**

TABLE 1-A BUILDING PERMIT FEES

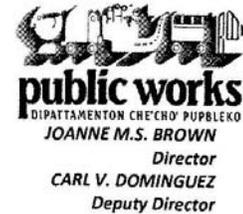
TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$22.00
\$501.00 to \$2,000.00	\$22.00 for the first \$500.00 plus \$2.75 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$63.00 for the first \$2,000.00 plus \$12.50 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$352.00 for the first \$25,000.00 plus \$9.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$580.00 for the first \$50,000.00 plus \$6.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$895.00 for the first \$100,000.00 plus \$5.00 for each additional \$1,000.00, or fraction thereof
\$500,001.00 to \$1,000,000.00	\$2,895.00 for the first \$500,000.00 plus \$4.25 for each additional \$1,000.00, or fraction thereof, to and including \$1,000.00
\$1,000,001.00 and up	\$5,020.00 for the first \$1,000,000.00 plus \$2.75 for each additional \$1,000.00, or fraction thereof

**Add 65%**  
**FOR PLAN CHECK FEE**



The Honorable  
Eddie Baza Calvo  
Governor

The Honorable  
Ray Tenorio  
Lieutenant Governor



**public works**  
DIPATTAMENTON CHE'CHO' PUPBLEKO  
JOANNE M.S. BROWN  
Director  
CARL V. DOMINGUEZ  
Deputy Director

June 24, 2011

Doris Flores Brooks  
Public Auditor  
Suite 401 Pacific News Building  
238 Archbishop Flores St.  
Hagåtña, Guam 96910

<b>RECEIVED</b>	
OFFICE OF PUBLIC ACCOUNTABILITY	
DATE:	6/24/2011
TIME:	3:55pm
BY:	Rachel F.

Dear Public Auditor Brooks:

DPW has reviewed the draft Report of Performance Audit of the Department of Public Works' Building Permits & Inspection (BP&I) Section, from October 1, 2007 through September 30, 2010. There are a number of important concerns that have been raised by your audit and DPW wants to be as responsive as possible and address corrective actions in the Building Permits & Inspection Section.

We are appreciative of the meeting that you and your staff attended here at our office on Wednesday, June 1, 2011 to discuss the issues and concerns raised in the audit report and also respond to questions that Deputy Director Carl Dominguez and I had on the audit findings. While we are the new administrators of the Department, we recognize that there are opportunities to address corrective action where mistakes may have been made and also upgrade the operations and accountability of the BP&I Section to meet the growing demands for responsible public service.

To provide organized clarity for us to respond to the issues raised in the Draft Report of Performance Audit of the DPW' Building Permits & Inspection Section, our responses are listed in the order outlined in the OPA Draft Report Executive Summary.

#### **Ineffective Monitoring and Collection of Fees**

To begin, we want to insure from here forward that DPW is addressing the appropriate collection for building permit fees and plan checking fees. We concur that there is a need for a more formal process that will properly identify the actual value of building projects to determine the appropriate charges for building permit fees and plan checking fees. As we discussed, this may be accomplished with the requirement that copies of the actual construction contracts are provided with the identified value of

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the project to be constructed. In addition, the inclusion of the signature of the applicant under the penalty of perjury may also be considered. We will further discuss the matter with the Office of the Attorney General to address the appropriate format and language to be included for an amended permit application. Also, the Department will need to identify funding to increase the number of building inspectors to insure that construction projects are inspected and field verification is provided to confirm that the stated value of the project submitted to DPW is in correlation with the actual building that is being constructed.

Currently, the DPW BP&I Section has four (4) Building Inspectors. When we took over the administration of DPW in January of 2011, there were only two (2) Building Inspectors in the BP&I Section. We transferred two (2) additional inspectors in April 2011 from our Construction Quality Control (CQC) Section to provide much needed assistance to the BP&I Section. We acknowledge that additional Building Inspectors are still needed to adequately address the current number of vertical construction projects on island.

In response to the partial or entire waiver of permit and plan checking fees, our office has no objection to the concerns raised in the draft report. The DPW Director will send a formal memorandum to the BP&I Section requiring that any waivers requested will have to be reviewed and approved in writing by the DPW Director in compliance with current statute 29 GAR, Section 1156 (3), that requires "Building permit fees shall be waived for all building projects administered by Public Works." In addition, under Section 1156 (4), "Building permit fees for projects administered by other government agencies shall not be waived except as determined by the Director." DPW will further request legislative review to clarify which public projects fall under the building waiver category. This clarification is needed as the OPA Draft Report identified that waivers were provided to non-profit organizations by the previous administration.

#### **Unpaid Construction Project**

The current administration at DPW is weary of the issuance of shell permits, particularly as a result of the situation with [REDACTED] to construct a workforce housing facility for an estimated 500 workers. DPW agrees that the issuance of shell permits without the concurrence of relevant department and agencies such as Department of Land Management, Guam EPA and the Guam Waterworks Authority creates other problems that can be difficult and costly to remedy after shell construction has commenced. With regards to the [REDACTED] project, adequate water and sewer capacities were not available at the onset to accommodate the project. DPW's administration concurs that these issues must be addressed prior to the commencement of any construction project. In addition, we share the concern of the Public Auditor that the DPW fees for the building permit and plan checking fees for the [REDACTED] project should not have been waived at the time the shell permit was issued.

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In follow up to this issue, in March of 2011, DPW issued a building permit to [REDACTED] to construct the workforce housing for 500 workers. This obviously was an after-the- fact permit as significant construction on the project had already extended beyond the shell permit. The total cost of the project was identified at \$3,215,000.00. The total permit fee that was paid on the application on March 29, 2011 was \$11,111.00 for the Building Permit Fee and \$7,222.00 for the Plan Checking fee for a total of \$18,333.00. A copy of the building permit and routing slip has been attached for your review.

**Undercharged Construction Projects**

The DPW recognizes the importance of applying the appropriate permit and plan checking fees against a permit application. There are two sets of fees – one for “residential” construction and the other for “all others”, primarily, commercial. Both sets of fees are based on the cost of the construction. The commercial fees are double those of the residential fees for the same cost of construction. Consequently, if mistakes are made in the application of the fees, the results are costly for the government.

Copies of the following building permits that were cited in the OPA draft report and their corresponding receipts are attached for reference:

Bldg Permit No. B06000089  
Applicant: [REDACTED]  
Date: 1/3/08  
Project: Condominium and Rental Office Building  
Cost of Project: \$2.2M  
Permit Fees: \$8,320.00 (Bldg: Paid 1/3/08) + \$5,408.00 (Plan Check; Paid 10/18/06); TOTAL: \$13,728.00

Bldg Permit No. B09000400  
Applicant: [REDACTED]  
Date: 11/6/09  
Project: Proposed Renovation Bldg – Extension 2<sup>nd</sup> Floor  
Cost of Project: \$150,000  
Permit Fees: \$572.50 (Bldg: Paid 11/6/09) + \$286.25 (Plan Check; Paid 11/6/09); TOTAL: \$858.75

Note: The Permit staff mistakenly charged the applicant the residential fees instead of the commercial fees resulting in a negative variance of \$1,030.50.

The “residential” and “all others” fee schedules look almost identical to each other and likely contributed to the Permit staff occasionally under-charging the permit and plan checking fees. To prevent this from re-occurring, BP&I will print the “residential” fee schedule on white paper and the

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“all other” fee schedule on colored paper. Moreover, each fee schedule’s heading will be in bold print and the schedules will be placed in binders with colors matching the paper the schedules they are printed on.

In addition, DPW is also considering an updated evaluation of the fee schedule to determine if current fees are comparable to the value of the current construction market. The fee schedule for the BP&I Section has not been evaluated or updated in over twenty years.

**Arbitrary and Inconsistent Fee Waivers**

DPW agrees that formal written memorandum signed by the DPW Director should be included with every Permit and Plan Checking fee that is waived in compliance with the law. The Director will formalize this notice in a written letter to the BP&I Section. All projects that are waived in the future will require a written letter of concurrence in order to be considered officially waived.

The current DPW administration cannot account for why this process was not previously implemented. It appears as if “verbal” authorizations were provided without official documentation attached. Again, we concur that corrective measures must be taken to insure accountability when waivers are granted.

The following are our response to permits that were cited in the OPA’s draft report under this subject matter:

Bldg Permit No. 1P07-1217  
Applicant: [REDACTED]  
Date: 1/17/07  
Project: Proposed [REDACTED] Warehouse/ Operations Building  
Cost of Project: \$3.0M  
Permit Fees: \$10,520.00 (Bldg; Paid 1/17/08) + \$6,838.00 (Plan Check; Paid 12/28/07); TOTAL: \$17,358.00

Note: The applicant made a partial payment as noted in the OPA report, but subsequently paid the balance owed so that payment was made in full.

Bldg Permit No. TP08-0372  
Applicant: [REDACTED]  
Date: 5/29/08  
Project: Structure only – no finishing  
Cost of Project: \$53,500  
Permit Fees: Waived

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Note: The applicant, [REDACTED] a non-profit organization, sent a letter, dated 12/21/07, to then DPW Director, [REDACTED] requesting DPW waive the permit and plan checking fees, which [REDACTED] approved by instructing the Building Permit Administrator [REDACTED] to do so.

Bldg Permit No. B10000441615  
Applicant: [REDACTED]  
Date: 7/12/10  
Project: To erect building – shell only  
Cost of Project: \$  
Permit Fees: Waived

Note: BP&I reported that former Deputy Director, [REDACTED], instructed [REDACTED] to waive permit and plan checking fees.

**Lack of Independent Verification**

DPW acknowledges that corrective action must be taken to insure that the BP&I Section has the ability to independently verify the value of construction and renovation projects that are processed by the Department. As mentioned earlier this can be accomplished with the requirement of a copy of the construction contract being provided to DPW along with field verification by DPW Building Inspectors. The DPW administration will request an increase in budget resources to hire additional Building Inspectors and inspection vehicles insure that all buildings under construction or renovation are properly inspected and that the value of appropriate fees to be charged are paid for by the applicants.

**Change Orders**

The DPW acknowledges that the permit and plan checking fees it collects are based on the cost of construction and that there may be opportunities to collect additional fees if the cost of a construction project increases due to change orders.

When an applicant submits an incidental revision to a building permit, e.g., change of contractor, the DPW Building Permits and Inspections section charges the appropriate revision fee listed in its supplemental fee schedule.

However, if an applicant submits a revision to a building permit that adds or diminishes the value of the project, e.g., increases or reduces the size of the building, the DPW Building Permits and Inspection section should charge or deduct the appropriate fee based on the cost thereof.

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The DPW administration will direct the BP&I inspectors to insure that, through their respective inspections, any apparent changes in the construction project that will increase its cost will be identified to insure that the appropriate permit and plan check charges are applied.

**Outdated Manual Processing of Building Permits**

DPW concurs with the finding of the Public Auditor concerning the outdated manual processing of Building Permits. In response, the Department of Public Works in partnership with the Department of Revenue and Taxation and the Department of Land Management have partnered through a Memorandum of Agreement to totally upgrade DPW's current Building Permitting System utilizing American Recovery and Reinvestment Act (ARRA) funding.

The new Building Permit Application Program is designed to create a more user friendly, automated system that will create higher efficiency and effectiveness in the building permitting process for both the Government of Guam and the One Stop customers. Information derived from the new system will be interfaced with the Department of Revenue & Taxation Real Property Division to create accurate and timely improvement records. The critical data collected by the new process will be the source for the location and start date for real property improvement tax processing as well as other useful information to include, but is not limited to, the type of structure, size, owner and contact information.

The automated system will dramatically improve building permit processing time overall and will minimize subjectivity, errors and delays at the One Stop staffing levels.

Highlights of the new building permit system upgrades include:

1. Electronic (web based) submittals of Building Permits to include on-line applications that can be simultaneously reviewed by the appropriate agencies once the applicant enters all information into the system. Currently Building plans have to be physically transferred from agency to agency to obtain clearances in sequence. Simultaneous reviews would substantially reduce the time for obtaining building permit approvals.
2. Concurrent reviews would be accomplished via web based application by all assigned reviewers with approvals obtained electronically by the One Stop. Through their log-on registry number, applicants and the One Stop Center can track the plans as they go through the review process agency by agency.
3. The new electronic system will provide improved Data Controls and integrity
  - a. Establishment of usable data registries.
  - b. Derive information for expedited reviews: Example: is the property in the northern aquifer?

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- c. What is the land area? This information is derivable and can be used to determine sewer connectivity and permitted use requirements. Other examples include scenarios that based on the existence of certain data can trigger a supervisory review requirement.
  - d. Validate data entered.
  - e. Ensure that information is complete.
  - f. Electronically timestamp events to database.
  - g. Status of permit reviews agency by agency.
  - h. Notification from reviewers to applicants for additional information and results of respective reviews.
  - i. Maintain sequential logs tracking changes and updates to data.
  - j. Provide a means of storing markups to images of information provided.
4. Ability to attaché documents, markup, exchange documents at the permit level (all user access) and exchange documents at the review level (access exclusive to review department and applicant participants).
  5. Developed application that captures building layout utilizing laser-measuring technology. The application will also utilize building plans as the source for determining improvement square footage when calculating improvement tax.
  6. Metrics reporting to include numbers and types of permits issued, currently under review, etc. for performance based management of approval processes at each agency in PDF or excel formats.

The new system, programming and data input is currently being developed and is slated for beta testing this August with full implementation anticipated in the December 2011/January 2012 timeframe. The project is fully funded with federal funds and will include all required hardware and software to be installed at the One Stop Center.

The implementation of this new system will coincide with DPW initiative to improve the overall customer service environment and insure compliance with the Americans with Disabilities Act within the One Stop Center.

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**Significant Decline in Building Permit and Plan Checking Fees**

The DPW concurs that its permit and plan checking fees significantly declined in FY2010 versus FY2009. As there are a number of factors, including those outlined in the audit report, DPW is not fully able to provide statistical data to pinpoint the exact reasons for the decline.

We are optimistic that with the implementation of the automated system, DPW will be able to readily analyze the type of construction, the value of construction projects and the locations around the island where construction is occurring.

As mentioned earlier, DPW will more closely monitor and scrutinize the applications it reviews for the accuracy of construction cost and change orders, application of appropriate fees, and eligibility of fee waivers. With the implementation of the automated permitting process, BP&I will be able to accomplish this effort with greater accuracy.

**No Oversight of Military Contracts**

DPW does not have authority over construction projects that are built on military property nor can the Department charge fees for these projects that fall under the sovereign immunity of the United States Government.

**No Link to the Department of Revenue and Taxation**

When One Stop Permit Center was established in 1995 there was an automatic link between the DPW Building Permit Inspection Section and Revenue and Taxation for property tax valuation when the Center was housed at the old Department of Land Management building in Anigua. The One Stop Permit Center was relocated to the DPW compound after the Land Management building was damaged by a typhoon in 2002. Since then the automatic link was not reconnected.

All Building Permits are generated at the DPW One Stop Center. In addition to the review of permit applications by the DPW BP&I staff, other departments involved in the review process and physically located at the Center include the Department of Land Management, the Guam Fire Department, the Guam Environmental Protection Agency, Department of Public Health and Social Services and the Department of Revenue and Taxation. Also currently housed at the DPW compound are the Guam Contractor's Licensing Board, the Guam Flood Plains Administration, and the Treasurer of Guam.

With the implementation of the new automated system that will connect the BP&I Section and Revenue & Taxation later this year, this issue will be corrected. As building permits are approved, Revenue and Taxation will be automatically notified so that appropriate tax values can be assessed for all new construction and renovation projects. In the interim, DPW will coordinate with Revenue and Taxation to account for issuance of current permits that are approved by the Department.

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As we know that there are a number of issues that still need to be addressed in the audit report, we welcome your input and continued guidance in this process. DPW will also update your office as corrective actions are addressed by the Department. Please let us know if you are still in need of any information.

Sincerely,

  
JOANNE M.S. BROWN  
Director

  
CARL V. DOMINGUEZ  
Deputy Director

**Appendix 6:  
Status of Audit Recommendations**

<b>Audit Recommendation</b>		<b>Status</b>	<b>Action Required</b>
1	Take corrective action to collect all unpaid and undercharged projects, totaling \$199,657.	Management concurs; more information needed.	Develop and implement corrective action plan to collect from customers on undercharged projects.
2	Re-assess the justification and decisions on waived and partially waived projects, totaling \$71,441 and take corrective action to collect on unmerited waivers.	Management concurs; more information needed.	Develop and implement corrective action plan to collect from customers on waived projects.
3	Independently verify construction estimates/valuations in permit applications.	Management concurs; more information needed.	Evidence of verification process needed.
4	Establish formal criteria for waiving fees and require an approval signature from the Director or his/her designee on all waivers.	Management concurs; more information needed.	Evidence of a formal, written memorandum needed.
5	Implement Excel or other software application specific to monitoring and tracking permit applications and issuance (to include numeric assignment of permits), types of fees and assessment amounts and payment collection by date for monthly reconciliation with DOA.	Management concurs; more information needed.	Management has partnered with the Department of Revenue and Taxation and Department of Land Management to upgrade the Building Permitting System. Awaiting implementation by December 2011/January 2012.
6	Meet regularly with the DOA and GPT to reconcile records and ensure revenues are accurate and complete.	Open.	Recommendation was not addressed by DPW management.
7	Establish a communication protocol with the DRT to ensure proper assessment of real properties.	Management concurs; more information needed.	Management has partnered with the Department of Revenue and Taxation and Department of Land Management to upgrade the Building Permitting System. Awaiting implementation by December 2011/January 2012.

