

**Outdoor Advertising Program
Department of Transportation**

**Performance Audit
May 2013**



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is to improve government for the people of Colorado.*



May 7, 2013

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Colorado Department of Transportation's Outdoor Advertising Program. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Transportation.



We Set the Standard for Good Government

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Glossary of Terms and Abbreviations

COSO – Committee of Sponsoring Organizations of the Treadway Commission

Department – Department of Transportation

FHWA – Federal Highway Administration

Highway Beautification Act – Federal Highway Beautification Act

LOGO Signs – Specific Information and Business Signs

Manual – Outdoor Advertising Program Manual

TODS – Tourist Oriented Directional Signs



OUTDOOR ADVERTISING PROGRAM

Performance Audit, May 2013 Report Highlights



Dianne E. Ray, CPA
State Auditor

Department of Transportation

PURPOSE

Assess the Department's efforts in providing effective control over outdoor advertising and in managing the Tourist Oriented Directional Signs (TODS) and Specific Information and Business Signs (LOGO Signs) Programs.

BACKGROUND

- In 1965, the federal government enacted the Highway Beautification Act, which called for states to restrict outdoor advertising along the Interstate Highway System and many state highways.
- In accordance with the Highway Beautification Act, Colorado enacted statutes and rules which limit the construction of outdoor advertising devices to designated locations.
- The federal government may withhold up to 10 percent of its highway funding to a state that does not comply with the Highway Beautification Act. For Colorado, this would have amounted to more than \$40 million in Fiscal Year 2012.
- The Department issues permits for outdoor advertising devices, which must be renewed annually. The Department collects over \$60,000 in revenue from permit fees.
- The Department is responsible for inventorying permitted signs, locating illegally erected signs, and taking action to have illegal signs removed.
- The Department contracts out the administration of the TODS and LOGO Sign Programs, which provide the blue signs in the right-of-way that advertise food, lodging, fuel, and other information to the traveling public. The Department collected over \$600,000 for this contract in Fiscal Year 2013.

OUR RECOMMENDATIONS

The Department should improve controls in the Outdoor Advertising Program by:

- Establishing a comprehensive monitoring process that includes standard procedures for enforcing federal and state requirements when illegal signs are identified.
- Strengthening internal controls over the renewal permit process.
- Providing for the financial management of the Program in accordance with statutory requirements.
- Implementing an effective monitoring process for the TODS and LOGO Sign Programs contract.

The agency agreed with all of our recommendations.

AUDIT CONCERN

The Department could implement more comprehensive policies and procedures as well as internal financial controls in permitting and monitoring outdoor advertising and in administering the Tourist Oriented Directional Signs (TODS) and Specific Information and Business Signs (LOGO Signs) Programs.

KEY FACTS AND FINDINGS

- In an examination of 162 highway miles, we identified 30 off-premise outdoor advertising signs that did not have a Department-issued permit.
- Of the 241 permitted devices along those 162 miles, we identified:
 - 16 that were not displaying a Department-issued permit decal and 72 that were not displaying a Department-issued renewal sticker.
 - 41 that did not have an accurate picture or any picture of the sign in the Department's sign inventory database and 5 that did not have accurate location coordinates for plotting the sign's location in the database.
- The Department does not have an appropriate segregation of duties within the Outdoor Advertising Program for processing renewal payments. Currently, the Program Manager issues invoices, collects payments, records payments, and issues renewal stickers.
- The Department does not consistently collect late fees for permit renewals submitted after the statutory deadline due to a lack of clarity in statute as to when late fees should be assessed. Additionally, the Program Manager explicitly waived late fees in nine cases even though statute does not allow for them to be waived.
- The Department has not established a Roadside Advertising Fund into which fee revenue should be deposited as mandated by statute.
- The Department has not reviewed fees for Outdoor Advertising permits every four years as mandated by statute. Permit fees have remained the same since at least 1981.
- The Department has not established an effective contract monitoring process for the contract in place for the TODS and LOGO Sign Programs. Specifically, the Department has not verified that the revenue and other data submitted by the contractor are accurate.

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RECOMMENDATION LOCATOR
Agency Addressed: Department of Transportation

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
1	24	The Department should establish adequate controls over outdoor advertising signs located along interstates and controlled highways to ensure compliance with federal and state requirements by (a) establishing a comprehensive monitoring process through written policies and procedures and training staff on this process; (b) ensuring that regional inspectors are informed of their roles and responsibilities related to the Outdoor Advertising Program and that they fulfill those responsibilities. Alternatively, the Department could consider centralizing all monitoring activities into one unit, and with staff who are dedicated full-time to the Program; (c) establishing a standard process for enforcing federal and state requirements when illegal signs are identified; (d) ensuring that permit holders affix their permit decals to the signs in a conspicuous location, amending rules to include a requirement for owners to affix the renewal stickers, and taking enforcement action, as warranted, against property owners that do not comply; and (e) providing training to the Department's regional field staff on Outdoor Advertising Program laws and regulations to help them with identifying and reporting illegal advertising signs.	Agree	<ul style="list-style-type: none"> a. April 2014 b. April 2014 c. April 2014 d. April 2014 e. December 2013
2	31	The Department should strengthen its internal controls over the Outdoor Advertising Program's renewal permit process by (a) implementing a segregation of duties framework to ensure that more than one individual is responsible for sending invoices, collecting payments, recording payments, updating the database, and distributing renewal decals; and (b) seeking clarification, through consultation with the Attorney General's Office, as to when late fees should be charged and implementing rules and policies as needed to ensure fees are applied consistently.	Agree	<ul style="list-style-type: none"> a. August 2013 b. April 2014

RECOMMENDATION LOCATOR
Agency Addressed: Department of Transportation

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
3	34	The Department should ensure that it complies with all statutory requirements related to the Outdoor Advertising Program by (a) creating and using a dedicated roadside advertising fund into which the revenues collected through permit application and renewal fees can be deposited and to which costs for operating the Program can be charged, or seeking statutory change to remove the requirement; and (b) reviewing the fee schedule for outdoor advertising permit applications and renewals at least every 4 years, as directed by statute, to determine if they are appropriate or should be revised. The Department should then either pursue statutory change as necessary to revise the fees or remove the schedule and place the fees in rule so as to more easily revise them when appropriate going forward.	Agree	a. January 2014 b. April 2014
4	39	The Department should establish an effective monitoring process for the TODS and LOGO Sign Programs contract by conducting regular fiscal reviews of the financial data required in the contract to determine if the revenue and program data reported by the contractor are accurate. The Department should include establishing a process to periodically check the signs posted around the state to verify the number of placards sold equates to the number reported by the contractor.	Agree	April 2014

Overview of Outdoor Advertising

Chapter 1

Control of outdoor advertising nationwide began after Congress passed the Federal Aid Highway Act in 1958. This Act contained a provision for states to enter into voluntary agreements with the federal government to strictly control advertising along the new Interstate Highway System. Colorado was one of 23 states that entered into such an agreement. Outdoor advertising control entered a new phase in 1965 with the passage of the federal Highway Beautification Act, the intent of which was “to promote the safety, convenience, and enjoyment of public travel and the free flow of interstate commerce and to protect the public investment in the . . . Interstate System” (Outdoor Advertising Control, 23 C.F.R., pt. 750.101).

In order to achieve its objective, the Highway Beautification Act calls for states to provide “effective control” over outdoor advertising signs along interstate and other highways that are not on the premise of the business they advertise. Effective control includes (1) allowing the erection of new signs only in designated areas and in accordance with the restrictions of the Highway Beautification Act and associated state and local laws and regulations, (2) ensuring existing signs conform to those same restrictions, and (3) expeditiously removing signs that do not meet the Act’s restrictions. To ensure states’ compliance with the Highway Beautification Act, the federal government can withhold up to 10 percent of a state’s federal-aid highway apportionment should a state not demonstrate effective control. Ten percent of Colorado’s Fiscal Year 2012 federal highway funding would have amounted to more than \$40 million.

To comply with the federal Highway Beautification Act, Colorado enacted its own Highway Beautification Act in 1963, which was repealed and reenacted as the Roadside Advertising Act (Sections 43-1-401 through 421, C.R.S.) in 1981. The Roadside Advertising Act created and authorized the Outdoor Advertising Program within the Department of Transportation (the Department) to provide oversight of outdoor advertising in Colorado and to help ensure compliance with the Highway Beautification Act.

Outdoor Advertising Signs

In general, the Highway Beautification Act requires states to provide “effective control” over all outdoor advertising signs that are adjacent to the Interstate and the National Highway System, which includes roads important to the nation’s economy, defense, and mobility. These “controlled routes,” as described by the Department, include Interstates I-25, I-70, I-76, and I-225, as well as other primary state highways such as Highways 6, 85 (including stretches of Santa Fe Drive), 285 (including stretches of Hampden Avenue), 40 (including Colfax Avenue), and 2 (including stretches of Colorado Boulevard). The Highway Beautification Act also includes other

primary and secondary state roads that are considered to be part of the National Highway System, such as Peña Boulevard, which connects Interstate 70 to Denver International Airport.

There are three main categories of signs along these controlled routes that fall within the jurisdiction of the Highway Beautification Act. These include:

- **Conforming Signs.** Signs that meet all of the current requirements for permissible outdoor advertising signs (e.g., within commercial- or industrial-zoned areas, meet distance and size requirements, etc.) and that have been properly permitted by the Department. Conforming signs would also include signs categorized as:
 - **Necessary Goods and Services Signs.** Signs limited in size and located within 1,000 feet of a commercial building that inform the traveling public of necessary goods and services such as lodging, gas, vehicle repair, or health care. These are located on private property and are privately owned.
 - **Directional Signs.** Signs including but not limited to those that contain information to facilitate emergency vehicle access or about publicly or privately owned natural phenomena, cultural sites, religious sites, and areas of natural beauty deemed of interest to the traveling public.
- **Non-Conforming Signs.** Signs that do not meet all of the current state or federal requirements but can legally remain in place because they were in existence prior to the change in the law. Although non-conforming signs can remain, federal regulations (Outdoor Advertising Control, 23 C.F.R., pt. 750.707) restrict what can be done with these signs. In essence, the signs must remain substantially the same as they existed when the law or regulation became effective. States are instructed to further define what it means for signs to “remain substantially the same.” In Colorado, statute [Section 43-1-413(2), C.R.S.] provides that the right to maintain a non-conforming advertising sign can be revoked if, among other things, the dimensions of the sign are increased, there is a change in aspect or character of the sign (e.g., lights are added to the sign or the original wooden poles for the sign are replaced with steel poles), or the sign owner fails to follow the Department’s permitting and maintenance requirements.
- **Illegal Signs.** Signs that do not meet the definitions of either conforming or non-conforming signs, including signs that have not been permitted by the Department, signs in restricted areas, or signs that have had unallowable upgrades made to them.

There are also some signs along controlled routes that fall outside of the Outdoor Advertising Program and federal and state requirements, and are therefore allowable. These include:

- **On-Premise Advertising Signs.** Signs that are on the premise of the business being advertised. These signs cannot advertise anything that is not available on

premise; Department staff must monitor the content of these signs to ensure that they only advertise on-premise goods or services.

- **Official Advertising Signs.** Any advertising sign erected for a public purpose authorized by law, and that does not advertise a private business. Generally, these would include signs such as the “Welcome to” signs outside of cities and counties.

LOGO and Tourist Oriented Directional Sign Programs

In addition to the outdoor advertising signs described above, there are also Specific Information and Business Signs (LOGO Signs) along the interstate system and similar Tourist Oriented Directional Signs (TODS) along other state highways. These are the blue signs on which placards for local businesses offering gas, food, and lodging, as well as religious sites, cultural sites, historical sites, scientific attractions, recreational opportunities, or natural phenomena are placed.



LOGO Sign

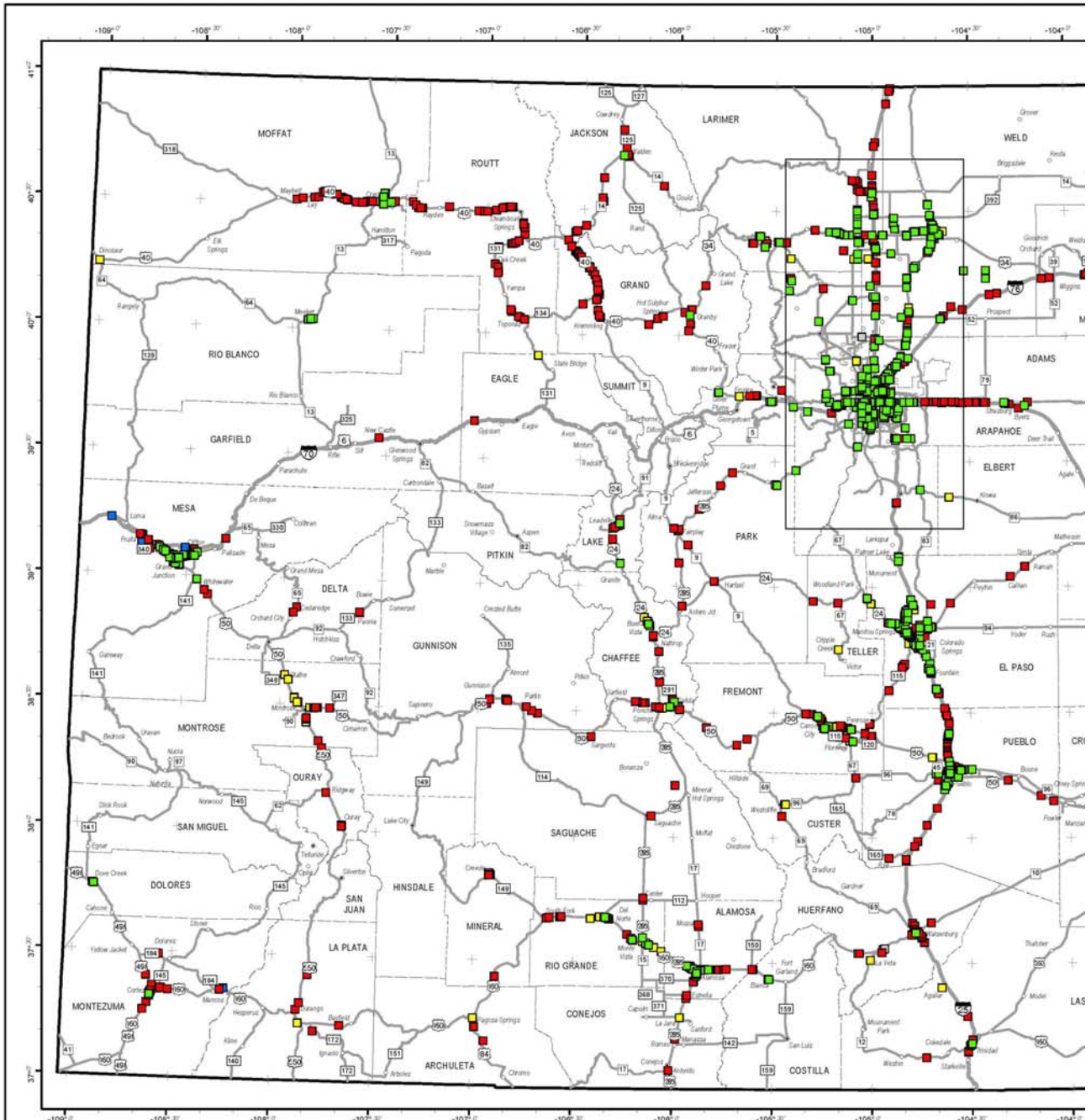


TODS

Categorized as guide signs, these signs are located within the right-of-way of controlled routes. The right-of-way is the area on either side of the highway that is owned by the State and controlled by the Department. Because these signs are in the right-of-way, they do not fall under the restrictions of the Highway Beautification Act. However, the statutory provisions authorizing these signs are within the Roadside Advertising Act, which is the same section that covers outdoor advertising. The Department’s Outdoor Advertising Program also oversees these signs.

Outdoor Advertising Program

Colorado’s Outdoor Advertising Program is located within the Department’s Safety and Traffic Engineering Branch, which is in the Office of the Chief Engineer. In its efforts to control outdoor advertising, the Department requires each off-premise sign owner to obtain a permit that must be renewed annually. The information gathered during the permitting process is entered into an outdoor advertising sign inventory database. There are currently 1,831 signs with active permits in the state. Given the federal and state restrictions on where signs can be placed, there are limited locations available for new signs. Since January 2010, only 14 new permits have been issued. The map on the following pages shows the location of conforming, non-conforming, necessary goods and services, directional, and official signs along the routes controlled by the Department as of April 2013.

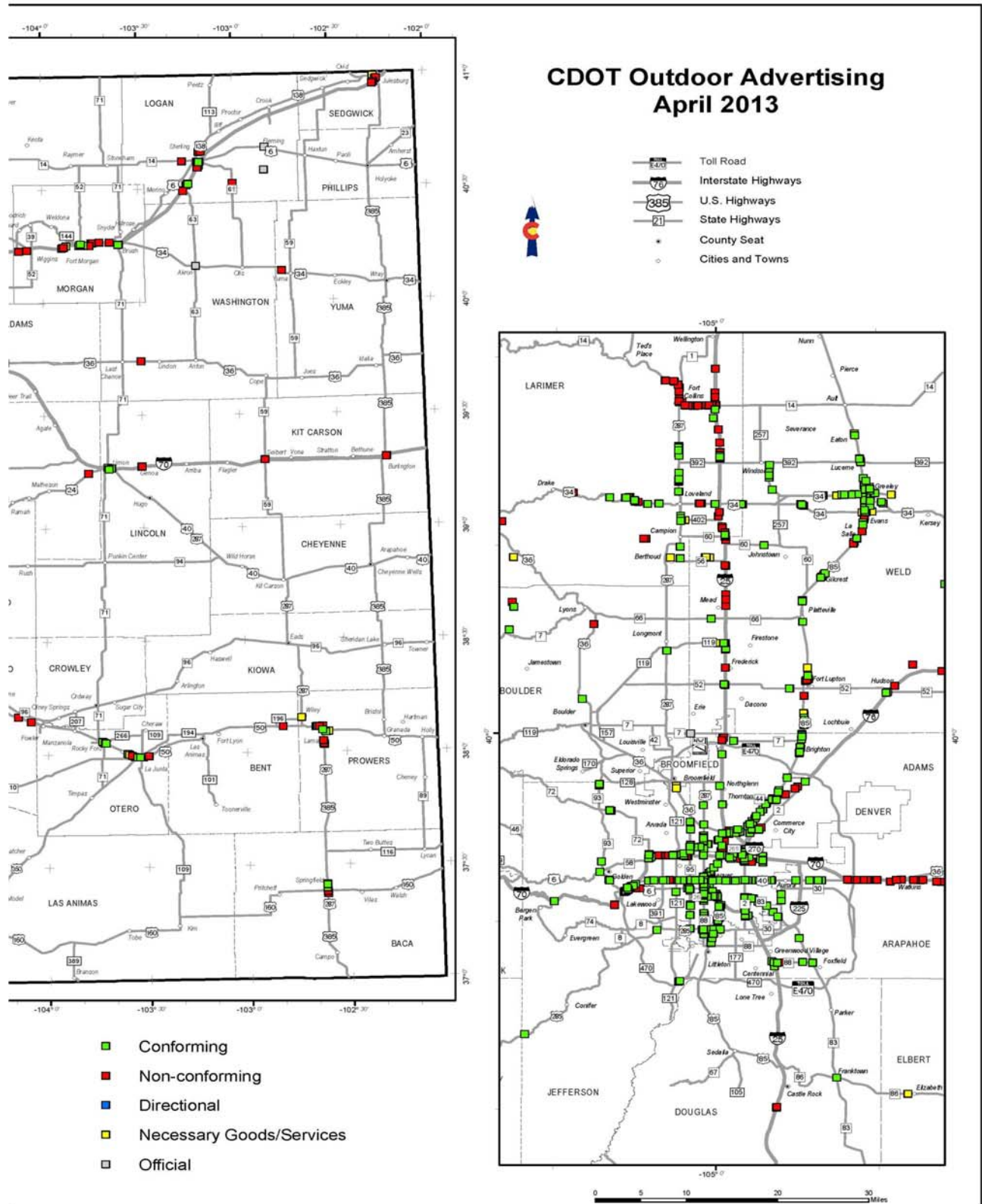


The information contained in this map is based on the most currently available data and has been checked for accuracy. CDOT does not guarantee the accuracy of any information presented, is not liable in any respect for any errors or omissions, and is not responsible for determining "fitness for use".



Data Source: CDOT 2013
Published: April 2013

Source: Department of Transportation.



The Department has created six transportation regions across the state and has assigned inspectors in each region to administer the Outdoor Advertising Program. The Program Manager, located in the Department's headquarters in Denver, dedicates more than half of his time to the Program, with the remainder of his time spent in his role as the Assistant Statewide Utilities Engineer. The Program Manager is charged with overseeing the Program, which includes issuing construction permits for outdoor advertising signs once the region has issued the outdoor advertising permit, issuing renewal invoices, monitoring program compliance, serving as the state's outdoor advertising expert witness on litigated issues, and providing assistance and training to the regional inspectors.

Each of the six transportation regions has its own regional director, who is responsible for overseeing maintenance projects in his or her respective regions. In monitoring outdoor advertising, each of the six transportation regions has at least one regional inspector who allocates part of his or her time to the Outdoor Advertising Program. Two regions, Region 2 and Region 6, each have two inspectors assigned to the Program, and the other regions each have one inspector. The regional inspectors oversee outdoor advertising in their respective regions by patrolling their assigned areas to detect illegal signs, updating the advertising sign inventory (including taking pictures), processing applications for new permits, and resolving issues or disputes with sign owners or the general public. According to staff, regional inspectors dedicate between 25 and 50 percent of their time to their duties in the Outdoor Advertising Program. Depending on the needs of the region, the balance of their time is spent on a variety of other activities including utilities permitting, management of the Adopt-a-Highway program, facilities management, and management of fleet vehicles and equipment.

Fiscal Overview

The Outdoor Advertising Program brings in revenue from two sources: (1) fees charged for outdoor advertising permits and permit renewals, and (2) the TODS and LOGO Sign Programs revenue contract. The fee schedule for outdoor advertising permits is established in statute (Section 43-1-409, C.R.S.), and fees range from \$10 to \$75 per year, depending upon the size of the sign. The Department contracts out the administration of the TODS and LOGO Sign Programs and collects revenue from the contractor (Colorado Logos, Inc.). The revenue for this contract is calculated using a base rate of \$500,000 with built-in increases each year that correspond to increases in the contractor's annual revenue.

Over the past three fiscal years, the Department has collected in total about \$1.8 million from these two revenue streams. This amount includes more than \$200,000 in permit and renewal fees, and over \$1.6 million from the TODS and LOGO Sign Programs. The table below shows total revenue for the Outdoor Advertising Program for Fiscal Years 2010 through 2012. The Department does not separately track expenditures for the Outdoor Advertising Program.

Outdoor Advertising Program Revenue Fiscal Years 2010 through 2012				
	2010	2011	2012	Total
Permits and Renewals	\$68,800	\$69,200	\$64,900¹	\$202,900
TODS and LOGO Sign Program Contract	\$500,000	\$550,000	\$575,300	\$1,625,300
Total	\$568,800	\$619,200	\$640,200	\$1,828,200

Source: Financial Data Warehouse and data from the Colorado Department of Transportation.
¹The decline in revenue for Fiscal Year 2012 is due to a reduction in the number of permitted signs (about 160 fewer) as well as revenue collected after the close of the Fiscal Year.

Audit Purpose, Scope, and Methodology

We conducted this performance audit in response to a legislative audit request. Audit work was performed from August 2012 through April 2013. We acknowledge the cooperation and assistance provided by management and staff at the Department of Transportation.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The primary objectives of the audit were to assess whether the Department is providing effective control over outdoor advertising signs in Colorado to help ensure that these signs comply with state and federal requirements, and to determine if the Department has adequate controls over the collection of fees for the Outdoor Advertising Program. We also assessed the Department's efforts in managing the contract for the TODS and LOGO Sign Programs. Our conclusions on the effectiveness of the Department's controls and contract management practices are described in the audit findings and recommendations.

To accomplish the audit objectives, we:

- Reviewed relevant federal and state laws, rules, regulations, and recent reviews conducted by the Federal Highway Administration (FHWA) on outdoor advertising control programs in other states in order to determine the criteria the FHWA uses in assessing whether or not states are providing effective control.

- Interviewed program staff at the Department and in the six transportation regions to gather information regarding the process for permitting new signs and renewing existing permits, as well as their practices and procedures for conducting inventory and monitoring activities for the permitted signs and for identifying signs that may have been erected illegally.
- Interviewed representatives from the Attorney General's Office to understand the legal process for removing illegal signs.
- Interviewed staff at the FHWA to understand the definition of effective control and what aspects of an outdoor advertising program they would look for a state to have implemented in its efforts to provide effective control.
- Obtained the Outdoor Advertising Program's database for inventorying outdoor advertising signs and invoicing sign owners for annual permit renewals, and examined it to assess its usefulness for monitoring legal advertising signs and identifying illegal signs in the state, including tracking permit renewals.
- Reviewed a sample of 162 highway miles and inspected the 271 outdoor advertising signs we identified along the route. We examined the signs for various characteristics, such as presence of permit decals, presence of ad copy, presence of lights, structural material, and the number of support posts to determine if the signs met legal requirements. We also attempted to identify any signs along the route that were subject to the Outdoor Advertising Program but were not permitted and were therefore illegal.
- Examined all of the 364 invoices, payments, and transmittals for permit renewals in Calendar Year 2012 as well as the renewal data contained in the sign inventory database to evaluate the controls in place for collecting and recording renewal payments.
- Interviewed Colorado Logos, Inc. and Department staff and obtained and reviewed the TODS and LOGO Sign Programs contract, the documents to be submitted per the contract, and procurement rules to evaluate the extent to which the Department was adequately managing the contract.

The results derived from the sample of highway miles selected for this review were not intended to be projected to the entire population of controlled highway miles in the state. Rather, the miles were selected to provide coverage of a variety of controlled area-types (i.e., Interstate Highway, Primary State Highway, commercially and industrially zoned, and urban and rural areas) and included sections in three of the Department's six transportation regions. The sample of permitted signs was drawn according to selected highway miles rather than by specific signs. Thus, the sample of permitted signs was also not intended to project to the entire population of permitted signs. Specific details about the audit work supporting our findings, conclusions, and recommendations are described in the remainder of the report.

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Outdoor Advertising Program Operations

Chapter 2

The primary function of the Department of Transportation's (the Department) Outdoor Advertising Program is to provide effective control of outdoor advertising in Colorado in accordance with the federal Highway Beautification Act and its associated requirements. Because the intent of the Highway Beautification Act is to provide for greater safety along roads by limiting distractions, as well as to preserve the natural beauty of the areas on which the roads are built, effective control requires the State to limit the erection of signs to designated areas and to remove signs placed illegally. In recent years, the federal government has placed an emphasis on states' compliance with the Highway Beautification Act. Reviews conducted by the Federal Highway Administration (FHWA) of other states' outdoor advertising programs have resulted in recommendations to strengthen oversight of outdoor advertising by increasing monitoring and enforcement efforts. Should a state fail to comply, federal highway dollars may be at risk. As the agency responsible for overseeing outdoor advertising in Colorado, the Department must ensure that the State meets all federal requirements.

In addition to ensuring compliance with the Highway Beautification Act, it is important that the Department ensures that the Outdoor Advertising Program has the appropriate controls in place to manage its operations. These controls include the permit process and the Department's management of the contract for the Tourist Oriented Directional Signs, and Specific Information and Business Sign Programs (TODS and LOGO Sign Programs).

Although the Department has made considerable effort toward providing effective control over outdoor advertising in Colorado, there are further improvements that can be made. First, the Department should improve its monitoring processes, tools, and enforcement actions for inventorying legal signs and removing illegal signs. The Department should also establish a system of internal controls over the annual permit renewal process and comply with statutory requirements related to the fees collected through the Outdoor Advertising Program. Finally, the Department should establish an effective contract monitoring process for the TODS and LOGO Sign Programs. Our findings are discussed in more detail in the remainder of this chapter.

Monitoring of Outdoor Advertising

The Department is responsible for ensuring that Colorado provides effective control of its outdoor advertising, meaning the Department must monitor all advertising signs on interstates and controlled highways to help ensure that they comply with federal and state requirements. As part of its monitoring process, the Department requires sign owners to acquire a permit for any sign not exempt from the Outdoor Advertising Program (i.e., signs that are on premise, official, or directional). Inspectors from each of the Department's six transportation regions are responsible for the initial review of new permit applications. The inspectors review the applications to determine if the proposed size, purpose, and location of the signs meet all of the regulatory requirements and issue the permit. As these signs are permanent structures, the local government in which they will be located must also approve them. According to the Department, the Program Manager is responsible for reviewing the application and issuing the permit to construct the sign. The Department also requires sign owners to renew their permits annually. Currently, there are 1,831 permitted signs along the controlled routes in Colorado.

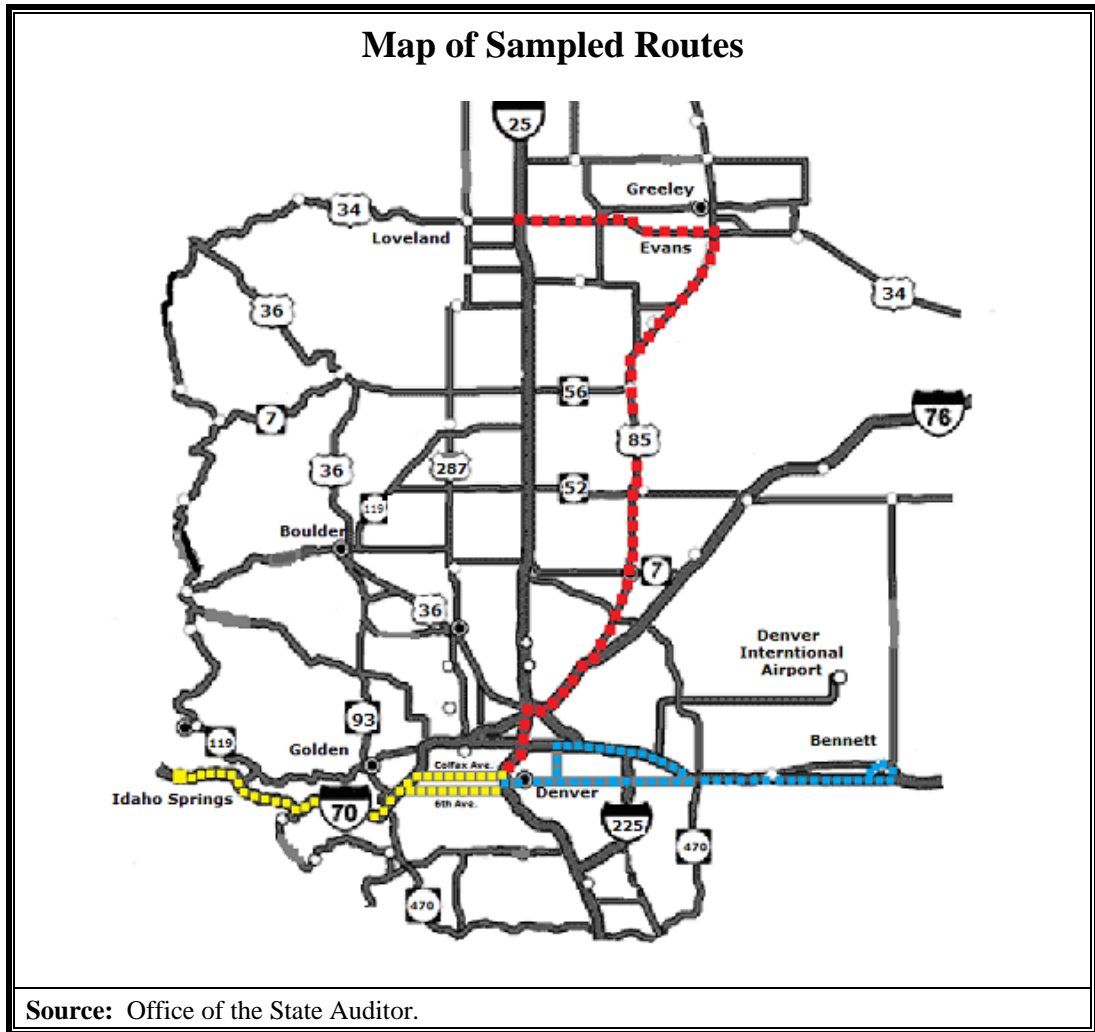
The Department uses the information obtained through the permitting process to populate a sign inventory database. The database includes information about the signs, including location coordinates, picture, size, classification (i.e., conforming or non-conforming), and distance from other signs. This information is used when the regional inspectors perform inspections of signs located along the controlled routes in their respective regions.

If an inspector identifies an illegal sign (i.e., a sign that has not been permitted and does not meet the exemption criteria), he or she is required to take action to have the sign taken down. According to the Department, the first course of action would be to contact the property owner to inform him or her of the violation and request that he or she remove the sign. According to statute [Section 43-1-412(2), C.R.S.], the Department is required to send a certified letter to the property owner informing him or her of the violation and the need to either apply for a permit or remove the sign. Should a sign owner apply for a permit and be denied, the owner is afforded the opportunity of an administrative hearing before having to remove the sign.

What audit work was performed and what was the purpose?

We reviewed the Department's processes related to permitting outdoor advertising signs and monitoring sign compliance with federal and state requirements. In addition, we reviewed outdoor advertising signs located along three separate stretches of highway covering a total of 162 (1.8 percent) of the 9,146 miles controlled by the Highway Beautification Act. We selected these three stretches of highway because they extend through parts of three of the Department's six transportation regions and include stretches of interstate and

state highways in both urban and rural areas. Our review included all of the outdoor advertising signs located on both sides of these highways, including 241 (13 percent) of the 1,831 signs with current permits in the inventory database. The following map shows the three stretches of highway we reviewed, with each trip presented in a different color.



We obtained data sheets from the Department’s sign inventory database for the 241 permitted signs located along the 162 miles of highway in our sample. For the conforming signs, we used the data sheets to determine if the actual sign matched the information in the database by verifying the presence of the sign at the coordinates listed in the database, the presence of permit decals, the overall condition of the sign, and the presence of advertisements. In addition to those elements, for non-conforming signs we also looked at the number of posts holding the sign up, the material used to build the sign, and the presence of lights, solar panels, or other possible upgrades. Any of these upgrades may constitute a change

to the overall character of the sign—a condition that would make the non-conforming sign illegal.

The purpose of our audit work was to determine if the Department has adequate controls in place to ensure that only outdoor advertising signs complying with federal and state requirements are located along controlled highways. Specifically, we reviewed the outdoor advertising signs located along the three highways in our sample to determine if (1) all of the signs required to be permitted had been issued a permit according to the Department's sign inventory database, (2) current permit and renewal stickers were visible on all of the permitted signs, and (3) the data included in the Department's sign inventory database were complete and accurate.

How was the audit work measured?

Federal Requirements

Federal regulations (Outdoor Advertising Control, 23 C.F.R., pt. 750.705) require states to provide effective control of outdoor advertising signs located along the interstates and primary highways of the state. According to federal law, effective control includes:

- Prohibiting the erection of new signs outside of the areas allowable under the Outdoor Advertising Program.
- Assuring that signs that are permissibly erected comply with size, lighting, and spacing requirements contained in the agreements made between the state and the U.S. Secretary of Transportation, and with any local standards.
- Expeditiously removing illegal signs.
- Removing non-conforming signs that have fallen out of compliance with federal statute.
- Developing and implementing laws, regulations, and procedures to accomplish the stated requirements.
- Submitting state regulations and enforcement procedures to the FHWA for approval.

In addition, the FHWA has indicated that a sign inventory is a fundamental element of a good outdoor advertising control program. According to the FHWA, a quality sign inventory can be used as a:

- Surveillance tool to discover new signs and non-conforming signs that are not being maintained.
- Repository of sign data (e.g., size, lighting, and spacing between signs).
- Tool to collect sign fees and track the progress of steps taken to remove illegal signs.

The FHWA has stated, in recent reports on other states' outdoor advertising programs, that a detailed and updated inventory is one of the necessary tools for states in demonstrating effective control and included an examination of the inventory as part of its review. Further, the FHWA has indicated to these states that they should utilize the latest technology in compiling and updating inventories, specifically through the use of a global positioning system to identify sign locations more accurately, and digital photography to document a sign's condition.

State Requirements

Legal Signs. Colorado statute (Section 43-1-404, C.R.S.) limits acceptable outdoor advertising signs to those that fall into one of the following categories:

- Signs *subject to* the Highway Beautification and Roadside Advertising Acts, which include:
 - Advertising signs located within areas zoned industrial or commercial prior to January 1, 1970.
 - Advertising signs located along primary and secondary highways (i.e., not interstate highways) zoned industrial or commercial on and after January 1, 1970 provided they include information about a necessary good or service, which is defined as: lodging, camping, food, gas, vehicle repair, health-related goods or services, recreational facilities or services, and places of cultural importance.
 - Directional advertising signs (i.e., a sign containing directional information to facilitate emergency vehicle access to remote locations or about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public).
- Signs *not subject to* the Highway Beautification and Roadside Advertising Acts, which include:
 - Official advertising signs for a public purpose (i.e., an advertising sign erected for a public purpose authorized by law, often a "Welcome to..." sign).
 - On-premise advertising signs (i.e., a sign located on the premise of the business it advertises).

In addition, statute (Section 43-1-413, C.R.S.) allows non-conforming signs to remain in place when the signs were erected prior to the enactment of state laws created in accordance with the Highway Beautification Act in 1965, as long as the signs:

- Have not been abandoned.
- Have not increased in size.
- Have not changed in character (e.g., changed from wooden to metal, lights added, etc.).
- Are permitted by the Department.
- Have not been damaged or become obsolete to the point at which repairs would cost 50 percent or more of the value of the sign.

Permit Requirements. Statute (Section 43-1-407, C.R.S.) requires that all signs subject to the Highway Beautification Act receive a permit from the Department. Statute [Section 43-1-409(4), C.R.S.] requires that the permit number be affixed to the advertising sign in a *conspicuous place* within 30 days of the date the permit was issued. Currently, when a permit is granted, the Department issues yellow reflective decals with the permit number printed on it. The Department's *Outdoor Advertising Manual* notes that the permit sticker should be affixed to the advertising sign in a location visible from the nearest shoulder of the road. According to statute (Section 43-1-409(1)(a), C.R.S.), sign owners must renew permits each year. Upon receipt of the renewal payment, the Department issues a renewal decal.

Removal of Illegal Signs. According to statute (Section 43-1-412, C.R.S.), the Department *shall* provide written notice by certified mail to the owner of the property on which an illegal advertising sign is located. The written notice should inform the owner of the necessity to apply for a permit (or renew an expired permit) or remove the sign within 60 days of receipt of the letter. If the Department determines upon application that the site is not eligible for an outdoor advertising sign permit, the Department must issue written notice delivered by certified mail to the property owner advising him or her of the decision. The owner has 60 days from receipt of the notice to remove the sign. Sign owners are allowed to challenge the Department's ruling at a hearing pursuant to the State Administrative Procedure Act. However, if the sign is ruled to be illegal, and the property owner does not remove it, the Department is authorized to remove the sign at the owner's expense.

What did the audit work find?

Overall, we found that the Department could strengthen the controls it has in place to ensure that outdoor advertising signs located along Colorado's interstates and controlled highways comply with federal and state requirements. For the 162 miles of highway reviewed, we identified 271 off-premise advertising signs, 241

with active permits and 30 without permits. Among those signs, we found the following:

- **Signs Without Permits.** We identified 30 signs that did not have a Department-issued permit and that did not meet the requirements for exclusion from the Outdoor Advertising Program. These signs would be considered illegal under federal and state law. Of these 30 signs:
 - 20 were fixed structures that had supports and faces that were solely dedicated to advertising. These signs were not located on the premise of any type of business.
 - 7 were for businesses that no longer existed on the properties where the signs were located.
 - 3 were on or part of a vehicle and thus, mobile. Two of these signs were large trucks parked in roadside fields with advertisements draped over the sides; one sign was a board resting on a trailer in a field.
- **Signs Without Visible Permit or Renewal Decals.** We identified 88 signs (37 percent of the 241 permitted signs reviewed) which had current permits, according to the Department's database, but which did not have visible permit or renewal decals. Of these 88 signs:
 - 16 did not display the permit decal
 - 72 did not display the renewal decal
- **Inaccurate or Missing Data in the Sign Inventory Database.** We found that of the 241 data sheets in our sample, 46 (19 percent) had no picture or an inaccurate picture of the actual advertising sign or incorrect location coordinates in the Department's sign inventory database. Specifically, we found that:
 - 41 (17 percent) of the data sheets provided for our review did not have an accurate picture or any picture of the sign. Of these 41 data sheets, six were for non-conforming signs, for which photos are critical to monitor the condition of the sign over time. The Department subsequently provided accurate photographs for 12 of the signs with data indicating they had been taken prior to our review.
 - 5 (2 percent) of the data sheets had incorrect location coordinates.

What caused the problem to occur?

We recognize that monitoring is an ongoing process and illegal signs can be erected at any time. In addition, the Department reports that its Fiscal Year 2013 inventory was in progress at the time of our review. However, we identified deficiencies in the following areas that caused the issues we observed:

- **Monitoring Process.** We identified two issues with the Department's monitoring process.
 - First, the Department has not established any regulations and has limited written policies and procedures related to monitoring program compliance. According to the Department, the Outdoor Advertising Program Manager and the inspectors in each of the six regions are responsible for monitoring compliance. The Program Manager reported that he conducts an inventory of half of the state's outdoor advertising signs in a given year, and the other half of the signs the following year. However, the process for conducting this inventory is not detailed in any written policies or procedures. Any monitoring completed by the Program Manager outside of the inventory is done on an ad hoc basis. The only part of the monitoring process that is documented in the *Outdoor Advertising Program Manual* is that related to the requirement for regional inspectors to perform inventories in their respective regions annually and conduct surveillance to identify illegal signs. The regional inspectors are required to submit quarterly reports to the Program Manager detailing the number of illegal signs identified and removed, the number of program inquiries received, and the number of permits issued or revoked during the quarter. However, there are no written policies or procedures for how the inventories or ongoing surveillance should be conducted to identify illegal signs. Additionally, the regional inspectors have been submitting annual, not quarterly reports, to the Program Manager.
 - Second, because the Department's monitoring process is decentralized and relies primarily on regional staff to monitor compliance, there is often disparity and inconsistency in the monitoring completed. Further, regional resources are not always prioritized to ensure that inspectors complete inventories each year as required. For example, the six regional inspectors reported that they only conduct monitoring activities "as time permits," given that the Outdoor Advertising Program is only part of their duties. According to the regional inspectors, the percentage of time they spend on the Outdoor Advertising Program ranges from 25 to 50 percent. However, one regional inspector reported that he was unable to complete an

inventory in Calendar Year 2012. Twenty of the data sheets that did not have pictures of the sign attached to them were from this inspector's region. In addition, because the regional inspectors all have access to the sign inventory database and are able to make changes to the data, it is difficult for the Program Manager to assess and control the accuracy and completeness of the information. The Program Manager reported that he has no authority over the regional inspectors; the inspectors' supervisors in the regions are responsible for ensuring that the inspectors are informed of their duties with respect to the Outdoor Advertising Program and that these duties are completed.

- **Enforcement Action.** The Department does not consistently apply enforcement procedures to ensure that action is taken against illegal signs and that sign owners post permit and renewal decals in a visible location on the signs.
 - First, although statute (Section 43-1-412, C.R.S.) includes specific requirements with respect to the actions the Department is required to take when illegal signs are identified, the Department does not always comply with these requirements. For example, according to the Department, it was already aware of nine of the 30 illegal signs that we identified during our review. The Department reported that it was in the process of taking action against one of the nine signs to have it removed and that it had sent a certified letter to the property owner. According to the Department, regional inspectors had not taken action to research and act on the other eight signs because other Departmental responsibilities took priority. The Department had not taken action against or sent certified letters to the property owners for the remaining 21 signs, stating that they were unaware of the presence of the signs or their status as non-permitted, off-premise signs.
 - Second, although statute (Section 43-1-409, C.R.S.) requires that the permit number be affixed to the sign in a conspicuous place, the Department does not enforce this requirement when monitoring signs. In addition, current statute and Department regulations are silent on whether the renewal decal must be affixed to the sign. The presence of the permit and renewal decals allows for Department staff to identify during field visits which signs are permitted and which are not. However, program staff indicated that there is no enforcement mechanism to ensure that the permit decals are affixed, and they do not have access to the properties to do it themselves.
- **Training.** The Department does not sufficiently train and make use of field staff to help identify illegal signs around the state. According to the Program Manager and regional inspectors, they often rely on other

Department field staff, who regularly travel state highways, to help with monitoring efforts. However, these staff have not received any training on the Outdoor Advertising Program rules, which limits their ability to be effective monitoring resources.

Why does the problem matter?

By allowing illegal signs to remain in place, there is a risk that the FHWA could determine that the State is not providing effective control of outdoor advertising. Federal law (23 U.S.C.131) requires states to control outdoor advertising along the interstate and primary highways of the states, and incentivizes states to comply with this requirement by putting 10 percent of the transportation funding the federal government provides to states at risk, should the states not provide effective control of outdoor advertising. In Fiscal Year 2012, Colorado could have lost about \$40 million in federal highway dollars had the FHWA found that the State was not providing effective control over outdoor advertising.

In addition, to provide effective control, the Department's sign inventory database must have reliable, accurate, and complete information. Without these qualities, the database's usefulness as a monitoring tool is limited, and staff will have to spend more time trying to locate the sign and verify compliance with federal and state laws. Further, according to state statute, a non-conforming sign may only remain if it is not abandoned and as long as the sign remains substantially the same. Accurate photos of the signs from year-to-year are the most effective tool for the Department to verify that the signs have not changed.

Finally, both federal and state laws declare that regulating outdoor advertising signs along the interstate and controlled highways is not just a matter of safety and a preservation of the public investment in the highway system; it also helps to preserve and enhance the natural beauty of the state. Failure to clear signs erected illegally could potentially increase distractions to drivers, limit drivers' visibility, and perhaps detract from the state's natural beauty.

Recommendation No. 1:

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

- a. Establishing a comprehensive monitoring process through written policies and procedures and training staff on this process. This monitoring process should include a standardized monitoring schedule for both the Program Manager and regional inspectors and a description of the monitoring efforts that should be undertaken, including how the inventories and

surveillance should be conducted. The process should also address how, when, and by whom data should be entered into the sign inventory database and provide for a quality control review to ensure the database is accurate and complete.

- b. Ensuring that regional inspectors are informed of their roles and responsibilities related to the Outdoor Advertising Program and that they fulfill those responsibilities. Alternatively, the Department could consider centralizing all monitoring activities into one unit, with staff who are dedicated full-time to the Program.
- c. Establishing a standard process for enforcing federal and state laws and Department regulations when illegal signs are identified. This process should include documenting the presence of illegal signs identified during monitoring and the steps taken to notify property owners and to remove the illegal signs identified.
- d. Ensuring that permit holders affix their permit decals to the signs in a conspicuous location, amending rules to include a requirement for owners to affix the renewal stickers, and taking enforcement action, as warranted, against property owners who do not comply. This action may include taking steps to reclassify signs that do not comply as illegal signs.
- e. Providing training to the Department's regional field staff on Outdoor Advertising Program laws and regulations to help them with identifying and reporting illegal advertising signs.

Department of Transportation Response:

- a. Agree. Implementation date: April 2014.

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

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

b. Agree. Implementation date: April 2014.

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

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

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

c. Agree. Implementation date: April 2014.

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

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

d. Agree. Implementation date: April 2014.

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

direct that the owner affix a sticker. The procedures will include a time by which stickers must be posted.

- e. Agree. Implementation date: December 2013.

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

Permit Renewals

Every outdoor advertising permit is required to be renewed annually. In April of each year, the Program Manager issues reminder invoices for each of the permits recorded in the sign inventory database. The Department requires sign owners to send the renewal fee to the Program Manager at Department headquarters. The Program Manager is then responsible for recording in the database that the renewal was received and that the permit is valid for the next year. Beginning in Calendar Year 2012, the Department also began issuing decals with the renewal year, much like automobile license plate stickers, upon receipt of payment. These decals are to be placed on the advertising sign to allow inspectors to easily identify which signs have current, valid permits. Failure to renew a permit can result in loss of the permit and action by the Department to have the advertising sign removed.

What audit work was performed and what was the purpose?

We reviewed the Department's processes for issuing invoices for renewal permits, collecting and recording payments, and issuing renewal decals. Specifically, we conducted interviews with Outdoor Advertising Program staff as well as with Department business office staff to determine the Department's processes in each of these areas.

We also reviewed all of the invoices issued by program staff and payments submitted by permit holders during Calendar Year 2012. This documentation included the transmittal sheets, which are created and maintained by Department business office staff to record payments into the Department's accounting system. The transmittal sheets are generated following the business office's receipt of a copy of the invoice and permit holder's check from the Program Manager. A single transmittal sheet can include multiple payments depending on the volume received on a given day. The documentation also included copies of the payment checks, which are retained with the transmittal sheets.

In total, we reviewed 364 invoices, which included permits for 1,831 advertising signs, and 47 transmittal sheets. The Department issues one invoice that covers all advertising permits held by a permit owner; some owners have multiple permits. We compared renewal years from the sign inventory database with the transmittal sheets to determine if the amount of renewal fees received reconciled to the number of renewals recorded in the database. We also examined the date of payments recorded on the transmittal sheets to determine the date each renewal payment was received by the Department. Using this information, we determined the number and amount of late fees that should have been charged by the Department during Calendar Year 2012 and compared this with the actual amount of late fees paid by sign owners and the amount of late fees the Department waived.

The purpose of our audit work was to determine whether the Department has sufficient internal controls in place for invoicing, receiving, and recording Outdoor Advertising Program renewal payments from permit owners.

How was the audit work measured?

We used the following criteria to measure the results of our review.

- **Segregation of Duties.** The Committee of Sponsoring Organizations of the Treadway Commission (COSO) in 1992 issued *Internal Control – Integrated Framework* to help businesses and other entities assess and enhance their internal control systems. In evaluating the Department’s system of internal controls for receipt of permit renewal fees, we used the portion of the COSO framework that specifically concerns the segregation of duties, a key component of an effective system of control. The COSO framework notes that for accounts receivable, such as the renewal payments for outdoor advertising sign permits, one person should not be responsible for recording, authorizing, and approving transactions, and handling related assets.

According to the American Institute of Certified Public Accountants, segregation of duties is intended to prevent and detect fraud by requiring more than one person to be involved in the (1) custody of assets, (2) authorization or approval of related transactions affecting those assets, and (3) recording or reporting of related transactions. When a payment is received, the payment should be checked and credited against the appropriate outstanding receivable and recorded as a cash receipt. If paid by check, the check should then be deposited into the appropriate bank account. Giving only one individual the authority to send invoices, receive checks, and record payments received in the database increases the risk that fraud and abuse can occur and go undetected.

- **Late Fees.** Statute [Section 43-1-409 (1)(a), C.R.S.] provides that, “Applications for renewal of permits shall be made before June 1 of each year and shall be issued for a one-year period beginning July 1 and ending June 30.” In addition, Section 43-1-412(2)(b), C.R.S., states that, “If no application for renewal of a permit is received by the [D]epartment as required by this part 4, the [D]epartment shall give written notice by certified mail to the permittee requiring him [or her] within sixty days of receipt of the notice to apply for a renewal permit *and* pay an additional late fee of fifty dollars or remove the advertising sign and advising him [or her] of the right to request the [D]epartment to conduct a hearing.” [emphasis added]

What did the audit work find?

Overall, we found that the Department should strengthen its controls over the Outdoor Advertising Program renewal permit payment process. Specifically, we identified the following two areas where improvements should be made.

- **Segregation of Duties.** We found that the Department does not have an appropriate segregation of duties with respect to processing renewal permits. The Outdoor Advertising Program Manager is responsible for issuing permit renewal invoices, receiving permit renewal payments, recording payments into the sign inventory database, and sending renewal decals to permit owners. Only the entry of the payment into the Department’s accounting system is conducted by the business office.

When comparing the payments reported in the transmittal sheets and copies of the checks with information in the sign inventory database on permit renewals, we identified 54 (3 percent) out of 1,831 permits totaling \$1,300 that were recorded as “renewed” in the database, but that did not have any documentation to show that a payment had been received by the Department or that linked the payment to the proper permit. Although we were eventually able to verify that all of the money for the 54 permits was recorded in the State’s accounting system as outdoor advertising permit revenue, we identified the following issues with the renewal payments for these permits:

- For 24 permits, totaling \$510, there was no documentation (i.e., check or transmittal sheet) that a payment was made, but the sign inventory database indicated that the permit was renewed.
- For 30 permits, totaling \$770, copies of the check and transmittal sheet were available, but there was no documentation showing the specific permits with which the payments were associated.

- In addition, we found one check for \$20 that was submitted to and processed by the Department, but this check did not appear to be associated with any permits.
- **Late Fees.** We found that the Department does not consistently collect late fees for permit renewals in accordance with statutory requirements. In Calendar Year 2012, the Department received payments for 722 permits after the statutory deadline of June 1. However, the Department collected the statutorily-required late fee of \$50 for only 26 (4 percent) of the 722 permits, for a total of \$1,300. Of the 696 permits where a late fee was not collected, 687 were not paid by the permit holders and the Department did not enforce collection, and 9 were explicitly waived by the Program Manager, even though statute does not grant this authority.

What caused the problem to occur?

The issues identified occurred because of the following:

- **Lack of Segregation of Duties.** The Department has not established an appropriate segregation of duties for processing renewal permits. Currently, the Program Manager is the only full-time staff member within the Outdoor Advertising Program, and almost all of the duties associated with processing renewal permits have been assigned to this individual. Although the Program Manager is the only full-time staff member committed to outdoor advertising, the Department has numerous staff in the business office and other sections that could be assigned to assist with this process. For example, the Program Manager could issue the renewal permit invoices, but payments could be received and recorded by separate staff in the business office. The business office could notify the Program Manager of payments received, and the Program Manager could then issue the renewal decals.
- **Lack of Clear Guidance Related to Late Fees.** The Department has not established and implemented written policies or processes for collecting late fees, and statutory provisions related to late fees are unclear.
 - **Lack of Written Policies and Processes.** According to Department staff, waiving late fees buys a lot of goodwill in the community, and pursuing the collection of late fees is not always an efficient use of resources. However, by inconsistently applying and collecting late fees the Department is not complying with statute, and permit holders are being treated inequitably. We recognize that in some instances it may be appropriate to waive late fees. For example, 681 of the 722 renewal applications received after the June 1, 2012, statutory deadline were received by June 10th. In these cases, it might make sense to have a

specified grace period for waiving the late fees. Additionally, in cases of hardship or bad addresses, having a standard system in place for approval of waived fees could allow for goodwill write-offs while also maintaining the standard needed for equal treatment. However, the Department would need to revise statute to allow for the waiver of late fees and establish written policies related to granting these waivers.

- **Unclear Statutory Deadline.** Staff have also indicated that the statute establishing the deadline for renewal payments and the associated late fee is unclear. Section 43-1-409, C.R.S., requires renewal applications to be submitted by June 1, but the permit is active beginning July 1. Section 43-1-412 (2)(b), C.R.S., wherein the late fee is established, does not specify a date when the late fee should be charged, stating instead, “If no application for renewal of a permit is received by the [D]epartment as required by this part 4,” a late fee should be paid by the permit holder. This statute could be interpreted to mean that late fees should be paid if renewal applications are not received by June 1. Conversely, the Department reports that it only considers applications submitted after July 1, when the new renewal period begins, as late. However, the Department has not consistently applied this interpretation; 16 late fees totaling \$800 were received and applied by the Department for applications received after June 1 but before July 1 in the 2012 renewal period.

Why does the problem matter?

The Department must have strong internal controls over its outdoor advertising renewal permit process to ensure that fees are collected and recorded appropriately. Without a proper segregation of duties and written policies related to late fees, there is an increased risk of errors and irregularities and, potentially, fraud or abuse within the Outdoor Advertising Program. Permits could be renewed without the sign owner paying the required fees. Alternatively, permits could be renewed but the payments could be diverted and not entered into the Department’s accounting system. In addition, late fees could be charged inconsistently and inequitably or be diverted and listed as waived.

Recommendation No. 2:

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

- a. Implementing a segregation of duties framework to ensure that more than one individual is responsible for sending invoices, collecting payments,

recording payments, updating the database, and distributing renewal decals.

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

Department of Transportation Response:

- a. Agree. Implementation date: August 2013.

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

- b. Agree. Implementation date: April 2014.

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

Financial Management of Fees

Statute establishes the fees charged for outdoor advertising sign permits. Specifically, Section 43-1-409(1), C.R.S., establishes the following fees:

Outdoor Advertising Program Annual Sign Permit Fees	
Size of Sign (Square feet)	Fee Amount
100 or less	\$10
101-250	\$20
251-600	\$40
601 or more	\$75
Source: Colorado Revised Statutes, Section 43-1-409(1).	

Fees collected for outdoor advertising signs provide the Department a funding mechanism for the operation of the Outdoor Advertising Program. In order for those fees to serve that function, the costs of operating the Outdoor Advertising Program need to be considered and the fees set at an appropriate level. This would require an evaluation of those costs and the associated fees on a regular basis. A dedicated account for depositing revenue and charging expenses can aid in tracking those expenses over time. Colorado's Roadside Advertising Act requires that the Department review fees and establish a dedicated account for the Outdoor Advertising Program.

What audit work was performed and what was the purpose?

We reviewed statutes related to the Outdoor Advertising Program's fees and where those fees should be deposited. We also conducted interviews with Department staff regarding the fees collected for outdoor advertising permits and revenue from the TODS and LOGO Sign Programs.

The purpose of our audit work was to assess the Department's compliance with statute with respect to establishing a fund dedicated to the Outdoor Advertising Program and with respect to reviewing and setting permit fees.

How was the audit work measured?

Section 43-1-418, C.R.S., contains the following two provisions pertaining to the finances of the Outdoor Advertising Program:

- **Outdoor Advertising Fund.** First, this section provides that, "There is hereby created in the [D]epartment the roadside advertising fund. All permit fees collected under this part 4 [The Roadside Advertising Act] shall be deposited by the [D]epartment in such fund to carry out its duties under this part 4." Thus, the Department should have a dedicated fund into which the revenue it collects from the Outdoor Advertising Program should be deposited. This fund should also include revenue from the TODS and LOGO Sign Programs, which are within part 4. This statute indicates that the funds deposited in this account should be used to pay the costs of operating the Outdoor Advertising Program.
- **Fee Reviews.** Second, this section provides that, "The fee structure shall be reviewed by the [D]epartment every four years."

What did the audit work find?

We found that the Department has not complied with all statutory requirements related to the Outdoor Advertising Program. Specifically, we found problems in the following two areas.

- **Outdoor Advertising Fund.** The Department has not established a dedicated roadside advertising fund into which outdoor advertising revenue should be deposited, as directed by statute. The total revenue for the Outdoor Advertising Program totaled more than \$640,000 in Fiscal Year 2012. This total includes about \$65,000 from permits for outdoor advertising signs and more than \$575,000 from the TODS and LOGO Sign Programs.
- **Fee Review.** The Department has not reviewed Outdoor Advertising Program fees, as directed by statute. According to statute, the fees should be reviewed every 4 years, but staff indicated that the fees have never been reviewed. Additionally, the statute [Section 43-1-409(b), C.R.S.] in which the fees are established, has not been amended since at least 1981.

What caused the problem to occur?

Although the General Assembly, through statute, established the roadside advertising fund and directed the Department to use this fund to pay for the cost of operating the Outdoor Advertising Program, the Department has not done so. Instead, the Department has deposited program revenue into the Department's general operating account and has coded these funds as Special Transport Funds. In addition, although statute directs the Department to review the permit fees for the Outdoor Advertising Program every 4 years, the Department has not done so.

Why does the problem matter?

The Department's practice of depositing Outdoor Advertising Program revenue into its general operating account makes it more difficult for the Department to track program revenue and expenditures and thus ensure that it is meeting the statutory directive to use these funds to pay for the cost of operating the program.

In addition, specifically tracking Outdoor Advertising Program costs could inform the discussion of the fees charged for outdoor advertising permits and renewals, and whether these fees are sufficient to cover the costs of the program. As stated previously, permit and renewal fees, which range from \$10 to \$75, have remained the same since 1981, or for at least 32 years.

Recommendation No. 3:

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

- a. Creating and using a dedicated roadside advertising fund into which the revenues collected through permit application and renewal fees can be

deposited and to which costs for operating the Program can be charged, or seeking statutory change to remove the requirement.

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

Department of Transportation Response:

- a. Agree. Implementation date: January 2014.

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

Legislation will be introduced by January 2014.

- b. Agree. Implementation date: April 2014.

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

The initial review will be completed by October 2013, with the rules or directives completed by April 2014.

Contract Management

Statute (Section 43-1-420, C.R.S.) allows for the placement of informational and tourist-oriented signs of interest to the traveling public along the State's highway system. These types of signs are referred to as Tourist Oriented Directional Signs (TODS) and LOGO Signs. LOGO Signs are located near interstate exits, and TODS are located on rural conventional state highways. Both types of signs are located within the right-of-way, which is the area in which state roads are built

and that is within state control. The signs have a blue background and contain placards with information on items such as gas, food, lodging, and tourist attractions. Because the TODS and LOGO Signs are in the right-of-way, the signs are technically property of the State. As a result, the signs do not fall under the Outdoor Advertising Program's federal and state requirements. However, the TODS and LOGO Signs are considered part of outdoor advertising in the state, and the Outdoor Advertising Program Manager oversees the TODS and LOGO Sign Programs.

Statute [Section 43-1-420(4), C.R.S.], was amended in 1989 to authorize the Department to contract out for operation of the TODS and LOGO Sign Programs. Since 1999, the Department has contracted with a private, for-profit company, Colorado Logos, Inc. (Colorado Logos), to operate the programs. The Department entered into a 5-year contract with Colorado Logos in 2009, and the contract includes two automatic 5-year contract extensions. In total, the current contract with Colorado Logos will last for 15 years.

The contract is a revenue contract for the State, which means Colorado Logos collects all the revenue and must pay the Department a portion of the revenue it earns from the programs. The contract established a base amount of \$500,000 that was paid to the Department in Fiscal Year 2010, the first year of the contract. According to the contract, this base amount increased to \$550,000 in Fiscal Year 2011. For Fiscal Year 2012 and subsequent years, the contract provides for the Department to receive payments in addition to the \$550,000 based upon the percentage increase of Colorado Logos' annual revenue. In Fiscal Year 2012, the Department received \$575,300 for the TODS and LOGO Sign Programs. The Department projects that the amount it receives will continue to increase because in 2012, the General Assembly passed legislation allowing the erection and maintenance of TODS and LOGO Signs in urban areas, such as Denver and Colorado Springs, which had previously been prohibited.

What audit work was performed and what was the purpose?

We reviewed the 2009 contract between the Department and Colorado Logos for the operation of the TODS and LOGO Sign Programs. We also reviewed the documentation provided to the Department by Colorado Logos, as required by the contract, including annual reports from Calendar Years 2009 through 2012. Additionally, we interviewed Department and Colorado Logos staff.

The purpose of our audit work was to determine whether the Department has established an effective contract monitoring process to ensure that Colorado Logos complies with the terms of its contract.

How was the audit work measured?

The Department's 2009 contract with Colorado Logos includes specific requirements for both the Department and Colorado Logos related to contract management. Specifically, the contract requires the Department to conduct periodic audits and field reviews of Colorado Logos. In addition, the contract requires Colorado Logos to provide an annual report to the Department within 45 days of the end of the calendar year that includes:

- The contractor's current financial statement.
- The number of structures and placards in place across the state.
- The number of participation agreements with advertisers completed for the year.
- The total number of participants or advertisers.
- Any other additional information the Department may request.

In addition to the contract, the State Procurement Code, Title 24 of the Colorado Revised Statutes, and State Fiscal Rule 3-1 require that state agencies monitor contracts to ensure that contractors comply with the terms of the contracts. Further, the Contract Procurement Manual recommends that contract monitoring include conducting site visits and desk reviews and reviewing monitoring reports.

What did the audit work find?

Overall, we found that the Department has not established an effective contract monitoring process that ensures Colorado Logos complies with the terms of its contract. Specifically, we found:

- **Contractor Annual Reports Are Incomplete.** Colorado Logos has not provided all of the required information in the annual reports that it submits to the Department each year. For example, Colorado Logos has not included financial statements in any of the annual reports it has submitted since 2009. In addition, the information actually included in the annual reports is limited and does not have documentation to support it. The reports include the revenue reported by Colorado Logos in the current and prior years, a calculation of the amount due to the Department, the payment check, and the total number of structures and placards. However, there is no documentation, such as financial statements, to support the amount of revenue reported for each year. The report also does not include the number of participation agreements completed with advertisers for the year.
- **The Department Has Not Verified the Information Submitted by the Contractor.** According to the Department, it has not reviewed or verified the financial information and participation numbers submitted by

Colorado Logos. Specifically, the Department has not conducted formal reviews or audits of the revenue data Colorado Logos has submitted, nor has it requested or reviewed the financial statements. Additionally, the Department has not conducted periodic checks to determine if the number of placards on each sign is equal to the number reported by Colorado Logos. The number of placards sold determines the amount of revenue earned by Colorado Logos, which in turn determines the amount of revenue owed to the State.

What caused the problem to occur?

According to the Department, because the Colorado Logos contract is a revenue contract, the Department considers the contract low-risk both in both performance and financial aspects. As a result, the Department has done little to monitor the contractor and ensure that the contractor complies with the contract and provides all required information. Specifically, Department staff indicated that they do not monitor contractor performance because advertisers are paying to participate in the TODS and LOGO Sign Programs and therefore, the advertisers monitor the contractor's activities. Additionally, Department staff stated that risk for the Programs did not rise to a level necessary to expend Department funds to perform an audit of the contractor. However, Department staff have also not reviewed or required the contractor to provide its financial statements, even though it is a term of the contract. Department staff also indicated that they only perform a fiscal review of the TODS and LOGO Sign Programs when the contract is up for renewal or extension.

Why does the problem matter?

When entering into a contract, staff should be assigned to conduct ongoing monitoring activities to hold the contractor accountable for complying with contract deliverables. With a revenue contract, this monitoring ensures that the contractor provides the State with the appropriate payments. Documenting these monitoring activities provides consistency over the life of the contract and across appointed monitors as well as valuable information useful in renewing or extending an existing contract.

The contractor for the TODS and LOGO Sign Programs essentially operates a state-granted monopoly, with the ability to manage advertising on signs within the right-of-way, which is inaccessible to any other provider of such advertising space. According to its financial statements, Colorado Logos brings in more than \$1.5 million in revenue and more than \$270,000 in profits for this privilege. Colorado Logos pays the State annually based in part upon the amount of revenue earned. The amount due the State each year is equal to \$550,000 plus the percentage increase in Colorado Logos' revenue over the prior year. In Calendar Year 2012, this percentage increase resulted in an additional \$25,000 over the

amount paid in the previous year. The only way the Department can verify that Colorado Logos is paying the correct amount is to review its financial statements or conduct an audit of the program and verify that the number of placards sold equals the amount reported by Colorado Logos. In some high-volume areas of the state, placard space is at a premium, and the Department should ensure that those desiring advertising space are provided equal opportunity. Only through periodic exams, which test the number of participants reported by the contractor, can the Department ensure that the contractor is maintaining the signs in accordance with contractual requirements.

Recommendation No. 4:

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

Department of Transportation Response:

Agree. Implementation date: April 2014.

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

Rule revisions will be completed by September 2013 and review of the financial data will be completed by April 2014.

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