

OFFICE OF THE CITY AUDITOR
City and County of Honolulu
State of Hawai'i

Audit of the City's Real Property Tax Delinquency Collection



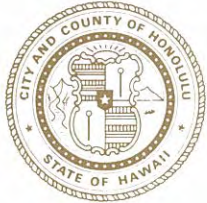
Audit of the City's Real Property Tax Delinquency Collection

A Report to the
Mayor
and the
City Council
of Honolulu

Submitted by

THE CITY AUDITOR
CITY AND COUNTY
OF HONOLULU
STATE OF HAWAII

Report No. 12-03
March 2012



EDWIN S.W. YOUNG
CITY AUDITOR

OFFICE OF THE CITY AUDITOR
CITY AND COUNTY OF HONOLULU

1001 KAMOKILA BOULEVARD, SUITE 216, KAPOLEI, HAWAII 96707 / PHONE: (808) 768-3134 / FAX: (808) 768-3135

March 16, 2012

The Honorable Ernest Y. Martin, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Council Chair Martin:

Our office has completed work on the *Audit of the City's Real Property Tax Delinquency Collection* and is providing you with a copy of the final audit report. The objective of the audit was to review and assess the city's real property tax delinquency collection process. To assess the program, we evaluated the effectiveness of the management practices for collecting real property delinquent taxes. Our review started in March 2010 and was suspended due to higher priority projects. The restarted project was performed from April 2011 through March 2012. The audit was performed in accordance with generally accepted government auditing standards.

Audit Background and Results

Real property taxes accounted for nearly two-thirds of the city's revenues, and contributed approximately 40 percent of the city's operating resources in FY 2010. Between FY 2006 and FY 2010, the city's delinquency rate and the dollar amount of real property tax delinquencies increased. The Department of Budget and Fiscal Services collected over \$32 million in delinquent real property taxes during this period.

Due to its importance as a revenue source, the city set goals to reduce real property tax delinquencies. The city has not always attained its goals for several reasons:

- The city cannot foreclose on government lands, or file timely liens against lessees, due to incomplete or untimely information. To facilitate collection of taxes and timely actions against lessees of government lands, we are recommending that the city develop memoranda of agreements with other governments for sharing lessee and lease information.
- Current collection practices allow private land owners to remain on extended payment plans and delinquent taxpayers are rarely foreclosed on. As a result, the outstanding balance of delinquent real property taxes is increasing and large amounts remain uncollected for many years. Public policy issues related to collection practices need to be addressed. If tools existed, as recommended by the Government Finance Officers' Association, for denying delinquent taxpayers city services (such as licensing, vehicle registrations, permits, etc.), there may be a greater incentive for delinquent taxpayers to pay their real property taxes.

Improved city policies and procedures, including timely write-off of uncollectible accounts and properly classifying uncollectible accounts, could improve the accuracy of the delinquent amounts outstanding. Establishing categories for written off and uncollectible accounts and moving these accounts to a separate list could improve the accuracy of the delinquent tax totals. Establishing and maintaining a list of taxpayers with uncollectible and written off accounts could facilitate monitoring and follow-up actions related to delinquent taxpayers. Establishing an ordinance that allows the city to fine and deny services to delinquent taxpayers could serve as an incentive to pay delinquent taxes. The ordinance should include due process administrative and appeal procedures related to the denial of the city services.

Management Response to Audit Report

The Department of Budget and Fiscal Services' managers disagreed with the audit recommendations, findings, and conclusions. The managers contend that:

- The audit results show the collection of delinquent real property taxes approach and process are sound and in the best interest of the city.
- The audit does not account for factors beyond the control of the city and the department, and is misleading because the report does not correlate real property tax delinquencies with economic recessions.
- The use of a judgmental sample is not representative of the population of delinquent real property parcels.
- The recommendations are ineffective and impractical. More specifically, management states a fine and denial of services to delinquent taxpayers do not justify the increase, if any, in the collection of delinquent taxes and may be exploitative of taxpayers experiencing difficult economic circumstances.
- Management endeavors to balance prudent public policy with the negative effects of displacing property owners and opposes aggressive pursuit of delinquent taxpayers and timely action on foreclosures to protect the city's interests.
- The components for a memorandum of agreement with the state are already mandated by state law; does not have the force of law; and would be duplicative and unnecessary.

Finally, the department states the audit report misrepresents the department's comments and inputs, and is counterproductive to department efforts to *better* the audit report.

Auditor Comments

The purpose of the audit was to identify areas that we believe need improvement. Although the majority of property taxes may have been collected efficiently, in our detailed examination of delinquencies we found long-standing issues that have not been effectively addressed. In the spirit of cooperation, we solicited recommendations from management and added additional recommendations to resolve the issues. Our recommendations are suggestions for actions that we believe would result in improvements to the delinquency tax collection process. We would encourage the department to review the recommendations and, if it finds them problematic, to proactively offer meaningful alternative courses of action to ensure that the issues are effectively addressed.

We encourage management to seriously address the problems related to the long term, delinquent real property taxes, and, if needed, to solicit the support of the city council to improve its collection efforts.

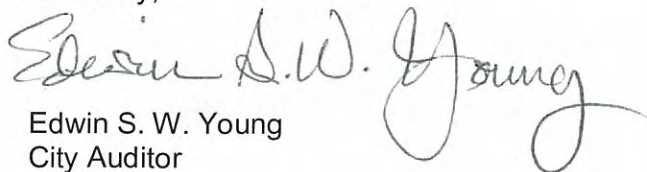
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Characterizing the audit report as misleading, inaccurate, and unsubstantiated will not resolve the problems found during the audit. More specifically:

- The audit focused on delinquent properties with large balances to determine if the department was complying with stated city policies and procedures, and discovered improvements were needed in the department's compliance with these policies and procedures.
- A random statistical sample of the 6,000 to 7,000 delinquent accounts was not needed because the universe of accounts delinquent over two years, over 7 years, and over 10 years was already known. Judgmentally sampling from the known strata is a standard and widely accepted governmental auditing practice; a practice used by the city's outside accounting firm in its annual audit of the city's financial statements.
- While the economy may factor into the non-payment of property taxes as suggested, the city responsibilities and expectations for city services do not change. City employees must still ensure revenues are not lost through non-compliance with city policies and procedures.
- Correlating the economy to the cause of the delinquent accounts was beyond the scope of this audit, and would have required the services of an accomplished statistician to confirm the department's contention that direct cause and effect relationships existed.
- Management comments and inputs were paraphrased in the audit report to preclude a lengthy report that consisted of 32 pages of management comments. It is interesting that management's response to the draft report indicated a memorandum of agreement was needed with the state and now contends it is superfluous.
- The report recommendations were revised based on the management comments to the draft report and the corporation counsel's response to our queries. It is interesting that management now indicates it is satisfied with the status quo and has chosen to attack the revised recommendations that they suggested rather than to offer alternative recommendations.
- Although management claims to protect the city's interest by prudently balancing public policy with the negative effects of displacing property owners, it does not differentiate between lessees of government lands which do not involve displacement and private residents who are unlikely to be displaced under current practices. Of the 49 parcels included in the private land owner sample, only two foreclosures were initiated by the department although these accounts were delinquent as long as 13 years. Neither of the two foreclosure actions resulted in displaced residents because the foreclosures were not completed.

We express our appreciation for the cooperation and assistance provided us by the staffs of the Office of the Managing Director, the Department of Budget and Fiscal Services, and the BFS Treasury Division. Based on the BFS inputs, we revised the draft report. A copy of the final report is attached for your review. We are available to meet with you and your staff to discuss the review results and to provide more information. If you have any questions regarding the audit report, please call the auditor-in-charge, Wayne Kawamura, or me at 768-3130.

Sincerely,


Edwin S. W. Young
City Auditor

c: Peter Carlisle, Mayor
Douglas Chin, Managing Director
Michael Hansen, Director, Department of Budget and Fiscal Services
Edlyn Taniguchi, BFS Chief of Treasury
Wayne Kawamura, Senior Auditor

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Chapter 1

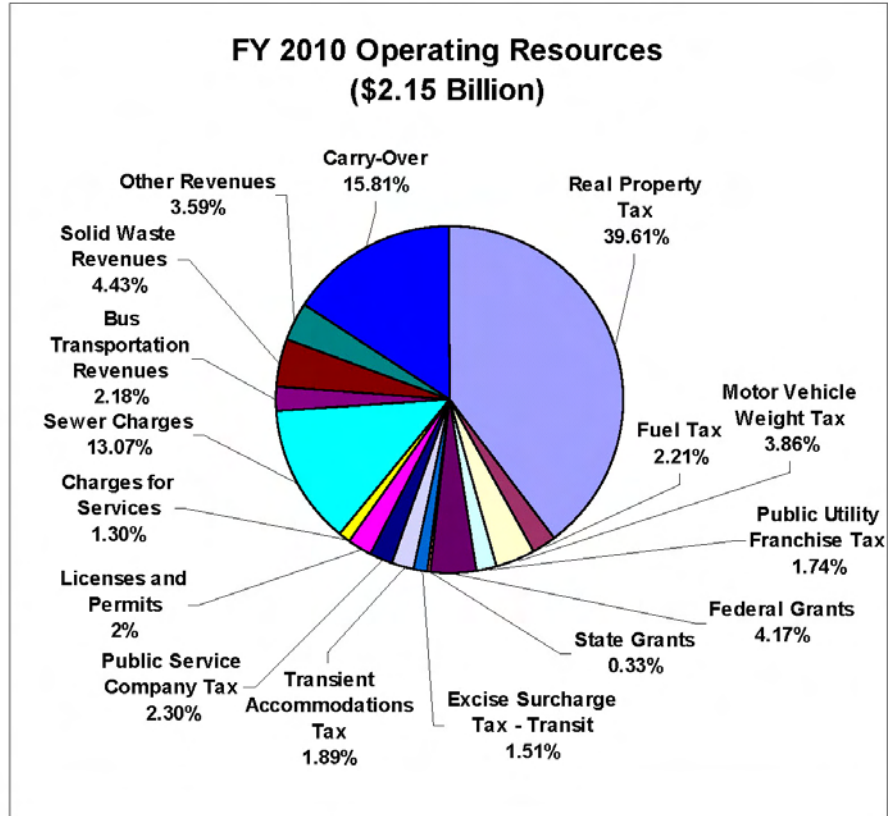
Introduction

The Department of Budget and Fiscal Services (BFS) is responsible for collecting property taxes and its Delinquency Collection Section is responsible for collecting delinquent property taxes. The objective of the audit was to review and assess the city's real property tax delinquency collection process. This audit was self-initiated due to projected increases in delinquency receivables and inadequate reporting regarding the city's delinquency collection program. To assess the program, we evaluated the effectiveness of the management practices for collecting real property delinquent taxes.

Background

The Department of Budget and Fiscal Services is the central budgeting and accounting agency for the City and County of Honolulu. Within this department, the Treasury Division bills and collects a variety of revenues and assessments, including real property taxes, improvement and business improvement district assessments, refuse disposal fees, refuse collection fees, real property rentals and concession contracts. Real property taxes accounted for nearly two thirds of the city's revenues, and approximately 40 percent of the city's operating resources in FY 2010 as illustrated in the chart below. Due to its financial impact, we focused on the collection of delinquent real property taxes.

Exhibit 1.1
FY 2010 Operating Resources for City and County of Honolulu



Source: FY 2012 Proposed Operating Program and Budget

According to the *Revised Ordinances of Honolulu (ROH)*, Section 8-6.2, the real property tax year runs from July 1 of the calendar year to June 30 of the following calendar year. Real property is assessed as of October 1 preceding each tax year. The following table summarizes statistics regarding real property tax levies and delinquent real property tax collections as reported in the city's annual budgets and the city's *Comprehensive Annual Financial Report (CAFR)* for fiscal years 2006-2010.

Exhibit 1.2
Summary of Taxes Levied and Delinquency Collections

Output Measures	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Property Tax Levied for the Fiscal Year (\$ million)	\$581.8	\$674.0	\$760.4	\$788.0	\$834.4
Outstanding Delinquent Tax Amount (\$ million)	\$9.7	\$9.3	\$12.6	\$16.0	\$16.8
Delinquent Tax Collections (\$ million)	\$5.3	\$6.1	\$6.4	\$7.0	\$7.9
Percent of Outstanding Delinquency Collected	55%	65.8%	50.7%	43.8%	47.3%
Delinquency Rate for Real Property Tax	1.65%	1.27%	1.57%	1.97%	1.96%
Delinquent Real Property Tax Accounts (total number)	6,011	6,831	7,733	7,355	7,517

Source: Executive Program and Budgets from FY 2008 to FY 2012; FY 2010 CAFR

Delinquent real property taxes total 2 percent of total taxes assessed annually

The amount of real property taxes levied increased each year from FY2005-06 to FY2009-10. The dollar amount of outstanding delinquent taxes also increased each year.

The delinquency rate remained under 2 percent between FY2005-06 to FY2009-2010. The city's delinquency rate was comparable to benchmarking measures employed by credit rating agencies, which benchmark a delinquency rate of 2 to 3 percent as good.

According to the BFS Treasury chief, the City and County of Honolulu delinquency rate was better than the rates for other counties in Hawai'i. For example, delinquency rates for Hawai'i County was 4.0 percent, Maui County was 3.6 percent, and Kaua'i County was 2.3 percent.

Delinquent taxes are largely owed by private owners

The department's delinquent real property tax receivables show that delinquent taxes are largely owed by private land owners. In FY 2010, 74 percent of private owner delinquent taxes were delinquent two years or less. In FY 2009, over 80 percent of delinquent private owner taxes were two or less years late.

In the government lessee category, nearly 79 percent of the total amount of FY 2010 and FY 2009 delinquent taxes owed by

government lessees were delinquent more than seven years. The exhibit below categorizes the delinquent amounts by the number of years unpaid for fiscal year 2009.

Exhibit 1.3
Total Property Tax Delinquent Receivables by Age (FY 2009)

<i>Delinquent Time Period</i>	<i>Private Owners</i>	<i>Percent of Category Total</i>	<i>Government Lessees</i>	<i>Percent of Category Total</i>	<i>Total Amount</i>
10+ years	\$188,175	1.2%	\$1,004,815	58.6%	\$1,192,990
7 - 9 years	\$383,068	2.4%	\$347,490	20.3%	\$730,558
3 - 6 years	\$2,528,742	15.6%	\$223,559	13.0%	\$2,752,301
2 or less years	\$13,131,238	80.9%	\$139,783	8.1%	\$13,271,021
Total	\$16,231,223		\$1,715,647		\$17,946,870

Source: Department of Budget and Fiscal Services, 2011

BFS Delinquent Collection Policy and Goals

The department's policy on the reduction of delinquencies is to reduce real property tax delinquencies through effective, timely, and efficient collection. Each year, the department sets percentage goals for collecting delinquent taxes and includes the goals as a performance measure in its annual budget. According to the BFS Treasury chief, these department practices, policies, and procedures have been in place and adhered to for at least the past two decades.

In fiscal years 2006 - 2010, the Department of Budget and Fiscal Services established goals for collecting real property taxes and delinquent receivables. Except for FY 2010, the department annual performance goals for collecting delinquent taxes were not attained. The outstanding balance of delinquent property taxes increased from \$9.7 million to \$16.8 million. The tax collection performance for fiscal years 2006-2010 are presented in Exhibit 1.4 below.

While the department's efforts and performance remain relatively consistent, the BFS Treasury chief indicated that historically real property tax delinquencies increase each time a major economic recession occurred.

Exhibit 1.4
BFS Tax Collection Performance Measures (Fiscal Years 2006 – 2010)

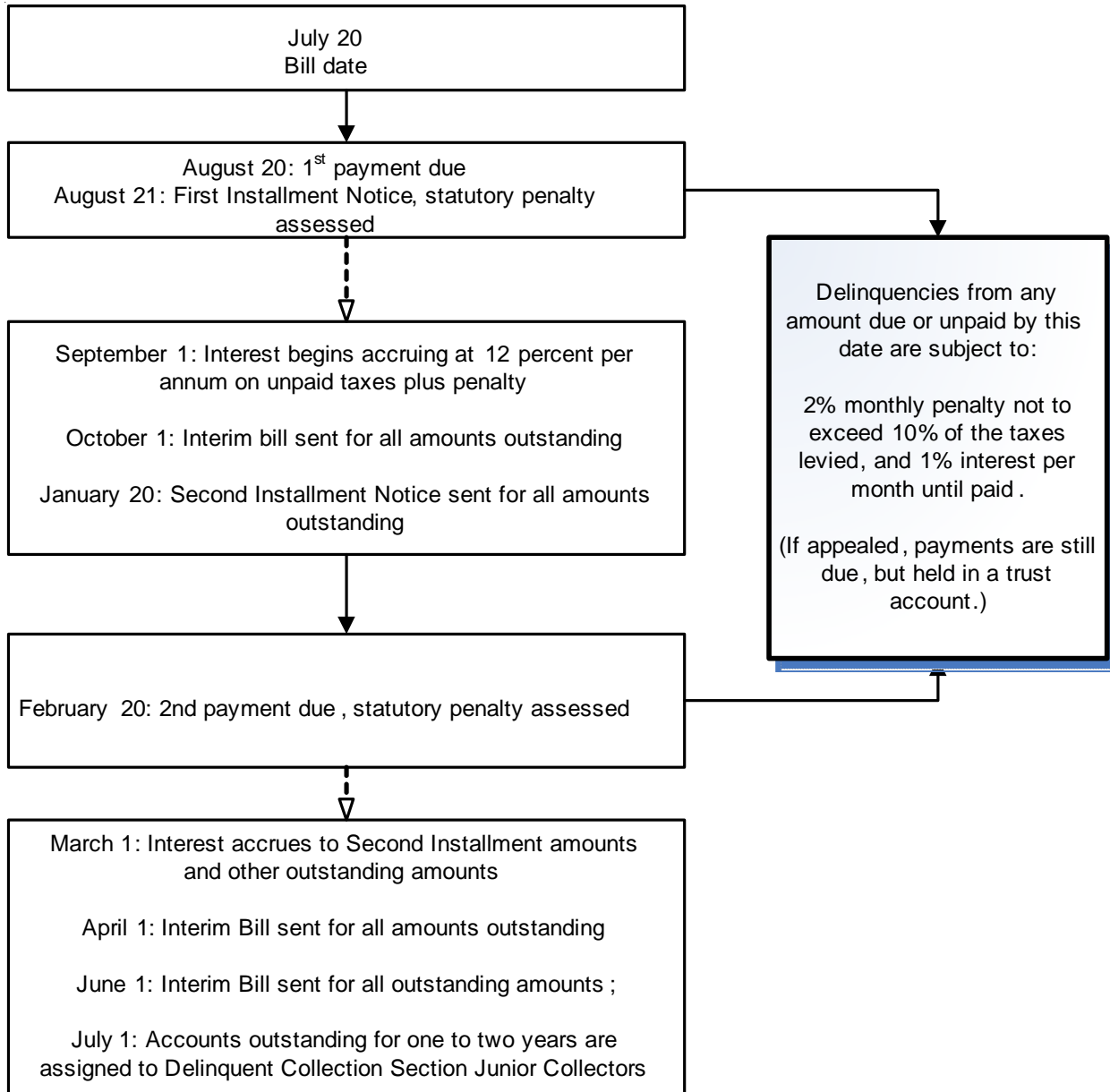
		<i>FY 2006</i>	<i>FY 2007</i>	<i>FY 2008</i>	<i>FY 2009</i>	<i>FY 2010</i>
Real Property Taxes Collected to Total Amount Billed	Performance Measure (Goal)	98.8%	98.8%	98.8%	98.8%	96.6%
	Actual	98.0%	98.3%	98.3%	95.9%	98.0%
	Met/(Not Met)	(0.8%)	(0.5%)	(0.5%)	(2.9%)	1.4%
Uncollected Delinquent Real Property Tax Balance (\$ million)	Estimated Output Measure (Goal)	\$9 million	\$10 million	\$10 million	\$11 million	\$17 million
	Actual	\$9.7 million	\$9.3 million	\$12.6 million	\$16.0 million	\$16.8 million
	Met/(Not Met)	\$0.7 million	(\$0.7 million)	\$2.6 million	\$5.0 million	(\$0.2 million)

Source: City and County of Honolulu Executive Program and Budget (FY 2007 to 2012)

Billing and Delinquent Tax Collection Process

The city processes for billing and collecting delinquent taxes is shown in Exhibit 1.5. The entire process takes almost a year. The penalty for delinquent taxes is 2 percent penalty per month, not to exceed 10 percent of the taxes levied. Interest on the delinquent amount is 1 percent per month (12 percent per year) until the taxes are paid.

Exhibit 1.5 Real Property Billing and Collection Schedule



Source: Revised Ordinance of Honolulu, Chapter 8, Real Property Tax; BFS Real Property Tax Delinquency Collection Policies and Procedures

The Delinquency Collection Section of the BFS Treasury Division is responsible for collecting delinquent real property taxes and managing the collection process.

Audit Objectives, Scope and Methodology

The objective of this audit was to review and assess the city's real property tax delinquency collection process. Under this objective, we assessed the effectiveness of the delinquent real property tax collection process.

We interviewed the Treasury Delinquency Collection Section staff, other BFS staff, and city and state officials who were familiar with real property tax delinquency collection processes, practices, administration, and related issues. We reviewed applicable city and state laws, rules, charter provisions, and policies and procedures pertaining to delinquent real property tax collections.

We evaluated the current collection processes, analyzed delinquent tax account records, and assessed the effectiveness of BFS collection efforts. We reviewed practices employed, policies and procedures established by BFS, and applicable administrative directives. We checked for compliance with BFS policies and procedures, and the impact of any non-compliance. Additionally, we compared the department's processes and practices with industry practices as recommended by the Government Finance Officers' Association and used by other jurisdictions.

We analyzed the division's delinquency age list of delinquent real property tax accounts, selected a judgmental sample of parcels with large delinquent amounts, and a sample of accounts with long term, unpaid tax assessments. We verified the accuracy and reliability of the age list data; checked individual records for missing data or missing key values; confirmed the relationships between data elements; checked for out of range values; and looked for invalid dates. We concluded the data base was reasonably accurate for use in the audit.

After verifying the accuracy of the database, we judgmentally selected 79 parcels belonging to private owners and government lessees with the largest dollar amounts of delinquent real property tax owed. For each parcel in the sample, we evaluated the collection process and the effectiveness of the collection process on these accounts. A listing of the parcels reviewed is shown in Appendices 2 and 3.

Our review started in March 2010 and was suspended due to higher priority projects. The restarted project was performed from April 2011 through January 2012. 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Results

City staff has set goals for collecting delinquent real property taxes, but have not always attained its performance goals for several reasons. The city cannot foreclose on government lands or file timely liens against lessees due to incomplete or untimely information. Current collection practices allow private land owners to remain on extended payment plans and rarely foreclose on delinquent taxpayers. As a result, the outstanding balance of delinquent real property taxes is increasing and large amounts remain uncollected for many years. Improved city policies and procedures, including timely write off of uncollectible accounts and properly classifying uncollectible accounts, could improve the accuracy of the delinquent amounts outstanding. The city should establish an ordinance that allows the city to fine and deny services to delinquent taxpayers as an incentive to pay delinquent taxes. The ordinance should include due process administrative and appeal procedures related to the denial of the city services.

Chapter 2

Government Lands Create Problems in Collecting Delinquent Taxes

Government lessee delinquencies totaled over \$1.7 million. Although the city may collect real property taxes from the lessees of city, state, and federal lands, it cannot foreclose on government-owned properties if the lessees fail to pay the city's assessed taxes. That is, the city has no recourse to foreclosure action or tax sale on delinquent taxes owed by leaseholders of government-owned lands.¹ As a result, the city may receive little or nothing in return for its resources and collection efforts when attempting to collect from non-compliant lessees of government lands. To facilitate collection of taxes and timely actions against lessees of government lands, the city will need to develop memoranda of agreements with other governments that include sharing lessee information.

Government Lessee Delinquencies Are Significant

In the government lessee category, nearly 79 percent of the total amount owed by government lessees was delinquent more than seven years. For FY 2009, the exhibit below categorizes the delinquent amounts by the number of years unpaid.

Exhibit 2.1
Delinquent Receivables for Government-Owned Lands by Age (FY 2009)

<i>Delinquent Time Period</i>	<i>Government Lessees</i>	<i>Percent of Category Total</i>
10+ years	\$1,004,815	58.6%
7 - 9 years	\$347,490	20.3%
3 - 6 years	\$223,559	13.0%
2 or less years	\$139,783	8.1%
Total	\$1,715,647	

Source: Department of Budget and Fiscal Services, 2011

¹ The city may file personal liens against the lessee, which may be uncollectible if the lessee is insolvent.

Examples of lessees owing taxes exceeding \$100,000

In our review, we found large unresolved delinquencies owed by lessees of government lands, and that some had been unresolved for several years. For example:

- A taxi management company owed over \$480,000 in delinquent taxes for three leased parcels of Hawai'i state land. The taxes are being appealed and include amounts owed for tax years 2004 through 2010.
- A freight forwarding and shipping company owed over \$500,000 in real property taxes for leased State of Hawai'i land. It is appealing the tax bill and claims its lease was cancelled in 1997. This amount includes taxes owed for tax years 2004 through 2010.
- A scenic air tour company owed over \$340,000 in delinquent real property taxes for two parcels of leased state land. These were assessed for tax years 1992 through 1998.
- A second air tour company owed over \$118,000 in property taxes assessed on state Department of Transportation land. The lessee delinquencies date back to 1992 through 1995.
- A bowling alley owed over \$109,000 in real property taxes assessed in tax years 2002 through 2008 on land leased from the state Department of Hawaiian Homelands.

The City Cannot Foreclose on Government-Owned Lands

Our sample of 79 delinquent parcels included 30 lessees of government-owned land. The sample of delinquent real property taxes for government-owned lands totaled about \$2.6 million. In 12 of the 30 accounts, the government lessees owed delinquent real property taxes that were overdue for 10 to 29 years.

Although the city does assess taxes on *for-profit* lessees of government lands, it could not foreclose on government-owned lands with delinquent taxes if collection efforts failed. The city was unable to foreclose on government lands to satisfy delinquent real property taxes owed by lessees because the city's real property tax ordinance prevents real property tax from becoming a lien on government lands.

In our sample of commercial and residential lessees of state and city-owned land, including *kuleana* lands and Hawaiian homelands², we found that lessees were required to pay real property taxes if the properties are used to generate profits (i.e. a business), or the minimum tax applicable.

- *Section 8-10.18, Revised Ordinances of Honolulu (ROH)* provides that private lessees of exempt real property³ shall be assessed and taxed the same amount as if they owned the property if the lessees use the property in a for-profit business. Minimum⁴ real property taxes apply and may be assessed by the city to lineal descendant holders of *kuleana* land leases. Hawaiian homeland leases are subject to minimum real property taxes after a statutory 7-year exemption period has passed.

Although the city may assess and collect real property taxes from the *for-profit* lessees, the city cannot foreclose on the state land. *Section 8-5.1, ROH* provides that tax due on real property is a paramount⁵ lien on the property, but it does not apply to government-owned lands.

² *Kuleana lands* are parcels that were awarded in fee simple to native Hawaiian tenants by the *Kuleana Act of 1850*. They are subject to minimum property tax if held, at least in part, by a lineal descendant of the awardee.

Hawaiian homelands are lands set aside for trust purposes to native Hawaiians by the *Hawaiian Homes Commission Act of 1921*. The program is now administered by the state Department of Hawaiian Homelands, with title belonging to the state.

³ Exempt real property in this report refers to any real property which is exempt from real property taxation.

⁴ The minimum tax rate for the City and County of Honolulu is currently \$300 annually.

⁵ A *paramount* statutory lien attaches to real property when there is real property tax due and continues for a period of six years. After attempting collection as described above, the city may enforce or foreclose on the tax lien via a sale of the affected property. If the foreclosure is not completed within six years and enforcement or foreclosure is in process, the paramount lien continues until the termination of the proceedings or completion of the sale.

City Collection Actions Against Lessees Are Restricted

We found that the city's recourse against delinquent lessees of government-owned lands was limited. Government property is treated as exempt real property. This means the tax owed by lessees does not become a lien against the property and the city cannot foreclose on the property. As a result, the city is unable to take foreclosure action, or conduct tax sales on government lands used or occupied by leaseholders. According to BFS staff, the city's primary recourse against delinquent lessees was to file personal liens (*tax debt due the county liens*)⁶ against the business or individuals.

Collection Efforts Have Not Been Successful Due to Incomplete Information

To file the personal liens and ensure timely collection of the delinquent taxes, the city needs timely and complete information from the government entity that owns the land. The city needs important information such as lease cancellations, permit terminations, concession agreements, and change of lessees from the Hawaii state agencies.

Unfortunately, the city often receives the information after the lessee declared bankruptcy, ceased operations, or was liquidated. As a result, personal liens against lessees for delinquent taxes were not timely and the city had to write off the amounts owed by the lessees. For example:

- A company recycling construction materials owed over \$43,000 in real property taxes for 2000 through 2003. The state agency did not inform the city the lessees' permit was terminated in 2003. As a result, the city did not take action to collect the delinquent taxes until 2007 when a personal lien was filed. Since the business was already dissolved, the city could not collect the delinquent taxes and had to write off the taxes owed.

⁶ A *tax debt due the county* lien is a filed certificate setting forth the amount of taxes due and unpaid (including taxes assessed or proposed for assessment). It may be filed and recorded by the BFS director with the Bureau of Conveyances, Department of Land and Natural Resources, State of Hawai'i. The certificate identifies the taxpayer, last known address, and taxes due. The recording or filing of the certificate creates a lien in favor of the city upon all property and rights to property, whether real or personal, belonging to any person liable for the tax. The tax lien includes penalties, interest, and any costs related to the filing of the certificate.

- A biodiesel and biofuel company owed over \$63,000 in property taxes for leased state land. The state did not inform the city the lease was cancelled prior to execution. As a result, the lessee is appealing the tax assessment and the city cannot file any personal lien or resolve the back taxes until the case is settled.

Personal Lien Filings Were Untimely

The city may place a personal lien on the lessee of state-owned lands. This is part of the *tax debt due the county* lien power in *ROH Section 8-5.10*. The personal lien would affect the lessee's ability to obtain credit from a financial institution and would encourage the lessee to pay the delinquent taxes or to work out a settlement for the taxes owed.

In our sample of 30 government land accounts, personal liens were not filed for 13 accounts; 11 personal liens were filed, 4 were written off, and 2 were cancelled. Of the 11 with personal liens, 8 were filed over six years after the taxes were due. For instance:

- A personal lien filed in 2011 against a bowling alley for over \$109,000 was for 2002 to 2008 delinquent taxes and represented a nine year delay.
- A 2006 personal lien filing against an air tour company for over \$93,000 was for delinquent taxes from 1998 to 2006; a delay of eight years.
- Another personal lien filed in 2005 against an individual for over \$49,000 was for delinquent taxes owed from 1999 to 2005 and represented a delay of six years.

The personal lien filings were late partly because state information was not exchanged in a timely fashion with the city.

City Needs Memorandum of Agreement with the State for Information Exchange

The BFS collection staff reported difficulty in collecting information on government land lessees. More specifically, information needed for the personal lien filings was not available. This occurred because there is no law or agreement that requires the city and state to share information that could be used to facilitate the collection of real property taxes owed to the city.

Timely exchange of lessee information and better coordination could have improved the city's collection efforts, personal lien filings, and follow-up actions. We are therefore recommending that BFS and the state develop a memorandum of agreement that will facilitate the timely exchange of information on lessees of government land. Sharing of lease information among city departments is also needed.

The BFS Treasury chief concurred that coordination with the state was needed, because the state was not providing the information required. According to the Treasury chief, city officials met with state and federal executives to discuss the collection of delinquent taxes and the timely transfer of lease information. The chief reported the city worked with three other counties to propose and pass state legislation that required the expedited and timely transfer of copies of recorded documents and tax certificates. The chief stated BFS reviewed all city leases, assessed lessees for taxes owed for prior years, provided payment plans for delinquent lessees; and created new work flow processes for transferring lease information. However, these initiatives were not fully successful. According to the Treasury chief, BFS may need the assistance of the mayor's office and the city council members to facilitate the signing of any memorandum of understanding.

Recommendations

The Managing Director, through the Director of the Budget and Fiscal Services Department, should:

1. Negotiate a Memorandum of Agreement with the State of Hawai'i that provides for the timely exchange of lessee information on government lands and permits the city and county access to State of Hawai'i databases that allow the city staff to take timely actions in filing liens against delinquent lessees.
2. Maintain a list of lessees of government lands who are repeatedly delinquent for close monitoring and follow-up collection actions. The list should include information such as periods of chronic delinquency, personal or property lien status, private or government owned land, age of delinquency, and collection status.
3. Place uncollectible and written off property taxes on a list of lessees that should be denied city services and benefits until the delinquent taxes are paid or arrangements made to repay the delinquent taxes.

4. Develop policies, procedures, and time lines for the following - filing personal and/or property liens; terms and conditions for payment plans; terms and conditions for personal liens; classifying accounts as uncollectible; the proper disposition of uncollectible accounts; and the treatment of chronically delinquent taxpayers.
5. Require the BFS staff to identify and report long-term government-owned land lessee delinquencies to the BFS director that should be written off as uncollectible.

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Chapter 3

Current Collections Practices Result in Long Collection Periods and Chronically Delinquent Accounts

Delinquent property taxes for privately owned properties totaled over \$16 million. Rather than foreclose on properties, Treasury Division staff report they adopted an informal policy of offering payment plans to delinquent taxpayers to intentionally avoid foreclosures. The extended payment plans allowed chronically delinquent taxpayers to make minimal payments that prevented foreclosures although their delinquent taxes covered several years. As a result, collections periods for private properties with large delinquent tax balances run longer than intended and chronically delinquent accounts are difficult to collect. The city could improve tax collections by establishing an ordinance, policies, and information systems that can be used to deny chronically delinquent taxpayers city services (such as licensing, vehicle registrations and permits) and using the denials as incentives for delinquent tax payers to pay their real property taxes. The ordinance should include appropriate due process, such as administrative and appeal procedures related to the denial of services.

Delinquent Taxes Owed by Private Owners Total Over \$16 Million

The department's delinquent real property tax receivables show that delinquent taxes are largely owed by private land owners. In FY 2010, 74 percent of private owner delinquent taxes were delinquent two years or less as shown in Exhibit 3.1. In FY 2009, over 80 percent of delinquent private owner taxes were two or less years late.

Exhibit 3.1
Delinquent Receivables for Privately Owned Land
by Age (FY 2009)

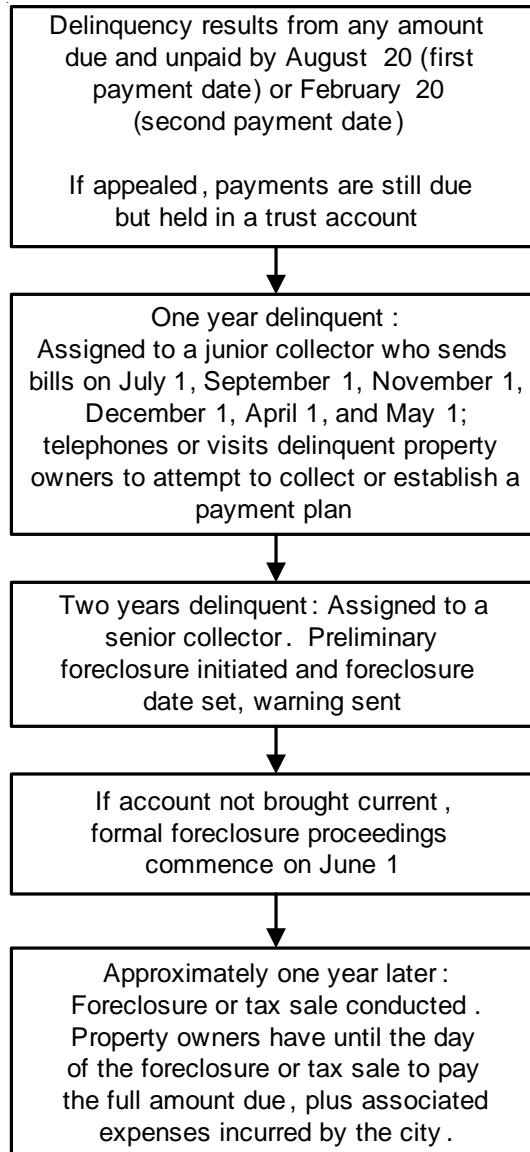
<i>Delinquent Time Period</i>	<i>Private Owners</i>	<i>Percent of Category Total</i>
10+ years	\$188,175	1.2%
7 - 9 years	\$383,068	2.4%
3 - 6 years	\$2,528,742	15.6%
2 or less years	\$13,131,238	80.9%
Total	\$16,231,223	

Source: Department of Budget and Fiscal Services, 2011

Department Policies and Procedures Contemplate Foreclosing on Unresolved Delinquencies

Under its current written policies and procedures, if a delinquency cannot be resolved, the city collects taxes due through foreclosure, or a tax sale. The delinquency to foreclosure sale process is shown in Exhibit 3.2.

**Exhibit 3.2
Delinquency to Foreclosure Process**



Source: Budget and Fiscal Services, Real Property Tax Collection Policies and Procedures

Treasury Division Staff Adopted an Informal Policy of Offering Payment Plans to Delinquent Taxpayers

Rather than foreclose, the current collection practice is to allow delinquent taxpayers to remain on extended payment plans. The long, extended payment plans allow chronically delinquent taxpayers to make minimal payments that prevent foreclosures although their delinquent taxes cover several years.

Current practices

Tax collection supervisors assign cases that are at least 12 months delinquent to junior collectors. The collector's assignment is to get the account current before July 1 of the following year. Tracking an owner may take several months. Once taxpayers are contacted, they are told that the property may go into foreclosure, and that the collector is there to work with them to prevent the foreclosure. Typically they talk to taxpayers regarding the status of their account, document on-site conditions, and record observations of the property in the collector's notes section of the account record. The collector must document and evaluate the taxpayer's financial status and ability to repay the delinquency.

According to the department policies and procedures, each delinquent tax collector has the authority to enter into payment plans with the taxpayer after reviewing and analyzing the delinquent taxpayer's financial condition. The general practice has been to enter into informal verbal agreements unless the taxpayer requests a written agreement in order to confirm with its mortgagee that there is a payment plan with the city.

In general, the payment agreements are supposed to be short term and paid within six months. The collections administrator described payment plans as interim steps between billings, to help taxpayers to avoid foreclosure and the eviction of property owners. The informality of the agreement gives collectors the flexibility to allow, for example, the taxpayer the opportunity to make up for a missed payment by doubling up on the next payment.⁷

⁷ For state and city employees, the collector can enter into payroll deduction plans.

Extended payment plans allow chronically delinquent taxpayers to avoid foreclosures

When real property taxes are due on a property, the city has a paramount statutory lien⁸ on the property which gives the city first priority over all other secured creditors to receive payment for the delinquent taxes owed. The taxpayer is obligated to bring their account current to avoid the assessment of penalties, interest, and possible enforcement actions against their property.

Payment plans are supposed to satisfy real property tax liabilities within the paramount lien period of 6 years. A paramount statutory lien attaches to real property when real property tax is due and continues for a period of six years. The city cannot foreclose on the property tax lien after six years unless the foreclosure proceedings and sale are already underway. After six years, the city's paramount tax lien status expires.

Another way the city can preserve its interest in collecting the assessed real property taxes is to file a *tax debt due the county* lien. This can be filed concurrently with the paramount tax lien or, in the case of a government-owned land lessee, when the unpaid taxes become delinquent.

In our sample of 49 delinquent accounts, 11 taxpayers (22%) were on payment plans. Some of these payment plans extended over 13 years and involved the same owners. Payment plans were repeatedly renewed or reinstated for the same delinquent tax payers. As a result, chronically delinquent taxpayers were able to avoid foreclosures on their properties.

For example:

- In FY 2010, an auto repair business owner owed about \$40,000 in unpaid taxes for 2007 through 2010. The owner's history of delinquent taxes dated back to 1999. The business owner had been on several payment plans since 2002 and had not complied with the payment plans. The owner stated bad business prevented compliance with payment plans and was allowed to extend its payment plans over the elapsed 12 years. The extended payment plans pre-empted the foreclosure process.

⁸ A *paramount* statutory lien attaches to real property when there is real property tax due and continues for a period of six years. After attempting collection as described above, the city may enforce or foreclose on the tax lien via a sale of the affected property. If the foreclosure is not completed within six years and enforcement or foreclosure is in process, the paramount lien continues until the termination of the proceedings or completion of the sale.

- Another auto repair business owner owed approximately \$38,000 in unpaid taxes for 2007 through 2010. The owner's history of delinquent taxes dated back 13 years to 1998. The owner had been on payment plans for 10 years starting in 2001. Although the taxpayer had complied with the payment plans, the payments were often made with post-dated checks. The payment plan avoided the possibility of a foreclosure.
- A commercial building owner owed over \$152,000 in unpaid taxes from 2009 through 2010. The owner had a history of delinquent taxes since 2001. The owner committed to yearly payment plans over the last 10 years, including 2001 through 2003 and 2008 through 2010. The taxpayer was allowed to extend its payment plans after claiming the tenants were not paying their rent and reported difficulty complying with the payment plans. The extended payment plan prevented foreclosure on the property.

The department rarely forecloses even against chronically delinquent taxpayers.

The department's informal policy and practices to place delinquent tax payers on payment plans have resulted in accounts with large amounts that remain overdue for years and few foreclosures against chronically delinquent taxpayers. As a result, some large accounts remain uncollected although the delinquent taxes date back over 10 years.

Current Policies

According to the BFS Treasury chief, payment plans do not have to be completed within a set time period. Their current practice is to allow taxpayers to avoid foreclosures by working out payments for the delinquent taxes over an indefinite time period. Its policy is not to aggressively pursue delinquent taxpayers by immediately foreclosing on those who are chronically delinquent. Its practice is not to file *tax debt due* liens on private properties. They rely on the prospect of foreclosure to protect the city's interests.

The Treasury chief indicated that should the administration or City Council desire policy changes to more aggressively collect or foreclose on properties, the city must have the political will to uphold the policy when the taxpayer pleads for mercy.

Some large accounts remain uncollected although delinquent taxes date back over 10 years

Taxpayers have until the day of the foreclosure sale to avoid foreclosure by paying the delinquent taxes and costs related to the sale, including the cost of advertising and the title search. Delinquent taxpayers avoid foreclosure by making payments to cover only the tax period that would remove the property from the foreclosure list. The minimal payments allowed large delinquent tax balances to be carried forward, in some instances for over 10 years. For example:

- The city tax collectors worked with a landowner who owed over \$30,000 in unpaid taxes for 2007 through 2010. The collection staff made phone calls, field visits, sent tax statements, offered payment plans, and threatened foreclosure. The landowner avoided the foreclosures by paying only the tax amounts for the tax years that would prevent the foreclosure. This account has been historically delinquent since 1998.
- A second landowner, an investment firm, owed over \$33,000 for property taxes unpaid since 2008. After the city tax collectors made phone calls, field visits, sent tax statements, offered payment plans, and threatened foreclosure, the landowner paid only the amount that would prevent the foreclosure sale. This account has also been historically delinquent since 1998.
- A third landowner owed over \$136,000 in unpaid property taxes on two parcels for 2008 to 2010. The landowner was responsible for two different registered names. After the collection staff located the landowner, they made phone calls, field visits, sent tax statements, offered payment plans, and threatened foreclosure. The landowner responded by making payments for only those tax years that would prevent the foreclosures. One property has been in and out of delinquent tax collection since 1998, and the other since 1999.

According to the Treasury chief, their longstanding policy has been to work with the delinquent taxpayers with the objective of avoiding foreclosures and the displacement of property owners. As a result, foreclosures are rare and the department rarely forecloses against chronically delinquent taxpayers.

We sampled 49⁹ delinquent real property tax accounts classified as privately owned property with the largest delinquent amounts owed. The delinquent balance of the sample totaled nearly \$4.2 million. Among the 49 delinquent tax cases, only 2 foreclosures were filed and only 8 *tax debt due* liens were filed. Of the 49 cases, 13 of the private property owners owed taxes that were overdue 5 to 13 years¹⁰.

Our review showed some private property owners were chronically delinquent in paying their real property taxes and some had carried delinquent balances for several years. The department confirmed that the taxpayers were chronically delinquent and collecting from them was difficult.

Withholding city services and benefits could help increase delinquent tax collections

In our opinion, the city could improve tax collections by establishing policies and information systems that can be used to deny chronically delinquent taxpayers city services (such as licensing, vehicle registrations and permits) and using the denials as incentives for delinquent tax payers to pay their real property taxes.

We found no current authority to withhold city benefits from delinquent taxpayers. The BFS department staff stated they had no authority to withhold city services or benefits, such as vehicle registrations and building permits, from delinquent property owners. Department staff also reported the current accounting method did not generate information or lists of delinquent property owners that could be used to deny city services.

We reviewed the Government Financial Officers' Association (GFOA) toolbox of recommended collection practices. The city employs 15 of 20 of the practices, with 4 practices that appeared not relevant to current city operations.

⁹ The BFS Treasury chief stated two items in our sample (#35 and #73) were misclassified as privately owned real property and should have been classified as government owned parcels. Our analysis is based on the actual classifications in the official database.

¹⁰ Six of the 13 were delinquent over 10 years.

One of the GFOA practices recommended withholding governmental permits and licensing benefits from those with unpaid tax balances. This practice is currently not employed by the city or BFS. If information system tools and policies and procedures existed for withholding city services or benefits (such as licensing, registration, or permits), delinquent tax payers would have a greater incentive to pay their delinquent real property taxes.

Recommendations

The Managing Director, through the Director of the Budget and Fiscal Services Department, should:

6. Maintain a list of private landowners who are repeatedly delinquent for close monitoring and follow-up collection actions. The list should include information such as the periods of chronic delinquency, lien status, private or government owned land, age of delinquency, and collection status.
7. Segregate the list of delinquent property taxes for privately owned real estate from government-owned lands; age the delinquent accounts so city staff can identify long term delinquencies that are unlikely to be collected; and require the city staff to identify and report to the BFS Director any long term, private landowner delinquencies that should be classified as uncollectible.
8. Establish policies, procedures and timelines that limit the number of years for payment plans and require staff to take more timely action on foreclosures and other actions that protect the city's interests. The policies, procedures, and time lines should include the following – collecting and processing annual real property taxes, filing property liens; terms and conditions for payment plans; terms and conditions for foreclosure actions; classifying accounts as uncollectible; the proper disposition of uncollectible accounts; and the treatment of chronically delinquent taxpayers.
9. Establish an ordinance that allows the city to fine and deny services to delinquent taxpayers as an incentive to pay delinquent taxes. The ordinance should include due process administrative and appeal procedures related to the denial of the city services.

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Chapter 4

Improved City Policies and Procedures Could Improve Collections and the Accuracy of Delinquent Tax Data

Accurate tax data is needed for reports and for monitoring the tax collection operations. Properly classifying accounts and transferring uncollectible accounts to a written off list could improve the accuracy of delinquent tax data. Uncollectible delinquent real property tax accounts were not timely written off. As a result, reported data on delinquent taxes were inaccurate. Placing the uncollectible and written off accounts on a special list that city staff can use to deny city services and benefits to delinquent taxpayers could serve as an incentive for paying delinquent taxes.

Accurate and Reliable Data Is Needed

Timely and proper categorization¹¹ of uncollectible accounts and changes in collection policies and procedures are needed to accurately reflect the potential for collecting these accounts. By retaining these accounts in the active delinquent tax listings, the city was providing inaccurate information regarding the outstanding unpaid property taxes that are collectible. The inaccuracy also affected the department goals and accomplishments.

The Treasury Division reported the outstanding delinquent taxes totaled about \$16.8 million in FY 2010. The amounts included uncollectible government and private properties taxes that should have been written off.

¹¹ According to the BFS Treasury Chief, delinquent taxes on privately owned properties are not written off and only taxes owed by government lessees are subject to write off. A write off exception is made if the item is a remnant parcel of privately owned property.

Exhibit 4.1 Summary of Taxes Levied and Delinquency Collections

Output Measures	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Property Tax Levied for the Fiscal Year (\$ million)	\$581.8	\$674.0	\$760.4	\$788.0	\$834.4
Outstanding Delinquent Tax Amount (\$ million)	\$9.7	\$9.3	\$12.6	\$16.0	\$16.8
Delinquent Tax Collections (\$ million)	\$5.3	\$6.1	\$6.4	\$7.0	\$7.9
Percent of Outstanding Delinquency Collected	55%	65.8%	50.7%	43.8%	47.3%
Delinquency Rate for Real Property Tax	1.65%	1.27%	1.57%	1.97%	1.96%
Delinquent Real Property Tax Accounts (total number)	6,011	6,831	7,733	7,355	7,517

Source: Executive Program and Budgets from FY 2008 to FY 2012; FY 2010 Comprehensive Annual Financial Report

Inability to Foreclose on Government Lands Affects Collection Efforts and Data Accuracy

Many of the accounts were unlikely to be collected and should have been written off. The inability of the city to foreclose on government-owned property increases the possibility that delinquent accounts will not be paid or resolved for many years. More specifically,

- Twelve of the 30 accounts (40 percent) in our government land sample were delinquent 10 to 29 years and are unlikely to be collected. After filing personal *tax debt due* liens against the lessees, the accounts should have been reclassified as uncollectible, written off, recorded on a separate list, and monitored for follow-up as needed. These delinquent accounts were unlikely to be collected and increased the outstanding delinquent tax balance by \$937,825.
- Another nine accounts were delinquent six to nine years. Collection efforts on these accounts could have been curtailed after the personal liens were filed. These delinquent accounts added \$1,306,530 to the outstanding balance for delinquent taxes.

The department staff continued collection efforts on these accounts, including maintaining records on them, even though they were unlikely to be paid. Applying city efforts and resources to collect accounts that were delinquent for 10 or more years and are unlikely to be paid may not be productive.

Delaying the write-off of these uncollectible accounts made the real property tax data inaccurate. Our sample of 30 government lessees and delinquent real property taxes for government-owned lands totaled \$2.6 million of the \$16.8 million reported as delinquent property taxes in FY 2010.

According to the BFS Treasury chief, the delay in writing off uncollectible accounts was partly due to the need to clarify certain legal issues and that some uncollectible accounts were written off once the legal provisions were resolved.

Department Actions Were Untimely

We found that more timely actions are required to protect the city's interest in collecting delinquent taxes. In our sample of private landowners, 13 of the 49 private property landowners were delinquent more than 5 years. Six of the 13 were delinquent over 10 years and were unlikely to be collected. More specifically,

- A property owner owed over \$1.1 million in delinquent property taxes and civil fines on three properties for the period 2002 to 2010. The city filed liens in 2006, after four years of delinquencies, but did not foreclose on the properties. The mortgage lender bank eventually foreclosed on the properties in 2008, but the delinquent taxes are still unpaid nine years after the first delinquency.
- An investment firm owed over \$55,000 in back taxes on a property for the period 1999 to 2010. A lien was filed in 2004, but no foreclosure action was taken. The company eventually was dissolved and the taxes remain unpaid 12 years after they were due in 1999.
- A developer owed over \$42,000 in unpaid property taxes for 2000 to 2010 on two properties. The city filed liens in 2010, 10 years after the taxes were first due.
- Another developer owed over \$250,000 for property taxes from 1998 to 2010 on a property. No action has been

taken by the city to file a lien or foreclosure on the property 13 years after the taxes were first due.

By not filing *tax debt due* liens sooner or taking foreclosure actions, the city may have lost up to \$1.3 million in tax revenues.

Uncollectible Accounts Should Be Written Off

Section 8-1.9(c), ROH gives the BFS director the power to prepare a list of delinquent taxes, which consist of the accounts that, in the director's judgment, are uncollectible. The ordinance states an account must be delinquent at least two years before the BFS director may delete the account as uncollectible. Uncollectible taxes are to be specially recorded and deleted from the delinquency list. Once deleted, the department is no longer accountable for their collection. Uncollectible accounts can be put back on the delinquent tax roll if the facts leading to removal were not true, or the account becomes collectible.

Our review of the sample of large amount delinquent accounts indicated that uncollectible accounts were not deleted in a timely manner. That is, the list of delinquent accounts inaccurately reflected the amounts the collections staff could collect. The inaccurate list also inflated the potential collection amounts and unnecessarily increased the city's collection efforts.

Within the tax collection section, the staff did not establish specific time periods for presuming an account as uncollectible and eligible for write-off. The BFS Treasury chief stated reports of delinquent accounts that should be deleted and written off are submitted to the BFS director, but the decision and approval for write-off must be made by the BFS director. Many uncollectible accounts were not written off until the new BFS director assumed office in FY 2010-11 and took action to write-off some long-term delinquencies as uncollectible.

According to the BFS Treasury chief, the delay in writing off uncollectible accounts was also due in part to the need to clarify certain legal provisions and, once clarified, the accounts were written off.

Amount of Collectible Delinquent Taxes Is Inflated

Effective collection actions and administration requires an accurate list of delinquent taxpayers and delinquent real property amounts. During our initial review of the 2009 Delinquency Agelist, we discovered 200 properties with delinquent accounts dating from 1999 or earlier. Many of these accounts were uncollectible and should have been removed from the collectible delinquency listing. By retaining the uncollectible accounts on the list, the outstanding amount for delinquent and collectible delinquent property taxes may have been overstated by \$1.2 million.

Properly classifying accounts and transferring uncollectible accounts to a written off list could improve the accuracy of delinquent tax data.

Uncollectible Accounts Should be Removed from the Collection List

Many of the delinquent accounts should be removed from the collection lists, re-categorized as uncollectible, and written off. This would shorten the list of delinquent taxpayers the collection staff would have to contact and allow more efficient use of the collection staff resources.

A better option may be to file a *tax debt due* lien and to focus on collection efforts on younger accounts. Other options include placing written off accounts on a special city list and using the list to deny city services and benefits (such as driver's license, motor vehicle registration, and city permits) to the delinquent taxpayer. Although such actions do not assure payment of the delinquent taxes, the incentive to pay the late taxes would exist.

Information on delinquent and uncollectible accounts that are written off should continue to be noted in the property tax records.

Recommendations

The Managing Director, through the Director of the Budget and Fiscal Services Department, should:

10. Establish policies, procedures, and time lines for: identifying and classifying accounts as uncollectible after two years; removing uncollectible accounts from the collections lists; transferring accounts to an uncollectible accounts list; writing

off the uncollectible accounts; limiting the number of years for payment plans; taking timely actions on foreclosures and delinquent accounts that protect the city's interests; and handling long-term and repeat delinquent taxpayers.

11. Establish and maintain a list of taxpayers with uncollectible and written off accounts for monitoring and follow-up actions.

Chapter 5

Conclusion and Recommendations

Real property taxes accounted for approximately two thirds of the city's revenues in FY 2010, and are the largest revenue contributor to the city's annual operating budget.

Between FY 2006 and FY 2010, the city's delinquency rate and the dollar amount of real property tax delinquencies increased. Due to its importance as a revenue source, the city seeks to reduce real property tax delinquencies through effective, timely, and efficient collection.

The Department of Budget and Fiscal Services collected over \$32 million in delinquent real property taxes between FY 2006 and FY 2010.

During our review, we found issues that prevented the city from reducing real property tax delinquencies through effective, timely, and efficient collection. A number of long-term, large dollar amount delinquencies are caused by an inability to collect from government land lessees. The city receives little or nothing in return for its resources and collection efforts because the city is limited in its options to collect from lessees and cannot foreclose on government-owned property if their lessee fails to pay the city's assessed taxes. To facilitate collection of taxes and timely actions against lessees of government lands, the city will need to develop memoranda of agreements with other governments for sharing lessee and lease information.

The BFS Treasury administrator stated efforts to obtain timely information from state agencies has not been fully successful and the assistance of the mayor's office and the city council members may be needed to facilitate the signing of any memorandum of understanding.

Delinquent tax collection amounts for private properties are increasing because land owners are allowed to remain on payment plans indefinitely and the chronically delinquent know how to avoid the foreclosure process by paying the minimal amount to avoid triggering the foreclosure process. If tools existed for denying delinquent taxpayers city services (such as licensing, vehicle registrations, and permits), there may be a greater incentive for delinquent tax payers to pay their real property taxes.

Improvements in city policies and procedures could improve delinquent tax collections and the accuracy of delinquency tax data. Establishing categories for written off and uncollectible accounts and moving these accounts to a separate list could improve the accuracy of the delinquent tax totals. Establishing a list of written off and uncollectible accounts that could be used by city staff to deny city services and benefits to delinquent taxpayers could serve as an incentive to pay delinquent taxes, provided due process administrative and appeal procedures related to the denial are in place.

Recommendations

The Managing Director, through the Director of the Budget and Fiscal Services Department, should:

For government landowners and lessees:

1. Negotiate a Memorandum of Agreement with the State of Hawai'i that provides for the timely exchange of lessee information on government lands and permits the city and county access to State of Hawai'i databases that allow the city staff to take timely actions in filing liens against delinquent lessees.
2. Maintain a list of lessees of government-owned lands who are repeatedly delinquent for close monitoring and follow-up collection actions. The list should include information such as periods of chronic delinquency, personal or property lien status, private or government owned land, age of delinquency, and collection status.
3. Place uncollectible and written off property taxes on a list of lessees that should be denied city services and benefits until the delinquent taxes are paid or arrangements made to repay the delinquent taxes.
4. Develop policies, procedures, and time lines for the following - filing personal and/or property liens; terms and conditions for payment plans; terms and conditions for personal liens; classifying accounts as uncollectible; the proper disposition of uncollectible accounts; and the treatment of chronically delinquent taxpayers.
5. Require the BFS staff to identify and report long term government land lessee delinquencies to the BFS Director that should be written off as uncollectible.

For private property owners:

6. Maintain a list of private landowners who are repeatedly delinquent for close monitoring and follow-up collection actions. The list should include information such as the periods of chronic delinquency, lien status, private or government owned land, age of delinquency, and collection status.
7. Segregate the list of delinquent property taxes for privately owned real estate from government lands; age the delinquent accounts so city staff can identify long term delinquencies that are unlikely to be collected; and require the city staff to identify and report to the BFS Director any long term, private landowner delinquencies that should be classified as uncollectible.
8. Establish policies, procedures and timelines that limit the number of years for payment plans and require staff to take more timely action on foreclosures and other actions that protect the city's interests. The policies, procedures, and time lines should include the following – collecting and processing annual real property taxes, filing property liens; terms and conditions for payment plans; terms and conditions for foreclosure actions; classifying accounts as uncollectible; the proper disposition of uncollectible accounts; and the treatment of chronically delinquent taxpayers.
9. Establish an ordinance that allows the city to fine and deny services to delinquent taxpayers as an incentive to pay delinquent taxes. The ordinance should include due process administrative and appeal procedures related to the denial of the city services.

To improve collection policies and procedures, BFS should:

10. Establish policies, procedures, and time lines for: identifying and classifying accounts as uncollectible after two years; removing uncollectible accounts from the collections lists; transferring accounts to an uncollectible accounts list; writing off the uncollectible accounts; limiting the number of years for payment plans; taking timely actions on foreclosures and delinquent accounts that protect the city's interests; and handling long-term and repeat delinquent taxpayers.

11. Establish and maintain a list of taxpayers with uncollectible and written off accounts for monitoring and follow-up actions.

Management Response

The Department of Budget and Fiscal Services' managers disagreed with the audit recommendations, findings, and conclusions. The managers contend that:

- The audit results show the collection of delinquent real property taxes approach and process are sound and in the best interest of the city;
- The audit does not account for factors beyond the control of the city and the department, and is misleading because the report does not correlate real property tax delinquencies with economic recessions;
- The use of a judgmental sample is not representative of the population of delinquent real property parcels;
- The recommendations are ineffective and impractical. More specifically, management states a fine and denial of services to delinquent taxpayers do not justify the increase, if any, in the collection of delinquent taxes and may be exploitative of taxpayers experiencing difficult economic circumstances;
- Management endeavors to balance prudent public policy with the negative effects of displacing property owners and opposes aggressive pursuit of delinquent taxpayers and timely action on foreclosures to protect the city's interests; and
- The components for a memorandum of agreement with the state are already mandated by state law; does not have the force of law; and would be duplicative and unnecessary.

Finally, the department states the audit report misrepresents the department comments and inputs, and is counterproductive to department efforts to *better* the audit report. A copy of the budget and fiscal services department director's response is provided on page 39. The department did not provide a copy of the detailed information mentioned in the management response.

Auditor Comments

The purpose of the audit was to identify areas that we believe need improvement. Although the majority of property taxes may have been collected efficiently, in our detailed examination of delinquencies we found long-standing issues that have not been effectively addressed. In the spirit of cooperation, we solicited recommendations from management and added additional recommendations to resolve the issues. Our recommendations are suggestions for actions that we believe would result in improvements to the delinquency tax collection process. We would encourage the department to review the recommendations and, if it finds them problematic, to proactively offer meaningful alternative courses of action to ensure that the issues are effectively addressed.

We encourage management to seriously address the problems related to the long term, delinquent real property taxes, and, if needed, to solicit the support of the city council to improve its collection efforts. Characterizing the audit report as misleading, inaccurate, and unsubstantiated will not resolve the problems found during the audit. More specifically:

- The audit focused on delinquent properties with large balances to determine if the department was complying with stated city policies and procedures, and discovered improvements were needed in the department's compliance with these policies and procedures;
- A random statistical sample of the 6,000 to 7,000 delinquent accounts was not needed because the universe of accounts delinquent over two years, over 7 years, and over 10 years was already known. Judgmentally sampling from the known strata is a standard and widely accepted governmental auditing practice; a practice used by the city's outside accounting firm in its annual audit of the city's financial statements;
- While the economy may factor into the non-payment of property taxes as suggested, the city responsibilities and expectations for city services do not change. City employees must still ensure revenues are not lost through non-compliance with city policies and procedures;

- Correlating the economy to the cause of the delinquent accounts was beyond the scope of this audit, and would have required the services of an accomplished statistician to confirm the department's contention that direct cause and effect relationships existed;
- Management comments and inputs were paraphrased in the audit report to preclude a lengthy report that consisted of 32 pages of management comments. It is interesting that management's response to the draft report indicated a memorandum of agreement was needed with the state and now contends it is superfluous.
- The report recommendations were revised based on the management comments to the draft report and the corporation counsel's response to our queries. It is interesting that management now indicates it is satisfied with the status quo and has chosen to attack the revised recommendations that they suggested rather than to offer alternative recommendations; and
- Although management claims to protect the city's interest by prudently balancing public policy with the negative effects of displacing property owners, it does not differentiate between lessees of government lands which do not involve displacement and private residents who are unlikely to be displaced under current practices. Of the 49 parcels included in the private land owner sample, only two foreclosures were initiated by the department although these accounts were delinquent as long as 13 years. None of the two foreclosure actions resulted in displaced residents.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

PETER B. CARLISLE
MAYOR



MICHAEL R. HANSEN
DIRECTOR

NELSON H. KOYANAGI, JR.
DEPUTY DIRECTOR

March 1, 2012

'12 MAR -1 P3:32

Mr. Edwin S.W. Young
City Auditor
Office of the City Auditor
City and County of Honolulu
1001 Kamokila Boulevard, Suite 216
Kapolei, Hawaii 96707

C & C OF HONOLULU
CITY AUDITOR

Dear Mr. Young:

Subject: Audit of the City's Real Property Tax Delinquency Collection Report No. 12-03, Dated February 2012

We appreciate the opportunity to comment on Report No. 12-03, *Audit of the City's Real Property Tax Delinquency Collection*, dated February 2012. We take the work of the City Auditor seriously. Accordingly, the Department of Budget and Fiscal Services (BFS) spent a significant amount of time and resources during the course of the two year long audit in an attempt to provide all the relevant information that would enable the City Auditor to understand the real property tax collection program, including its efficacy and its limitations.

After careful review of the audit report as well as discussions with the City Auditor during the development of the report, we concluded that the recommendations were not supported by the evidence presented and would not provide value to the City. Therefore, we cannot agree with the recommendations and will not be taking any further action.

A brief summary of our response is provided below and a detailed response will be furnished to you under separate cover.

- **Results of the audit actually show that the approach and process undertaken for the collection of delinquent real property taxes are sound and in the best interest of the City.**

As reported, credit rating agencies "benchmark a delinquency rate of 2 to 3 percent as good." The City's real property tax delinquency rate as a percentage of the current levy ranged from 1.3% to 2.0%, averaging 1.7%, during the period under review. Furthermore, the City decidedly outperformed all of the other counties in Hawaii, see the chart below, who had delinquency rates between 2.3% and 4.0% with markedly smaller programs in terms of total taxes levied and number of parcels.

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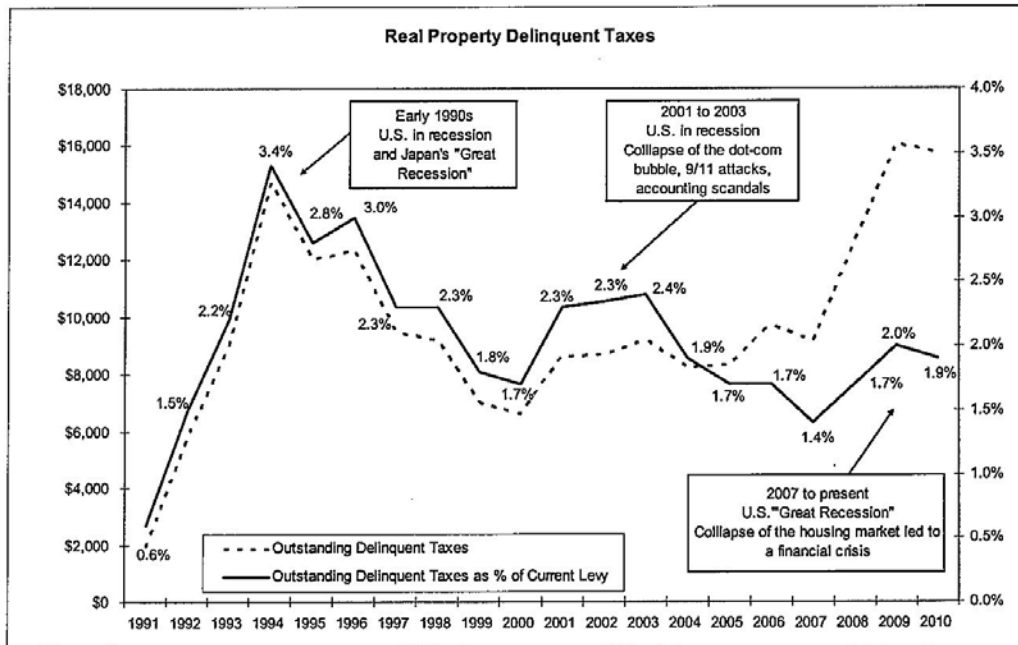
FY2010	Delinquency Rate	# of Parcels	Amount Raised by Taxation (in \$1,000)
City and County of Honolulu	1.9%	276,582	\$836,448
County of Hawaii	4.0%	139,649	\$214,198
County of Kauai	2.3%	32,870	\$100,786
County of Maui	3.6%	68,930	\$232,597

Source: FY2010 CAFR for each county and FY2010 RPT Valuations, Tax Rates & Exemptions

- **Audit does not account for factors beyond the control of the City and the Department of Budget and Fiscal Services (BFS) and is misleading.**

The report states that “the City staff has not always attained its goals” for the following reasons.

- (1) The City cannot foreclose on government lands or file timely liens against lessees.
- (2) Current practices allow private land owners to remain on extended payment plans and delinquent taxpayers are rarely foreclosed on.
- (3) Changes to the City’s policies and procedures “could improve the accuracy of delinquent amounts outstanding.”



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BFS disagrees with the basis for this conclusion. While BFS' policies, procedures and practices remained relatively constant over the past 20 years, real property tax delinquencies spiked each time a major economic recession occurred, as the graph above demonstrates. The fact pattern reveals an extremely strong correlation between economic conditions and real property tax delinquencies. Not including the influence of significant factors beyond the control of the City and BFS, such as the economy, misleads readers of the report.

- **Audit conclusions are misleading due to the use of a judgmental sample that is not representative of the population of parcels with delinquent real property taxes.**

The City Auditor "judgmentally selected 79 parcels belonging to private owners and government lessees with the largest dollar amounts of delinquent real property tax owed" from a population of 7,765 delinquent parcels. In contrast to statistical sampling, judgmental sampling uses a targeted selection where units are chosen for inclusion into the sample based on specific criteria. A key drawback of employing a judgmental sample is that there is significant risk that the sample will not be representative of the population. The judgmental sample used in the audit was not representative of the delinquent parcel population. Therefore, the findings generated by the sample should not have been used to make general conclusions about the entire population of parcels with delinquent real property taxes. By doing so, the report misleads the reader.

The judgmental sample was biased toward the large dollar accounts and, because of that, perhaps the oldest (generally, the older the delinquency, the higher the amount due). In addition, the sample size of only 79 out of 7,765 accounts was probably inadequate to give any indication about the population of delinquent taxpayers. Relying on a judgmental sample that is not representative of the population to make general conclusions about the population is misleading.

- **Recommended actions are ineffective and impractical.**

Fine and Deny Services to Delinquent Taxpayers: There does not appear to be any value to the recommendation relating to fines and denying services to delinquent taxpayers. Delinquent taxpayers are experiencing hardship where they are unable to pay their real property taxes. They are already being assessed penalties of up to 10 percent and interest of 12 percent per year on any unpaid taxes. Rather than serving "as an incentive to pay delinquent taxes," a fine would only add to the amount they owe to the City. Denying delinquent taxpayers City services may have unintended consequences such as more unlicensed drivers, greater number of unregistered motor vehicles, increased construction without a permit, and less revenue to the City agencies affected.

This recommendation probably would not justify the incremental increase, if any, in the collection of delinquent taxes. Administrative costs would rise substantially with the need to implement an administrative appeal process to address constitutional due process concerns. No evidence was offered that such a recommendation would be cost effective, practical or feasible. Lastly, assessing a fine and denying services to

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delinquent taxpayers, on top of the real property tax penalties and interest, may be deemed exploitative.

Aggressive Pursuit of Delinquent Taxpayers: The report supports a more aggressive pursuit of delinquent taxpayers through stricter payment plans and "timely action" on foreclosures to protect the City's interests. The overriding objectives of any collection action taken by BFS are the protection of the City's paramount lien position and the realization of all amounts owed the City. BFS endeavors to balance prudent public policy with the negative effects of having to displace property owners for the nonpayment of real property taxes. We do not believe the recommendation is appropriate when the Federal government is encouraging lenders to work with struggling mortgagees and the State of Hawaii in the 2011 legislative session adopted Act 48 making it more difficult for lenders to foreclose.

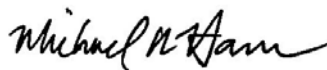
Memorandum of Agreement with the State of Hawaii: All of the components described in the proposed Memorandum of Agreement (MOA) with the State of Hawaii are mandated by existing State law. An MOA would be less effective because it does not have the force of law. The City has made efforts and continues to work with the State on its compliance with those laws. The recommendation is therefore duplicative and unnecessary.

After a thorough review of the report, we have concluded that the recommendations will not lead to material improvement in operations and performance or to the effective resolution of the purported deficiencies. In fact, all of the recommendations (except for two) have been and continue to be part of BFS' delinquent real property tax collection policies, procedures and practices. As discussed above, the other two recommendations, regarding fines and denying City services to delinquent taxpayers and a memorandum of agreement with the State of Hawaii, are ineffective and impractical. More detailed information regarding the findings and recommendations can be found in our response that will be forwarded under separate cover.

Finally, although the report indicates that it was revised "based on the BFS inputs," few of BFS' comments were incorporated and, when mentioned, were misrepresented. BFS continually strives to improve and seeks constructive initiatives to better operations. However, it is counterproductive when honest effort and comments to better the report were apparently not considered and dismissed. This was evident in the discussion and information presented about the economy, judgmental sampling and establishing context, all of which have broad, overriding impact on the audit's findings, conclusions and recommendations.

Please feel free to call me at 768-3901 if you have any questions.

Yours truly,



MICHAEL R. HANSEN
DIRECTOR OF BUDGET AND FISCAL SERVICES

Appendix 1

Real Property Tax Collection Processes and Responsibilities

The legal authority for the imposition and collection of real property taxes is established in Article VIII, Section 3 of the *Constitution of the State of Hawai'i*, which states that:

The taxing power shall be reserved to the State ... except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties.

Taxing functions, powers and duties were transferred to counties in 1980 through the passage of *Hawai'i Revised Statutes (HRS) Chapter 246A. Revised Ordinances of Honolulu (ROH)* follow the provisions set forth in *Chapter 246, HRS, Real Property Tax Law*.

ROH Chapter 8, Real Property Tax describes the process for delinquent real property tax collection. *Section 8-3.2, ROH*, defines as *delinquent* real property tax, the amount due that is unpaid by specified billing dates. After the July 20 bill date, the first payment is due on August 20, and the second is due on February 20. The real property tax collection schedule is illustrated in Exhibit 1.5.

Departmental Responsibility

The Treasury Division of the Department of Budget and Fiscal is responsible for the City's cash management, debt administration and certain accounts receivable. It also bills and collects a variety of revenues and assessments, including real property taxes. The division administers the receivables for real property taxes, including the collection of delinquent real property tax accounts.

Delinquency Collection Section Staff Roles and Responsibilities

Within the Department of Budget and Fiscal Services' Treasury Division, the Real Property Tax Delinquency Collection Section is overseen by the revenue collections administrator. The administrator reported during our interview on February 10, 2010, the section was fully staffed. The section itself is headed by the tax collections supervisor, who in turn supervises two senior collectors (*Delinquent Tax Collection Assistant II*) and seven junior collectors (*Delinquent Tax Collection Assistant I*). Staff titles and responsibilities are summarized in the following exhibit:

**Exhibit A1.1
Staff Responsibilities**

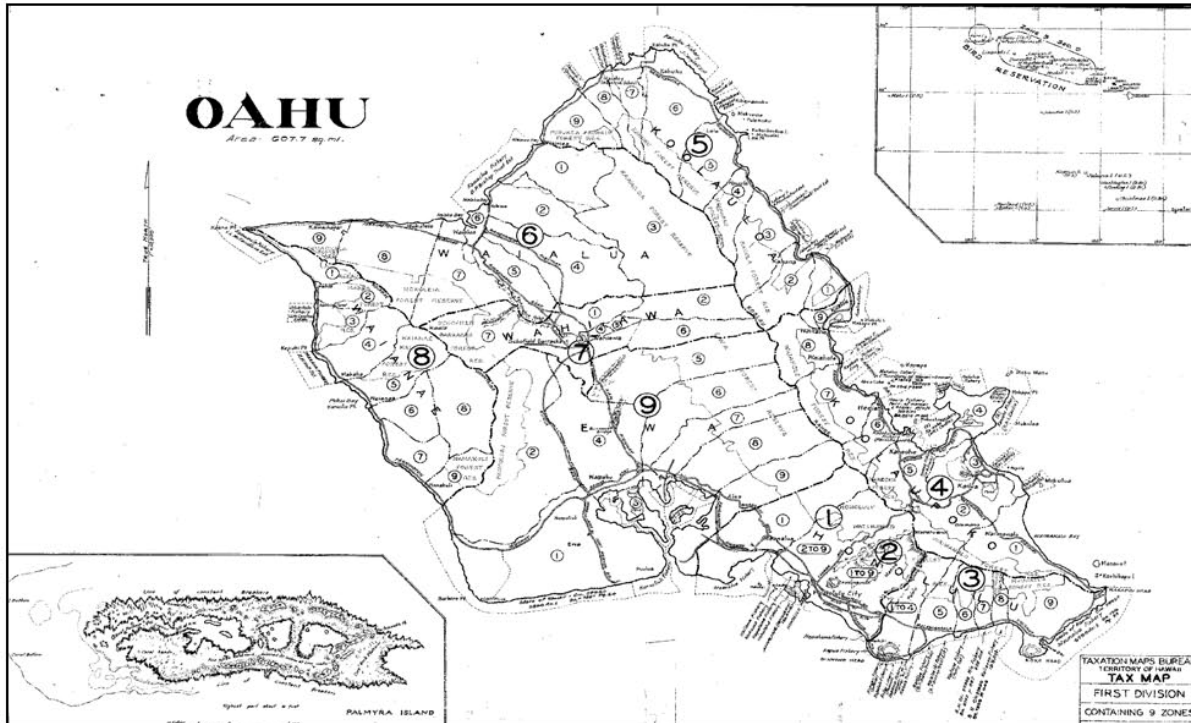
Title	Responsibilities
Revenue Collections Administrator	<ul style="list-style-type: none"> Plans and administers the billing and collection, collection enforcement, county tax relief, and accounting functions of the city's overall accounts receivable program Develops and implements related program policies and practices and accounting systems and procedures Day-to-day responsibility for planning, directing and coordinating the city's accounts receivable program that encompasses billing and collection, collection enforcement, tax relief, and accounting activities involving real property taxes and a variety of other types of revenues collected by the city's Treasury Division.
Tax Collections Supervisor	<ul style="list-style-type: none"> Assigns delinquent accounts for collection to junior and senior collectors, manages and directs all collection efforts. Reviews monthly collection reports, preparation of write-off reports, preparation of annual Tax Sale schedule, plans and directs all foreclosure proceedings. Monthly reports on Form TB316 (i.e., Delinquent Agelist) indicates the number of accounts and amounts collected. Collectors' monthly reports should include the number of field visits made.
Senior Collectors (Two staff positions)	<ul style="list-style-type: none"> Assigned accounts that are delinquent by more than one year Accounts brought back to current or delinquent for one year or less and reassigned to junior collectors. If the account is not brought current, the formal foreclosure process will be commenced. Senior collectors also do field work and may enter into payment plans. Handle all matters involving bankruptcy cases.
Junior Collectors (Seven staff positions)	<ul style="list-style-type: none"> Assigned most current delinquent accounts and work on them for one year. Duties involve sending written notices, telephone contacts, and negotiating payment plans and salary assignments. Approximately 40 field visits per month required for each collector. Field visits are conducted for accounts where mail has been returned or there has been no response by the taxpayer to notices from the collector.

Sources: BFS Delinquency Collection Section Policies and Procedures, and Dept. of Human Resources

Tax Collections Supervisor Responsibilities

The tax collections supervisor reviews the Delinquent Agelist as of June 30 of the current year, which lists current receivables. Accounts that are at least one-year delinquent are assigned to collectors, based on tax map zones (shown in Exhibit A1.2), and the dollar amounts involved. Collectors are excluded from zones that contain their residence.

**Exhibit A1.2
Tax Map Key Zones**



Zone No.	Includes the following areas
1	Moanalua, Kalihi Valley, Palama, part of Nu'uaniu (split by Nu'uaniu Stream)
2	Honolulu Harbor, Ala Moana, Pauoa, Makiki, Manoa, part of Nu'uaniu
3	Palolo, Wai'alaie, Wailupe, Niu Valley, Kuli'ou'ou, Maunalua, Koko Head
4	Kualoa, Waikane, Waiahole, Kahalu'u, He'eia, Kane'ohe, Kailua, Waimanalo
5	Pupukea, Kahuku, Malaekahana, Hau'ula, Punalu'u, Ka'a'awa
6	Ka'ena, Mokule'ia, Kawailoa, Waimea, Waialua
7	Wahiawa, Wai'anae Uka (Schofield Barracks)
8	Wai'anae, Makaha, Kea'au, Makua, Nanakuli
9	'Ewa, Waikele, Waiawa, Manana, Waimano, Waimalu, 'Aiea, Halawa

Source: www.taxmapshi.com

The tax collections supervisor also reviews the list to see if the same owner has other properties within the same zone, and will assign those to a single collector. Each senior collector is assigned specific zones, and a team of three or four junior collectors, depending on the number of accounts assigned for that particular year. Accounts are generally divided equally among junior collectors every year. The tax collections supervisor monitors the number of visits made by junior collectors to ensure that every parcel is visited at least two times, and keeps monthly statistics that are accessible to the administrator at any time.

Collector Responsibilities

By the time junior collectors receive assignments, accounts have already been delinquent for 12 months. According to the revenue collections administrator, their assignment is to get the account current before July 1 of the following year. The junior collector is considered the initial investigator, and thus may not necessarily know the history behind the delinquency at the time of the assignment. In order to get the story behind a delinquency, the junior collector can employ a range of techniques, from Google searches, to checking the city's billing system by owner name to see if they have other properties, and checking voter registration records or driver's license records to see if there has been an address change. If the property is a condominium or apartment, they may call the management company or the Association of Apartment Owners (AOAO), which has a roster of owners. Tracking an owner could take several months. Once taxpayers are contacted, they are told that the property may go into foreclosure, and that the collector is there to work with them to prevent that.

No later than the morning of the day they are to conduct fieldwork; junior collectors submit fieldwork reports to the tax collections supervisor showing which properties they are visiting that day. During fieldwork, collectors carry files and backup documentation on the accounts they are about to visit. Typically they talk to taxpayers regarding the status of their account, document on-site conditions and other write-ups, such as record of payment, in their cars before going to the next account. The status of what the collectors have performed during fieldwork are recorded in the "collector notes" section in the parcel level of the city's billing system after the collectors return to their desks. Notes include what they observed during their visit, including a description of the property, and pertinent details such as whether there were dangerous dogs.

Payment plans are recorded in the delinquent collectors' notes. According to the section's policies and procedures, each collector has the authority to enter into payment plans with the taxpayer after review and analysis of the delinquent taxpayer's financial condition. The collector must obtain relevant documents to evaluate the taxpayer's financial status and ability to repay the delinquency. Generally, payment agreements are short term, requiring payment within six months. Payment plans should satisfy the tax liabilities within the paramount lien period of six years. The general practice has been to enter into informal verbal agreements unless the taxpayer requests a written agreement in order to confirm with its mortgagee that there is a payment plan with the city. The administrator described payment plans as interim steps between billings, to help taxpayers to avoid foreclosure. The informality of the agreement gives collectors the flexibility to allow, for example, the taxpayer the opportunity to make up for a missed payment by doubling up a payment next time. For state and city employees, the collector can enter into payroll deduction plans.

According to ROH Section 8-1.19, *Partial Payment of Taxes*, whenever a taxpayer makes a partial payment, the amount received shall be credited to interest, then to penalties, and then to principal. The city's automated system applies payments to the most delinquent amounts owed. If there are any fees outstanding such as bounced checks or foreclosure costs that have been incurred by the city, partial payments will be applied first to those amounts and then to interest, penalties and principal.

If the account remains delinquent after July 1 of the following year, the tax collections supervisor assigns the account to a senior collector. When a senior collector sends out a statement or bill, a

specific date is set for foreclosure or tax sale. This begins the three-year process for foreclosure. Senior collectors ensure that all the required checks have been made by the junior collectors. They review the research performed, and either direct the junior collector to try other techniques, or determine that the account needs to go to the next step. The senior collector checks liens, any records with banks, and the Bureau of Conveyance to see if there are other owners attached to the property; if the bank is a lien holder then the bank needs to pay the tax. Taxpayers have until the day of foreclosure sale to make payment to avoid foreclosure, but payment for all associated costs must be made in full, including the cost of advertising and title search.

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Appendix 2

Government Leased Lands Sampled

Sample No.	RPI/GV	PartID	Tax Yrs	Company Type	2009 Status	2009 amounts	2011 Status	2011 amounts	Time Lag	BFS Management Comments
1	GV	1-1-003-024-0000A	2008	Airline	State of Hawaii Department of Transportation land. Lessee declared bankruptcy in 2004. Lessee delinquency total of \$81,575 in 2008	\$81,575	Delinquency to be written off	\$0	1 to 3 years	BFS mgt reports: airline terminated lease on 5/13/08. Taxes reversed on 5/6/11.
2	GV	1-1-003-025-0000	2008	Airline	State of Hawaii Department of Transportation land. Lessee declared bankruptcy in 2004. Lessee delinquency total of \$84,025 in 2008	\$84,025	Delinquency to be written off	\$0	1 to 3 years	BFS mgt reports: airline terminated lease on 5/13/08. Taxes reversed on 5/6/11.
3	GV	1-1-072-001-00001	1992-1998	Scenic air tour company	State of Hawaii Department of Transportation land. Lessee delinquencies total \$127,650	\$127,650	Documented for write off in 1998. Written off in 2011	\$0	12 to 18 years	BFS mgt reports: taxes written off on 11/7/10.
4	GV	1-1-072-003-00001	1992-1998	Scenic air tour company	State of Hawaii Department of Transportation land. Lessee delinquencies total \$217,991.	\$217,991	Documented for write off in 1998. Written off in 2011	\$0	12 to 18 years	BFS mgt reports: taxes written off on 11/7/10.
5	GV	1-1-072-008-00001	1992-1995	Air tour company	State of Hawaii Department of Transportation land. Lease terminated in 1995. Lessee delinquencies total \$118,668.	\$118,668	Lien filed in 1995. Delinquencies written off in 2010.	\$0	15 to 18 years	BFS mgt. reports: taxes written off on 11/7/10. BFS mgt reports: taxes assessed on 8/5/10 and due on 9/7/10. Lessee is making monthly payments of at least \$5,000. Lease still valid.
6	GV	1-1-1-003-183-0000-001	2009-2010	Gas and oil services provider	State of Hawaii Department of Transportation land. Lessee delinquency totals \$22,329	\$22,329	No personal liens filed.	\$38,638	1 to 2 years	BFS mgt reports: lessee is appealing tax assessment and claims part of parcel is under water. Lease still valid.
7	GV	1-1-1-003-215-0000-001	1998-2010	Seaplane tours of Honolulu	State of Hawaii Department of Transportation land. Lessee delinquencies total \$93,224.	\$93,224	Personal lien filed in 2006	\$100,313	1 to 13 years	

Government Leased Lands Sampled										
Sample No.	RP/GV	ParID	Tax Yrs	Company Type	2009 Status	2009 amounts	2011 Status	2011 amounts	Time Lag	BFS Management Comments
8	GV	1-1-1-003-233-000-001	2004-2010	Taxi management	State of Hawaii Department of Transportation land. Lessee delinquencies total \$200,476	\$200,476	No personal liens filed.	\$247,494	<1 to 7 years	BFS mgt reports: taxes assessed on 10/21/10 and due on 11/22/10. Non-taxable government parcel, taxes reversed on 7/22/11.
9	GV	1-1-1-003-234-000-001	2004-2010	Taxi management	State of Hawaii Department of Transportation land. Lessee delinquencies total \$263,687	\$263,687	No personal liens filed.	\$276,576	<1 to 7 years	BFS mgt reports: taxes assessed on 10/21/10 and due on 11/22/10. Non-taxable government parcel, taxes reversed on 7/22/11
10	GV	1-1-1-003-235-000-001	2004-2010	Taxi management	State of Hawaii Department of Transportation land. Lessee delinquencies total \$18,416	\$18,416	No personal liens filed.	\$22,735	<1 to 7 years	BFS mgt reports: taxes assessed on 10/21/10 and due on 11/22/10. Lessee did not occupy space. Taxes will be reversed. Waiting for lease termination.
11	GV	1-1-1-072-020-000-001	2007-2010	Air transport	State of Hawaii Department of Transportation land. Lessee delinquencies total \$28,794	\$28,794	No personal liens filed.	\$35,715	<1 to 4 years	BFS mgt reports: taxes assessed on 5/21/10 and due on 6/21/10. Lessee making payments of \$1,500 per month. Lease still valid.
12	GV	1-1-1-076-003-000-001	2005-2010	Tour operator	State of Hawaii Department of Transportation land. Lessee delinquencies total \$37,765	\$37,765	Personal lien filed in 2011	\$44,734	1 to 6 years	BFS mgt reports: lease still valid. Lien filed on 4/6/11.
13	GV	1-1-2-025-059-000-001	2006-2010	Boat and classic car storage, repair, & maintenance	State of Hawaii Department of Transportation land. Lessee delinquencies total \$43,947	\$43,947	No personal liens filed.	\$3,190	<1 to 5 years	BFS mgt reports: taxes assessed on 3/17/11 and due on 4/18/11. Lease still valid.
14	GV	1-1-5-039-015-000-001	2004-2010	Freight forwarder and shipping	State of Hawaii Department of Transportation land. Lessee delinquencies total \$489,432	\$489,432	Lessee appealing in 2010. No personal liens filed.	\$576,478	<1 to 7 years	BFS mgt reports: taxes assessed on 5/28/10 and due on 8/28/10. Real Property adjustment is pending.
15	GV	1-1-5-039-065-000-001	1999-2010	Commercial fishing	State of Hawaii Department of Transportation land. Lessee delinquencies total \$62,669	\$62,669	Personal lien filed in 2006.	\$67,313	1 to 12 years	BFS mgt reports: lien was filed on 8/4/06 and lease is still valid.

Government Leased Lands Sampled

Sample No.	RP/GV	ParID	Tax Yrs	Company Type	2009 Status	2009 amounts	2011 Status	2011 amounts	Time Lag	BFS Management Comments
16	GV	1-1-7-003-044-0004-001	1997-2010	Restaurant	City and County land. Lessee delinquencies total \$21,876 State of Hawaii Department of Transportation land. Permit terminated in 2003. Lessee delinquencies total \$43,568	\$21,876	No personal liens filed.	\$24,167	1 to 14 years	BFS mgt reports: owner sold restaurant and agreed in escrow to pay property taxes. Seller defaulted on agreement and did not pay. Taxes to be written off.
17	GV	1-2-023-060-0000A	2000-2003	Recycler of construction materials	State of Hawaii land. Permit cancelled in 1998. Lessee delinquencies total \$45,581.	\$43,568	City filed personal lien in 2007, but business was involuntarily dissolved. Delinquencies will be written off.	\$21,079	8 to 11 years	BFS mgt reports: taxes will be written off.
18	GV	1-2-023-063-00001	1996-1997	Professional Engineering	State of Hawaii Department of Transportation land. Lessee delinquencies total \$70,547.	\$45,581	Personal lien filed in 1997. Delinquencies written off in 2010.	\$0	13 to 14 years	BFS mgt reports: delinquency written off on 11/7/10, personal lien filed on 10/9/97.
19	GV	1-2-6-010-016-0000-001	2005-2010	Boat builder, manufacturer, and sales	State of Hawaii Housing Finance and Development Corporation of Hawaii. Lessee delinquencies total \$38,419. Lessee claiming non-profit status.	\$70,547	Personal lien filed in 2010.	\$79,391	1 to 6 years	BFS mgt reports: lessee no longer in business and taxes will be written off.
20	GV	1-4-1-006-285-0000-001	2007-2010	Non-profit for federal subsidized housing	State of Hawaii Housing Finance and Development Corporation of Hawaii. Lessee delinquencies total \$49,549	\$38,419	No personal liens filed.	\$39,375	1 to 4 years	BFS mgt reports: Real Property Assessment Division is reviewing assessment.
21	GV	1-4-8-010-003-0000-001	1999-2010	Unknown		\$49,549	Personal lien filed in 2005.	\$52,566	1 to 12 years	BFS mgt reports: property is Hawaii Housing property and lien filed on 8/2/05. Lease still valid.

Government Leased Lands Sampled										
Sample No.	RP/GV	ParID	Tax Yrs	Company Type	2009 Status	2009 amounts	2011 Status	2011 amounts	Time Lag	BFS Management Comments
22	GV	1-5-041-108-00001	1982-1984	Unknown	State of Hawaii land. Permit terminated in 1984 Lessee delinquencies total \$72,178	\$72,178	City filed personal lien in 1987. Judgment favored city's claim. State-owned land cannot be foreclosed. No write off until lessee is deceased.	\$76,451	27 to 29 years	BFS mgt. reports: This is state of Hawaii leased property. Lease was terminated on 9/30/84 and judgment in city's favor awarded on 9/1/87. Lessee is unable to pay because the person has only fixed income.
23	GV	1-5-041-159-00001	1983-1988	Roofing company	State of Hawaii (Agency unspecified). Lessee delinquencies total \$44,534	\$44,534	Discovered property with new TMK as of 1993. Delinquencies declared uncollectible in November 2010 and written off. Balance is \$0. Personal lien filed in 1987.	\$0	22 to 27 years	BFS mgt reports: State lease canceled on 3/31/89, lien filed on 5/5/87, and taxes written off on 11/7/10.
24	GV	1-5-6-006-029-0000-001	2005-2010	Farming	State of Hawaii Department of Agriculture land. Lessee delinquencies total \$21,250	\$21,250	No personal liens filed.	\$21,729	1 to 6 years	BFS mgt reports: lessee did not know he had to file a property dedication and is making monthly payments for 2005 and 2006 taxes. Lease is still valid.
25	GV	1-5-6-006-031-0000-001	2006-2010	Farming	State of Hawaii Department of Agriculture land. Lessee delinquencies total \$17,764	\$17,764	No personal liens filed.	\$18,023	1 to 5 years	BFS mgt reports: state lease transferred to new lessee. New lessee is responsible for delinquent taxes and does not feel they should be paying back taxes.
26	GV	1-9-1-014-039-0000-003	2009	Biofuel and biodiesel producer	State of Hawaii Department of Transportation land. Lease cancelled prior to execution	\$0	No personal liens filed. Lease cancelled.	\$0	not applicable	BFS mgt reports: taxes assessed for 2008 and 2009 on 10/1/10. Lessee's attorney requested a compromise as lessee no longer in business. Payment made for \$44,406 for 2008 taxes.

Government Leased Lands Sampled

Sample No.	RP/GV	ParID	Tax Yrs	Company Type	2009 Status	2009 amounts	2011 Status	2011 amounts	Time Lag	BFS Management Comments
27	GV	1-9-1-014-039-000A-001	2009	Biofuel and biodiesel producer	State of Hawaii Department of Transportation land. Lessee delinquencies total \$62,753	\$62,753	Lessee appealing assessment in 2011. No personal liens filed.	\$63,765	2 years	BFS mgt reports: taxes assessed for 2008 and 2009 on 10/1/10. Lessee's attorney requested a compromise as lessee no longer in business. Payment made for \$44,406 for 2008 taxes.
28	GV	2-7-008-018-0000A	2002-2008	Bowling alley	State of Hawaii Department of Hawaiian Homelands land. Lessee delinquencies total \$109,516	\$109,516	Personal lien filed in 2004.	\$39,637	3 to 9 years	BFS mgt reports: lien filed on 3/3/04 and waiting for Hawaii Home Lands to cancel the lease.
29	GV	4-5-035-009-0002A	2001-2002	Food service concessionaire	City and County land. Concessionaire delinquencies total \$40,337	\$40,337	No personal liens filed. Taxes reversed in 2009. City's Assessment Office failed to issue a form to note that lessee. Lease was cancelled in 2003.	\$20,889	9 to 10 years	BFS mgt reports: concessionaire paying property taxes on city and county property lease.
30	GV	8-3-001-009-0000A	2003-2008	Ranching	State of Hawaii land. Lessee delinquencies total \$95,442	\$95,442		\$0	1 to 6 years	BFS mgt reports: state lease terminated 6/30/03. Lessee provided termination letter and taxes reversed on 10/3/09.
Total \$						\$2,623,782	\$1,870,258	\$1,870,258		

GV = Government Land

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Appendix 3

Privately Owned Lands Sampled

Sample No.	RP/GV	PatID	Tax Yrs	Company Type	2009 Status	2009 Amounts	2011 Status	2011 Amounts	Time Lag	BFS Management Comments
31	RP	1-1-2-006-126-0000-000	2008-2010	Unknown	Owner delinquencies total \$24,849	\$24,849	Delinquency totals \$35,979	\$35,979	1 to 3 years	BFS mgt reports: taxpayer taxes paid through 2008
32	RP	1-1-5-012-001-0006-001	2007-2009	Apparel manufacturer	Owner delinquencies total \$49,652	\$49,652	Owner sold business. Paid in full in 2011	\$0	2 to 4 years	BFS mgt reports: business sold and taxes paid in full on 5/19/11.
33	RP	1-1-5-012-001-0026-000	2008-2009	Apparel manufacturer	Owner delinquencies total \$23,091	\$23,091	Paid in full in 2011	\$0	2 to 3 years	BFS mgt reports: business sold and taxes paid in full on 5/19/11.
34	RP	1-1-8-006-025-0000-000	2008-2010	Day care and preschool	Owner delinquencies total \$34,246	\$34,246	Lien filed in 2011. Delinquency totals \$65,320	\$65,320	1 to 2 years	BFS mgt reports: foreclosure scheduled for May 2013.
35	RP	1-2-1-002-036-0004-006	1999-2002; 2006	Non-profit child care center	Owner delinquency totals \$36,245	\$36,245	Paid in full in 2010	\$0	5 to 12 years	BFS mgt reports: this should be listed as city and county government property. Taxes paid in full on 8/17/10.
36	RP	1-2-1-009-007-0000-000	2009-2010	Property owner	Owner delinquencies total \$23,496	\$23,496	Delinquency totals \$48,961	\$48,961	1 to 2 years	BFS mgt reports: taxes paid in full on 8/26/11.
37	RP	1-2-1-049-014-0000-000	2007-2010	Manufacturer and trading company	Owner delinquencies total \$32,861	\$32,861	Owner on payment plan. Delinquency totals \$39,878	\$39,878	1 to 4 years	BFS mgt reports: owner making \$2,000 monthly payments.
38	RP	1-2-3-003-004-0000-008	2008-2009	Real estate agent and manager	Owner delinquency totals \$23,707	\$23,707	Bank foreclosure in 2011. Bank took back property. Paid in full	\$0	2 to 3 years	BFS mgt reports: taxes paid in full on 5/23/11.
39	RP	1-2-3-013-014-0000-000	2008-2010	Property owner	Owner delinquencies total \$36,940	\$36,940	Owner on payment plan. Delinquency totals \$53,024	\$53,024	1 to 3 years	BFS mgt reports: owner making \$1,100 monthly payments.
40	RP	1-2-3-032-055-0000-000	2008-2010	Corporation	Owner delinquencies total \$42,724	\$42,724	Delinquency totals \$55,540	\$55,540	1 to 2 years	BFS mgt reports: property scheduled for foreclosure in May 2013.
41	RP	1-2-3-036-001-0001-000	2007-2010	Property owner	Owner delinquencies total \$49,454	\$49,454	Owner promises to pay 2 years back taxes to avoid foreclosure in 2011. Delinquency totals \$64,699	\$64,699	1 to 4 years	BFS mgt reports: taxpayer waiting for funds.
42	RP	1-2-4-002-015-0000-000	2008-2010	Property owner	Owner delinquencies total \$19,941	\$19,941	Owner on payment plan. Delinquency totals \$27,565	\$27,565	1 to 3 years	BFS mgt reports: taxpayer paid 2008 taxes.
43	RP	1-2-6-007-015-0005-014	2008-2010	Property owner	Owner delinquencies total \$30,538	\$30,538	Owners proof of 2008 and 2009 bankruptcy filings received in 2010. Delinquency totals \$47,923	\$47,923	1 to 3 years	BFS mgt reports: owner in bankruptcy.

Privately Owned Lands Sampled

Sample No.	RP/GV	ParID	Tax Yrs	Company Type	2009 Status	2009 Amounts	2011 Status	2011 Amounts	Time Lag	BFS Management Comments
44	RP	1-2-6-011-020-0000-000	2009	Condominium	Owner delinquencies total \$148,330	\$148,330	Owner on payment plan. Foreclosure by 2013. Delinquency totals \$142,932	\$142,932	2 years	BFS mgt reports: taxpayer paying \$5,000 per month.
45	RP	1-2-6-014-026-0002-002	2008-2010	Ranch owner	Owner delinquencies total \$21,702	\$21,702	Owner on payment plan. Delinquency totals \$32,560	\$32,560	1 to 3 years	BFS mgt reports: owner paid 2008 taxes on 9/30/11.
46	RP	1-2-6-019-005-0000-000	2008-2010	Property owner	Owner delinquencies total \$55,490	\$55,490	Delinquency totals \$80,548	\$80,548	1 to 3 years	BFS mgt reports: foreclosure scheduled for May 2012.
47	RP	1-2-6-026-014-0008-001	2007-2010	Lessee	Owner delinquencies total \$48,333	\$48,333	Owner is subleasing. Property owner plans to retake property and pay in full. Delinquency totals \$60,669	\$60,669	1 to 4 years	BFS mgt reports: property is for sale and in escrow. Taxes paid in full.
48	RP	1-2-7-030-043-0000-000	2009-2010	Property owner	Owner delinquencies total \$52,854	\$52,854	Owner on payment plan to pay for 2009, promise to pay all by 2011. Delinquency totals \$142,416	\$142,416	1 to 2 years	BFS mgt reports: property is for sale and in escrow. Taxes paid in full.
49	RP	1-2-7-034-008-0000-000	2009-2010	Corporation	Owner delinquencies total \$36,874	\$36,874	Owner on payment plan, monthly ETF from bank. Delinquency totals \$62,891	\$62,891	1 to 2 years	BFS mgt reports: taxpayer making \$3,500 monthly payments.
50	RP	1-2-8-009-071-0000-000	2009-2010	Real estate agent and manager	Owner delinquencies total \$21,047	\$21,047	Owner filed bankruptcy. Delinquency totals \$39,194	\$39,194	1 to 2 years	BFS mgt reports: taxpayer in bankruptcy.
51	RP	1-3-2-006-017-0000-000	2009-2010	Investment firm	Owner delinquencies total \$18,414	\$18,414	Owner on payment plan. Delinquency totals \$33,676	\$33,676	1 to 2 years	BFS mgt reports: taxpayer making \$1,500 monthly payments.
52	RP	1-3-5-014-004-0000-000	2007-2010	Property owner	Owner delinquencies total \$19,326	\$19,326	Judicial foreclosure in 2011. Delinquency totals \$28,557	\$28,557	1 to 4 years	BFS mgt reports: taxes paid in full on 9/30/11.
53	RP	1-4-1-010-071-0000-000	2007-2010	Property owner	Owner delinquencies total \$21,015	\$21,015	Delinquency totals \$30,088	\$30,088	1 to 4 years	BFS mgt reports: taxpayer paid 2007 taxes and will refinance property to pay delinquent taxes in full.
54	RP	1-4-2-038-048-0000-004	2009-2010	Lessee	Owner delinquencies total \$23,421	\$23,421	Owner on payment plan to pay 2009 back taxes. Delinquency totals \$43,152	\$43,152	1 to 2 years	BFS mgt reports: taxes paid in full on 7/18/11.

Privately Owned Lands Sampled										
Sample No.	RP/GV	ParID	Tax Yrs	Company Type	2009 Status	2009 Amounts	2011 Status	2011 Amounts	Time Lag	BFS Management Comments
55	RP	1-4-3-003-076-0000-000	2008-2010	Property owner	Owner delinquencies total \$51,551	\$51,551	Delinquency totals \$73,277 Owner promise to pay 2008 taxes in 2011, or on 2012 foreclosure list	\$73,277	1 to 3 years	BFS mgt reports: 2008 taxes paid on 6/27/11.
56	RP	1-4-3-031-006-0000-000	2008-2010	Property owner	Owner delinquencies total \$44,567	\$44,567	Delinquency totals \$65,162 Owner company dissolved. Assessment indicated land unusable 2004. Lien filed in 2005.	\$65,162	1 to 3 years	BFS mgt reports: 2008 taxes paid on 9/30/11.
57	RP	1-4-7-051-004-0000-000	1999-2010	Property owner	Owner delinquencies total \$55,443	\$55,443	Delinquency totals \$55,393 Lien filed in 2005.	\$55,393	1 to 12 years	BFS mgt reports: land classified as preservation and cannot be foreclosed.
58	RP	1-4-8-008-007-0000-000	2004-2010	Property owner	Owner delinquencies total \$31,865	\$31,865	Delinquency totals \$35,783	\$35,783	1 to 7 years	BFS mgt reports: parcel is landlocked and unable to foreclose.
59	RP	1-8-5-001-033-0000-001	2008-2010	Property owner	Owner delinquencies total \$23,007	\$23,007	Delinquency totals \$33,390	\$33,390	1 to 3 years	BFS mgt reports: 2008 taxes paid on 9/10/11.
60	RP	1-8-4-002-043-0000-000	2007-2010	Property owner	Owner delinquencies total \$20,043	\$20,043	Lender notice of foreclosure in 2010. Delinquency totals \$26,894	\$26,894	1 to 4 years	Taxes not paid.
61	RP	1-8-4-002-048-0000-000	2007-2010	Property owner	Owner delinquencies total \$18,966	\$18,966	Lender notice of foreclosure in 2010. Delinquency totals \$25,565	\$25,565	1 to 4 years	Taxes not paid.
62	RP	1-8-6-001-043-0000-000	2007-2010	Developer	Owner delinquencies total \$26,197	\$26,197	Incomplete housing project. Non-judicial foreclosure in 2009. Owner promises to pay by 2011. Delinquency totals \$35,512	\$35,512	1 to 4 years	Taxes not paid.
63	RP	1-8-7-008-076-0033-000	2004-2010	Development Association	Owner delinquencies total \$47,960	\$47,960	Incomplete housing project. Owner promise to pay by 2011. Delinquency totals \$55,399	\$55,399	1 to 7 years	Taxes not paid.

Privately Owned Lands Sampled										
Sample No.	RP/GV	ParID	Tax Yrs	Company Type	2009 Status	2009 Amounts	2011 Status	2011 Amounts	Time Lag	BFS Management Comments
64	RP	1-9-1-075-035-0000-000	2009-2010	Property owner	Owner delinquencies total \$318,337	\$318,337	Bank foreclosure and owner filed for bankruptcy in 2011. Delinquency totals \$644,876	\$644,876	1 to 2 years	BFS mgt reports: taxes paid in full on 9/30/11.
65	RP	1-9-5-001-058-0000-000	2005-2010	Property owner	Owner delinquencies total \$56,268	\$56,268	Bank foreclosure scheduled for 2011. Delinquency totals \$63,434	\$63,434	1 to 6 years	BFS mgt reports: judicial foreclosure. Taxes not paid.
66	RP	1-9-7-021-044-0000-000	2007-2010	Property owner	Owner delinquencies total \$29,480	\$29,480	Owner on payment plan. Delinquency totals \$37,798	\$37,798	1 to 4 years	BFS mgt reports: taxpayer making \$1,000 per month payments.
67	RP	1-9-7-024-035-0601-000	2000-2010	Real Estate Developer	Owner delinquencies total \$23,161	\$23,161	Owner claims unusable, no appeal filed. Lien filed 2010. Delinquency totals \$24,982	\$24,982	1 to 11 years	BFS mgt reports: lien filed on 3/24/10.
68	RP	1-9-7-024-035-0602-000	2000-2010	Real Estate Developer	Owner delinquencies total \$20,592	\$20,592	Owner claims unusable, no appeal filed. Lien filed 2010. Delinquency totals \$22,517	\$22,517	1 to 11 years	BFS mgt reports: lien filed on 3/24/10.
69	RP	2-4-011-008-0000	2008	Auto company	Owner delinquency totaled \$142,957 for 2008	\$142,957	Deed transferred to new owner. Delinquency paid in full.	\$0	3 years	BFS mgt reports: taxes paid in full on 8/5/09.
70	RP	9-1-075-050-0000	2008	Property owner	Owner delinquency for 2008 totals \$149,630	\$149,630	Deed now held by new owner. Delinquency paid in full.	\$0	3 years	BFS mgt reports: taxes paid in full on 9/30/09.
71	RP	1-3-1-022-002-0000-001	2009-2010	Property owner	Owner delinquencies total \$51,629	\$51,629	Owner on payment plan. Delinquency totals \$152,393	\$152,393	1 to 2 years	BFS mgt reports: taxpayer paid \$90,000 on 9/30/11 to clear 2009 taxes.
72	RP	1-2-2-020-001-0000	2003-2010	Cemetery	Owner delinquencies total \$94,131	\$94,131	Due to cemetery use of property, city cannot foreclose	\$154,590	1 to 8 years	BFS mgt reports: taxpayer filed bankruptcy.
73	RP	2-6-010-005-0000	1999-2008	Boat builder, manufacturing, and sale	Owner delinquencies total \$301,513	\$301,513	Owner out of business. Lien filed in 2010. Delinquency will be written off.	\$172,133	3 to 12 years	BFS mgt reports: this state leased property should be listed as government property. Taxpayer is no longer in business. Lien filed on 4/23/10 and taxes will be written off.

Privately Owned Lands Sampled										
Sample No.	RP/ GV	ParID	Tax Yrs	Company Type	2009 Status	2009 Amounts	2011 Status	2011 Amounts	Time Lag	BFS Management Comments
74	RP	1-2-6-010-007-0001	2007-2008	Property owner	Owner delinquencies from 2007-08 totaled \$185,709	\$185,709	Paid in full; deed now held by new owner.	\$0	3 to 4 years	BFS mgt reports: taxes paid in full on 7/10/09.
75	RP	3-2-007-019-0000	2008-2009	Restaurant	Owner delinquency totaled \$187,517 for 2008	\$187,517	Title transferred to new owner. Delinquency totals \$223,008 (Comment: Same owner #76-78). Lien filed in 2006. City attempted to foreclose on property in April 2006, but foreclosure suit by bank placed property in judicial foreclosure. Delinquencies owed \$397,931.	\$223,008	2 to 3 years	BFS mgt reports: 2009 taxes paid on 8/20/11. Balance to be paid by \$20,000 monthly payments.
76	RP	5-9-011-054-0000	2002-2010	Property Owner	Owner delinquencies total \$344,980	\$344,980	Lien filed in 2006. Property held up in court over whether the building violation or mortgage lender had precedence. Delinquencies owed \$260,341	\$397,931	1 to 9 years	BFS mgt reports: Corporation Counsel is handling the judicial foreclosure.
77	RP	5-9-011-056-0000	2003-2010	Property Owner	Owner delinquencies total \$224,088	\$224,088	Lien filed in 2006. City fines attached to property. Bank foreclosed in 2008. Deed transferred to new owner. New owner is delinquent and owes \$441 for 2010.	\$260,341	1 to 8 years	BFS mgt reports: Corporation Counsel is handling the judicial foreclosure.
78	RP	5-9-012-013-0000	2002-2004-2008	Property Owner	Owner delinquencies total \$592,402	\$592,402	Under litigation due to soil contamination found on the site. New owner owes \$162,833	\$441	3 to 9 years	BFS mgt reports: the court stipulated a judgment for \$196,060 on 5/22/08. The balance owed is for civil fines and will be written off.
79	RP	9-1-032-064-0000	1998-2010	Real Estate Developer	Owner delinquency from 2008 totals \$251,577	\$251,577		\$162,833	1 to 13 years	BFS mgt reports: soil is contaminated and unable to foreclose on property.
		Total \$			\$4,186,969	\$4,186,969	\$3,859,224	\$3,859,224		

RP = Residential/ Private Property

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