

Office of Inspector General

City of New Orleans

A Performance Audit of the Bureau of Revenue's Internal Controls – Compliance Division

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EXECUTIVE SUMMARY

The Bureau of Revenue is a component within the Department of Finance within the City of New Orleans (City) and is responsible for administering and enforcing ordinances pertaining to the collection of various taxes such as sales taxes, hotel-motel taxes, parking and other taxes in accordance with City Code.

The Office of Inspector General conducted an audit of the internal controls of the post-audit processes of the Bureau of Revenue's Compliance Division from January 1, 2011 through December 31, 2012. The objective of the audit was to review and test the internal controls over the Compliance Division's sales tax collection and enforcement processes and evaluate the Bureau's compliance with the controls.

One hundred thirty five sales tax audits were performed by the Compliance Division during the two-year scope period; 35 audits yielding total sales tax liabilities of \$2.8 million were randomly selected for testing. At the time this report was released, the city had collected in excess of \$1.6 million of these liabilities.

The software system used by the revenue department did not have the necessary capabilities to expeditiously track compliance by the taxpayer after the audit process was completed. Staffing was insufficient within the settlement and enforcement unit. As a result, sales tax collections were delayed.

The Bureau lacked internal written policies and procedures for its auditors. As a result:

- The audit files did not contain necessary, audit specific, documentation;
- The Bureau of Revenue did not complete audits in a timely manner;
- The Bureau of Revenue did not timely update the Formal Assessment letter to comply with Louisiana State Law; and
- The taxpayer's bank accounts were not levied as required by the Bureau's informal policy.

The City disagreed with five of the six findings in this report offering no corrective actions for the lack of adequate documentation within the files tested in the compliance unit during the audit

Although the City believes the procedures in place were adequate to effectively collect sales tax revenue, detailed written procedures to augment state law and city ordinances are essential to proper management of the settlement and enforcement units of the Bureau of Revenue.

Note: All responses from the City in the body of this report are direct statements and have not been modified.

I. OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of the audit was to determine whether internal controls and processes utilized by the Compliance Division of the Bureau of Revenue were operating effectively and in compliance with state laws.

The audit scope period was January 1, 2011 – December 31, 2012. The audit was conducted in accordance with the *Principles and Standards for Offices of Inspector General* (the Green Book)¹ and *Generally Accepted Governmental Auditing Standards*² (GAGAS or the “Yellow Book”).

To accomplish the objectives, a stratified random sample of 35 sales tax audits was selected from the population of 135 sales tax audits completed during January 1, 2011 – December 31, 2012). The auditors randomly selected sample units according to their proportion in the population for each year of interest, 2011 and 2012, respectively. Auditors stratified the sample by year to ensure each year was proportionally represented in the total sample. The sample size of 35 was selected to achieve a 90% confidence level and a 6% tolerable error rate.

The following procedures were performed:

1. Conducted interviews with revenue personnel to gain an understanding of the processes and controls involved in the tax collection process;
2. Performed walkthroughs to obtain an understanding of the functions performed by the different divisions within the Bureau of Revenue Compliance Division;
3. Reviewed applicable local ordinances and state laws;
4. Reviewed the Bureau of Revenue policies and procedures, both written and unwritten;
5. Obtained audits completed during the scope period;
6. Reviewed the selected audit files to ensure the completeness of the documentation in the taxpayer’s files;
7. Reviewed the selected audit files to determine the timeliness of the collection process; and
8. Developed findings and observations as a result of the testing performed.

The audit included findings, observations, and recommendations related to the Bureau of Revenue’s internal controls over the Compliance Division.

Computer-processed data was provided and relied on. A formal reliability assessment of the computer-processed data was not performed. Hard copy documents reviewed supported the information contained in the computer-processed data.

¹ Association of Inspectors General (May 2004 Revision).

² Published by the General Accounting Office, December 2012 Revision, which was the revision in effect during the scope period.

II. INTRODUCTION

The Bureau of Revenue is comprised of the following units:

- Audit Unit – Compliance Division
- Settlement/Enforcement – Compliance Division
- Applications – Operations Division
- Special Events – Operations Division
- Delinquent Tax Unit – Operations Division
- ABO-Alcoholic Beverage Outlets – Operations Division
- Fiscal Records Unit – Revenue Accounting
- Cashier – Revenue Accounting

This performance audit only reviewed the Compliance Division, and this introduction outlines the processes of the Compliance Division as it relates to sales taxes.

All businesses that operate within or deliver to Orleans Parish are required to register, obtain a license, and collect and remit sales taxes to the Bureau of Revenue. The City collects a 5% tax on sales/use and a 4.5% tax on the sales of food items and prescription drugs. Businesses are mailed tax returns each month and are required to remit the sales taxes to the Bureau of Revenue by the 20th of the month following the month of collection. A taxpayer has the option of paying sales/use taxes either at City Hall, online websites (nola.gov, parishfile.com or salestaxonline.com) or mail their tax return and payment to the Bureau of Revenue.

The Bureau of Revenue selects sales tax returns to audit by developing an audit plan. It also selects taxpayers to audit by reviewing delinquent taxpayer accounts; receiving information provided by other taxpayers; comparing various City issued licenses to filed tax returns; and selecting taxpayers with a license who did not file a sales tax return. An audit is then conducted and an exit conference is held with the taxpayer at the conclusion of the audit.

Once the audit was completed, the Compliance Division employed the following collection procedures:³

- A *Proposed Assessment* letter is mailed to the taxpayer after the exit conference. The Proposed Assessment letter grants the taxpayer 30 days to pay or protest the taxes owed.
- An *Adjusted Proposed Assessment*⁴ letter is mailed if the taxpayer protested and provided documentation that requires an adjustment to the tax owed.
- A *Formal Assessment* letter is mailed if the tax has not paid after the deadline expires in the Proposed Assessment or Adjusted Proposed Assessment letters. The Formal Assessment letter grants the taxpayer 30 days⁵ to pay or protest the taxes owed.

³ Refer to Appendix I for a flow chart of this process.

⁴ The Adjusted Proposed Assessment is not required by Louisiana State law, but the Bureau of Revenue includes this in its collection procedures.

⁵ 60 days if dated prior to January 1, 2011.

- An *Adjusted Formal Assessment*⁶ letter is mailed if the taxpayer protested and provided documentation that requires an adjustment to the tax owed.
- A *Demand Payment Notice* is mailed to the taxpayer if the tax is not paid after the deadline expires in the Formal Assessment or Adjusted Formal Assessment letters. The Demand Payment Notice grants the taxpayer 10 days to pay or enter into an installment agreement to pay the taxes owed.
- A *lien* is recorded and filed with the Recorder of Mortgages Office in Orleans Parish on the taxpayer's business property.
- A *Notice of Levy* is mailed to local and national banks if the taxes are not paid after the Demand Payment Notice.
- The audit file is transferred to the Law Department if the taxes are not paid as a result of the lien and levy.

The status of the 35 taxpayer files is documented in Table 1 below. Taxpayer D, for example, had an initial assessment of \$63,598. After providing additional sales tax documentation, \$19,307 was adjusted and \$44,291 was the final assessment. No credits were applied, but the Tax Review Committee (TRC) waived \$8,289 in penalties and fees. The remaining balance of \$36,002 was paid by the taxpayer.

Two taxpayers requested refunds. Taxpayer Q, for example, requested a refund of \$161,951 and also had accrued interest of \$3,128 owed to him. Therefore, his total refund totaled \$165,079.

As of June 25, 2014, \$919,335 of taxes assessed on the sampled taxpayers during the audit period remained outstanding.

⁶ The Adjusted Formal Assessment is not required by Louisiana State law, but the Bureau of Revenue includes this in its collection procedures.

Table 1 – Taxes Outstanding, Refunds Requested and Current Status of Sampled Taxpayers as of June 25, 2014

Taxpayer ID	(A) Amount Assessed (includes interest & penalties)	(B) Adjustments	(C) = (A) - (B) Final Assessment	(D) Credits Applied	(E) Penalty, Negligence Fees Waived By TRC	(F) Taxes Collected	(G) = (C) - (D) - (E) - (F) Taxes Outstanding	Key
A	\$265,710	\$0	\$265,710	\$0	\$0	\$0	\$265,710	6
B	18,079	0	18,079	0	0	0	18,079	4
C	0	0	0	0	0	0	0	2
D	63,598	19,307	44,291	0	8,289	36,002	0	1
F	2,579	0	2,579	0	0	0	2,579	0
G	104,039	0	104,039	0	18,927	85,112	0	1
H	5,352	0	5,352	0	684	4,668	0	1
I	44,381	31,118	13,263	0	0	13,263	0	1
J	3,126,445	3,126,445	0	0	0	0	0	2
K	238,008	189,835	48,173	0	22,578	25,595	0	1
L	17,636	0	17,636	3,615	0	14,021	0	1
M	133,073	0	133,073	0	24,838	108,235	0	1
N	138,646	58,325	80,321	0	0	58,023	22,298	3
O	387,015	171,105	215,910	0	30,604	185,306	0	1
P	52,672	15,878	36,794	0	0	0	36,794	5
R	96,956	0	96,956	0	0	21,000	75,956	5
S	88,935	27,983	60,952	0	0	0	60,952	5
T	12,652	0	12,652	0	0	8,521	4,131	7
U	357,594	0	357,594	0	58,611	298,983	0	1
V	8,247	0	8,247	606	0	7,641	0	1
W	319,616	42,043	277,573	0	23,760	119,676	134,137	3
X	0	0	0	0	0	0	0	2
Y	92,440	0	92,440	0	18,183	74,257	0	1
Z	101,098	0	101,098	56,613	44,485	0	0	1
AA	2,616,911	2,575,558	41,353	0	16,964	24,389	0	1
BB	3,840	0	3,840	0	0	3,840	0	1
CC	11,995	9,872	2,123	0	0	2,123	0	1
DD	144,557	0	144,557	0	0	0	144,557	4
EE	11,539	0	11,539	0	1,764	9,775	0	1
FF	1,627,955	1,367,546	260,409	0	0	260,409	0	1
GG	4,082	0	4,082	0	0	4,082	0	1
HH	167,081	0	167,081	0	0	10,360	156,720	4
II	244,241	0	244,241	0	40,805	203,436	0	1
Totals	\$10,506,970	\$7,635,015	\$2,871,955	\$60,834	\$310,491	\$1,581,295	\$919,335	

Taxpayer ID	(A) Refund Requested	(B) Adjustments	(A) + (B) = Final Refund
E	-\$96,517	\$0	-\$96,517
Q	-161,951	-3,128	-165,079
Totals	-\$258,468	-\$3,128	-\$261,596

Key	
1 - Taxes were collected. File was closed.	
2 - Taxpayer had no tax liability. File was closed.	
3 - Taxpayer was paying in accordance with installment agreement.	
4 - The Law Department was not pursuing the taxpayer because the business is closed. The only recourse was the lien placed on the property.	
5 - The taxpayer file was transferred to the Law Department, but no lawsuit was filed as of June 25, 2014.	
6 - In May 2013, the Law Department filed an answer to the taxpayer's December 2013 discovery request. No additional action was taken since May 2013.	
7 - Taxpayer file was never sent to the Law Department from the Enforcement Unit. No collection action was taken since October 24, 2012, and no lawsuit was ever filed.	

III. FINDINGS AND RECOMMENDATIONS

Finding #1

Condition: The Bureau of Revenue lacked internal written policies and procedures to enforce timely collection of unpaid tax assessments and relied on informal policies that were not always followed. The Bureau of Revenue's informal policies did not specify an acceptable timeframe to:

- Collect taxes owed from voluntary disclosure taxpayers.
- Issue a Proposed Assessment letter after the exit conference.
- Respond to a taxpayer's protest of a tax assessment.
- Issue an Adjusted Proposed Assessment letter to the taxpayer after the Bureau of Revenue received the taxpayer's protest.
- Issue a Formal Assessment Letter after the expiration of the Proposed Assessment letter or Adjusted Proposed Assessment letter.
- Issue an Adjusted Formal Assessment letter to the taxpayer after the Bureau of Revenue received the taxpayer's protest, if an adjustment is necessary.
- Issue a Demand Payment Notice after the expiration of the Formal Assessment letter or Adjusted Formal Assessment letter.
- File and record a lien on the taxpayer's property after the expiration of the Demand Payment Notice.
- Mail a Notice of Levy letter to various banks after the expiration of the Demand Payment Notice.
- Transfer the taxpayer's file to the Law Department after recording a lien and mailing a Notice of Levy to various banks.

Criteria: The Louisiana Legislative Auditor's Checklist of Best Practices in Government stated "Formal/written procedures are necessary as a clear understanding of what should be done, how it should be done, who should do it, and when it should be done and ensure the procedures followed meet management's expectations. Written procedures aid in the continuity of operation and for cross-training of staff."

Cause: The Bureau of Revenue did not provide sufficient guidance on the collection processes to the Settlement and Enforcement Departments. Additionally, the Bureau of Revenue used a system that was not designed to track the length of time between each settlement/enforcement process.

Effect: The Bureau of Revenue did not implement collection procedures in a timely manner, which resulted in delayed collection of revenue for the City. Appendix II shows the number of days between each step of the process. **Note:** Not all audited taxpayers' files go through each step of the process. For example, if a taxpayer pays his taxes after the Proposed Assessment letter is mailed, then a Formal Assessment letter, Demand Payment Notice, etc. is not necessary.

Recommendation: The Bureau of Revenue should provide written policy guidance to the Settlement and Enforcement Departments so that the Bureau of Revenue can collect taxes expeditiously.

City Comment: *"...The Bureau of Revenue follows the law as prescribed by the Louisiana Legislature and the New Orleans City Council to enforce collections of sales, use and other taxes administered by the Department of Finance. These laws state who [sic] should perform a collection action and what should be done. The Bureau of Revenue does in fact follow specific written guidelines in the collection of taxes: State and local law."*

OIG Comment: The laws outline the requirement and internal written procedures would outline how the law is to be carried out within the Bureau of Revenue. It is difficult to understand why the importance of written procedures in this very crucial area of the collection process is not appreciated.

Finding #2:

Background: Delage Laden E Partners built a custom revenue management system for the City of New Orleans called the City of New Orleans Revenue System (CNORS). The financing agreement was signed on December 28, 2004 and was implemented on January 9, 2006.

Condition: CNORS was not designed nor did it have the ability to:

- Maintain a centralized list documenting the types of letters sent to the taxpayers;
- Track the dates letters were sent to the taxpayers;
- Record follow-up actions taken by the auditors if payment was not received;
- Track dates of the follow-up actions taken by the auditors; and
- Provide a tickler-file to alert the Bureau of Revenue of upcoming and past due deadlines.

Criteria: Management should design "...the entity's information system⁷ to obtain and process information to meet each operational process's information requirements and to respond to the entity's objectives and risks...Information technology enables information related to operational processes to become more available to the entity on a timely basis...Management designs control activities over the information technology infrastructure to support the completeness, accuracy, and validity of information processing by information technology."⁸

Cause: CNORS did not provide complete and accurate information needed for the Bureau of Revenue to collect taxes expeditiously.

Effect: The shortcomings in CNORS capability increased collection time and resulted in a delayed cash flow to the City.

⁷ According to the GAO, "An information system represents the life cycle of information used for the entity's operational processes that enables the entity to obtain, store, and process quality information."

⁸ GAO Standards for Internal Control in the Federal Government 2013 Exposure Draft, September 2013.

Recommendation: The Bureau of Revenue should acquire a system that provides complete and accurate information that allows the Bureau of Revenue to expedite the settlement and enforcement processes.

City Comment: *“...In 2012 the City began the process to acquire a new revenue system and appropriated funding for it. The new revenue system is expected to be put into use by the end of 2014.”*

Finding #3

Condition: The Bureau of Revenue did not maintain complete audit files.

- Thirty-two (91%) of the 35 taxpayer files tested did not have adequate documentation of correspondence between the Bureau of Revenue and the taxpayer.
- Nine of the 35 taxpayers protested the Formal Assessment letter. Four (44%) of the nine taxpayer files did not contain the taxpayer’s protest letter.
- Two taxpayers paid after the Formal Assessment process. One (50%) of the two taxpayer files did not contain the Tax Review Committee⁹ Determination letter.

Criteria: Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. All documentation and records should be properly managed and maintained.¹⁰

Cause: The Bureau of Revenue’s settlement and enforcement processes are manual processes, and documentation was often not created or maintained.

Effect: The lack of documentation created inefficiencies in locating documents and tracing the progress of the file. Incomplete files also resulted in delayed collection times, cash flows, and collections for the City.

Recommendation: The Bureau of Revenue should maintain and file all taxpayer documentation in an easily accessible and traceable format.

City Comment: *“...The Bureau of Revenue believes its audit files do contain adequate documentation, as required by law.”*

OIG Comment: Several different auditors from the OIG went through certain files during the audit process. All of them had difficulty finding the proper documentation to support many of the unwritten procedures outlined by the Bureau of Revenue.

⁹ According to City Code Sec. 150-151, the Tax Review Committee provides “a body to review, hear and decide, at a minimum of expense to the taxpayer, questions arising from disputes or controversies between taxpayer and the director of the department of finance of the city in regard to all taxes, other than ad valorem taxes...”

¹⁰ GAO United States General Accounting Office Standards for Internal Control in the Federal Government, September 2013, p. 49.

Finding #4:

Condition: The Bureau of Revenue did not complete audits in a timely manner. Twenty-five (71%) of the 35 audits were assigned and then completed between ninety-one and 840 days (over 2.3 years).

Table 2 – Number of days to complete an audit

# Days to complete an audit	# Taxpayers
31-90	4
91-150	2
151-250	6
251-350	1
351-450	7
451-650	3
651-850	2
Total Taxpayers	25¹¹

The auditors were unable to determine the start and completion dates for seven (20%) audits of the 35 audits tested.

Twelve of the 35 audits tested (34%) had over 80 man hours charged to the audit.

Table 3 – Number of hours to complete an audit

Approximate Weeks ¹²	#	# Hours	# Taxpayers
0-2		0-80	13
2-4		81-160	7
4-6		161-240	3
6-8		241-320	2
Total Taxpayers			25

The auditors were unable to determine the numbers of hours worked to complete the audit in ten (29%) of the 35 audits tested.

Criteria: The Louisiana Legislative Auditor’s Checklist of Best Practices in Government stated “Formal/written procedures are necessary as a clear understanding of what should be done, how it should be done, who should do it, and when it should be done and ensure the procedures followed meet management’s expectations.”

The Bureau of Revenue stated that its auditors complete audits in three to four weeks and the audits are budgeted 80 hours to complete.

¹¹ Three audits were completed within 30 days.

¹² Using a 40 hour work week.

Cause: The Bureau of Revenue lacked oversight over the completion of the audits and did not monitor or manage the completion time on audits conducted.

Effect: Extended audit times resulted in delayed collection and cash flows for the City.

Recommendation: The Bureau of Revenue should monitor or manage the completion time of audits to ensure audits are completed in a timely manner. Any delays should be documented.

City Comment: *"...The Bureau of Revenue actively monitors audit assignments to manage progress and to ensure that audits are moving forward in a systematic way..."*

Finding #5:

Background: Louisiana law determines how much time a taxpayer is granted to pay their taxes, which is documented in a Formal Assessment letter.¹³ Prior to January 1, 2011, taxpayers were granted 60 days to pay the taxes assessed. On January 1, 2011, the Louisiana Legislature revised La. R.S. 47:337.51 to reduce the number of days the taxpayer was given to pay the taxes assessed from 60 days to 30 days.

Condition: The Bureau of Revenue did not update its Formal Assessment letter to reduce the number of days from 60 to 30 days until October 2012, approximately one year and 9 months after the effective date of the revision.

Criteria: "This notice shall inform the taxpayer of the assessment and that he has thirty calendar days from the date of the notice to (a) pay the amount of the assessment; (b) request mandatory arbitration pursuant to R.S. 47:337.51.1; or (c) pay under protest in accordance with R.S. 47:337.63 and file suit as provided for in that Section or request mandatory arbitration pursuant to R.S. 47:337.51.1."¹⁴

Cause: The Bureau of Revenue did not update the Formal Assessment letter to comply with Louisiana law.

Effect: Eighteen of the 35 taxpayers tested were sent Formal Assessment letters. Fourteen (78%) of the 18 Formal Assessment letters granted the taxpayer 60 days to remit the taxes owed instead of 30 days. The additional time granted increased the collection time and delayed cash flow for the City.

Recommendation: The Bureau of Revenue should update assessment letters timely when changes occur to applicable Louisiana law.

¹³ The Louisiana Legislature also determines how much time a taxpayer is given in the Proposed Assessment letter and Demand Payment Notice. These deadlines were not revised.

¹⁴ Acts 2010, No. 1003, §2, eff. Jan. 1, 2011.

City Comment: *“...The Bureau of Revenue will ensure future changes in state law are updated more timely.”*

Finding #6:

Background: The Bureau of Revenue levied a taxpayer’s account if the taxpayer did not pay or settle their taxes after the Demand Payment Notice deadline. The Bureau of Revenue’s informal policy calls for a Notice of Levy to be mailed to 17 local and national banks with offices in New Orleans. Seventeen banks are chosen by the Bureau of Revenue so as to locate as many of the taxpayer’s accounts as possible.

Condition: Eight (23%) of the 35 taxpayers’ bank accounts were not levied as required by the Bureau of Revenue’s informal policy:

- Three taxpayers did not have any levy letters sent; and
- Five taxpayers had less than 17 levy letters sent.

Criteria: The Bureau of Revenue’s informal internal policy dictated that levy letters be mailed to 17 banks.

Cause: The Bureau of Revenue did not follow its own informal policy.

Effect: The Bureau of Revenue reduced its ability to collect tax liabilities from taxpayers.

Recommendation: The Bureau of Revenue should send and retain documentation of levy letters sent to all 17 banks to increase the likelihood of accessing all funds owned by the taxpayer.

City Comment: *“...The merge document used to create levies contains hard coded address information for all 17 banks. The complete document consists of seventeen (17) levies.”*

OIG Comment: The files tested as well as the Bureau of Revenue personnel interviewed did not or could not produce copies of the letters purported to have been sent to the seventeen banks listed in the Bureau of Revenue’s informal policy.

IV. OBSERVATIONS

Observation #1: The engagement letter sent to taxpayers referenced Louisiana Revised Statute 46:337.36, which did not exist; the proper citation should have been to Louisiana Revised Statute 47:337.36.

Observation #2: Of the 35 audit files selected for testing:

- Thirteen audit reports and one exit conference memo were not dated.
- Two audit reports were not dated with the final audit date.
- Two taxpayers' audit reports were dated after the exit conference because a final exit conference was not held even though significant changes were made to the initial audit report.

Observation #3: The Settlement and Enforcement Unit consisted of one person. One person is responsible for the following tasks:

- Preparing and mailing the Proposed and Adjusted Proposed Assessment letters, Formal and Adjusted Formal Assessment letters, and Demand Payment Notices to all taxpayers;
- Recording and tracking deadlines issued in each of the above mentioned letters;
- Filing liens on all taxpayer's properties;
- Levying taxpayer bank accounts;
- Recording tax payments from taxpayers; and
- Transferring taxpayer files to the Law Department.

This staffing appears insufficient to perform required tasks in a timely manner.

Observation #4: Fourteen (40%) of the 35 taxpayers tested did not have an exit conference. No evidence was maintained in the file that documented the taxpayers' decision to waive the exit conference. The Bureau of Revenue should conduct exit conferences with all taxpayers once the audit is completed. If a taxpayer desires to waive the exit conference, then the Bureau of Revenue should document the taxpayer's decision.

V. GLOSSARY OF TERMS

1. **Adjusted Proposed Assessment Letter** – A letter sent to the taxpayer after the taxpayer protested the Proposed Assessment, and the proposed tax assessment required an adjustment due to the taxpayer’s protest. La. R.S. 47:337.50, stated, “At the expiration of thirty calendar days from the date of the collector’s notice...or at the expiration of such time as may be necessary for the collector to consider any protest filed to such notice, the collector shall proceed to assess the tax, penalty, and interest that he determines to be due...The assessment may confirm or modify the collector’s originally proposed assessment.”
2. **Adjusted Formal Assessment** - A letter sent to the taxpayer after the taxpayer protested the Formal Assessment letter, and the formal tax assessment required an adjustment due to the taxpayer’s protest.
3. **Audit** – To conduct an official financial examination of an individual’s or organizations’ accounts to determine the tax liability.
4. **Audit Report** – A report issued by the Bureau of Revenue to a taxpayer with the amount of taxes owed as a result of the audit performed.
5. **Assessed Amount** – The initial tax owed stated in the audit report.
6. **Association of Inspectors General (AIG)** – An association established in October 1996 to “foster and promote public accountability and integrity in the general areas of prevention, examination, investigation, audit, detection, elimination and prosecution of fraud, waste and abuse, through policy research and analysis; standardization of practices, policies, conduct and ethics; encouragement of professional development by providing and sponsoring educational programs; and the establishment of professional qualifications, certifications, and licensing.”¹⁵
7. **Bureau of Revenue**¹⁶ – A department within the City of New Orleans that provides services for businesses and citizens which includes:
 - a. Enforcing ordinances pertaining to the collection of sales, hotel-motel, parking and other taxes;
 - b. Obtaining the necessary permit and licenses to operate a business in the City; and
 - c. Issuing Resale Certificates allowing businesses to purchase items without paying sales taxes as long as these items are resold in the normal course of business.

¹⁵ <http://inspectorsgeneral.org/about/>.

¹⁶ <http://www.nola.gov/revenue-sales-tax/>.

8. **Demand Payment Notice** – A letter sent when a taxpayer had not paid or settled their taxes after the deadline issued in the Formal Assessment letter or the Adjusted Formal Assessment letter. This letter gives the taxpayer 10 days to pay their taxes or make arrangements for payment. La. R.S. 47:337.55, stated “If the taxpayer fails to accompany his return filed with a proper payment...the collector shall immediately send a notice by mail to such person...demanding payment of such amount within ten calendar days from the date of the notice...”
9. **Distraint** – To seize and sell the taxpayer’s property to satisfy the taxes owed to the City. La. R.S. 47:337.57 stated, “The words distraint” or “distrain”...shall be construed to mean the right to levy upon and seize and sell, or the levying upon or seizing and selling, of any property or rights to property of the taxpayer including goods...real estate and other forms of property...for the purpose of satisfying any assessment of tax, penalty or interest due.”
10. **Exit Conference** – A meeting between the Bureau of Revenue representative or contracted auditor and taxpayer at the conclusion of an audit to discuss the audit report findings, which includes the tax assessment due to the City.
11. **Final Assessment** – The actual taxes that are due to the Bureau of Revenue from the taxpayer.
12. **Finding** – Findings in a performance audit can be any one or a combination of the following:¹⁷
 1. Significant deficiencies in internal control,
 2. Fraud and illegal acts,
 3. Violations of contract and grant agreements, and/or
 4. Abuse.

Each finding contains five elements: condition, criteria, cause, effect, and recommendation.

- a. **Condition** – An element of a finding that explains *what happened*.
 - b. **Criteria** – An element of a finding that states *what is required*.
 - c. **Cause** – An element of a finding that explains *why the condition happened*.
 - d. **Effect** – An element of a finding that states the *impact of what happened*.
 - e. **Recommendation** – An element of a finding that provides suggestions to correct a condition.
13. **Formal Assessment Letter** – A letter sent when a taxpayer has not paid or settled their taxes after the deadline issued in the Proposed Assessment letter or Adjusted Proposed Assessment letter.

¹⁷ General Accounting Office. (July 2007 Revision). Government Auditing Standards United States Government Accountability Office by the Comptroller General of the United States.

This letter gives the taxpayer an additional 60 days¹⁸ to pay the taxes under protest, protest the taxes, request a hearing with the Tax Review Committee (TRC), enter into an installment agreement, or pay the taxes owed. La. R.S. 47:337.51, stated

“This notice shall inform the taxpayer of the assessment and that he has thirty calendar days from the date of the notice to (a) pay the amount of the assessment; (b) request mandatory arbitration pursuant to R.S. 47:337.51.1 or; (c) pay under protest...and file suit as provided for in that Section or request mandatory arbitration...”

Note: On January 1, 2011, the Louisiana Legislature changed this statute which reduced the taxpayer time to pay from 60 to 30 days.

14. **Generally Accepted Government Auditing Standards (GAGAS)** – The standards used to conduct governmental audits as recommended by the General Accounting Office (also referred to as the “Yellow Book”).
15. **General Accounting Office (GAO)** – An agency within the U.S. Government responsible for writing the “Yellow Book.”
16. **Installment Agreement** –An installment agreement allows the taxpayer to make a down payment and spread the remaining taxes owed over a period of time.
17. **Lien** – The Bureau of Revenue records a tax assessment judgment against the taxpayer’s business property and structure with the Orleans Parish Clerk of Court (Mortgage Office) for the amount of taxes owed to the City. La. R.S. 47:337.65 stated, “...The collector may cause notice of such lien, privilege and mortgage to be recorded at any time after the tax becomes due...”
18. **Notice of Levy** – A notification informing the banks that the City has placed a Warrant for Distraint for the total taxes owed to the City by the taxpayer. This letter demands that banks surrender any property rights or rights to property in their possession, custody or control, including any real estate and other forms of property for the amount of the tax assessment owed to the City.¹⁹ La. R.S. 47:337.56 stated, “When any taxpayer fails to pay any tax, penalty, and interest assessed, the collector may proceed to enforce the collection thereof by distraint and sale.”
19. **Observation** – Observations emphasize a matter that may or may not affect the quality of the organization’s operations. Observations are not findings and do not require a response from the entity.
20. **Proposed Assessment Letter** – The initial tax assessment letter sent to the taxpayer after the exit conference giving the taxpayer 30 days to pay, settle or protest the taxes owed.

¹⁸ 30 days if issued after January 1, 2011.

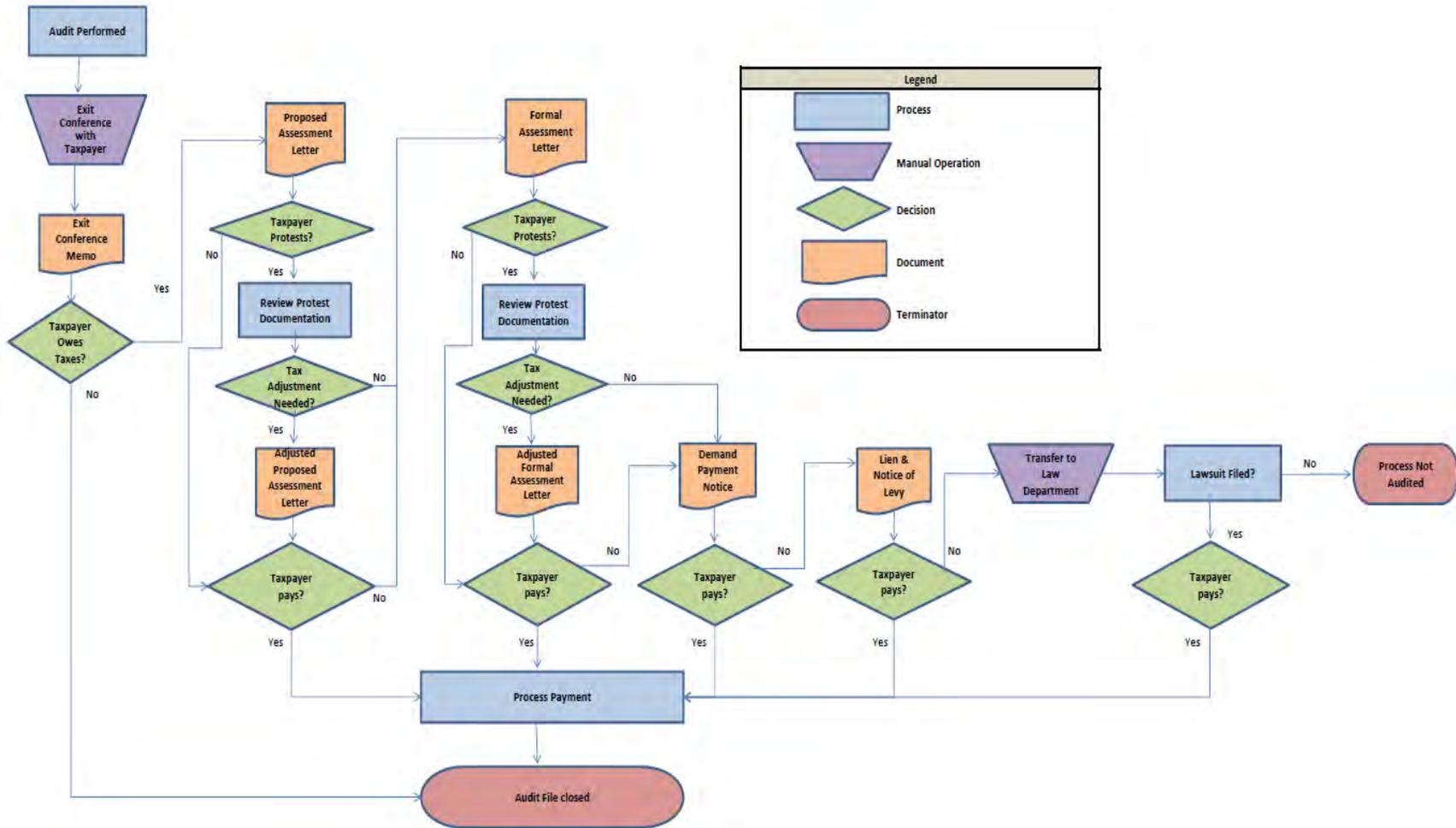
¹⁹ La. R.S. 47:337:57.

La. R.S. 47:337.48(B) stated, "If a return or report made and filed does not correctly compute the liability of the taxpayer, the collector shall cause an audit...or examination...to be made to determine the tax, penalty, and interest due. Having determined the amount of tax, penalty, and interest due, the collector shall send by mail a notice to the taxpayer...informing the person of his purpose to assess the amount so determined against him after thirty calendar days from the date of the notice."

21. **Protest** - A taxpayer disagrees with the City's tax assessment and sends in written documentation outlining the dispute along with documentation supporting their dispute. La. R.S. 47:337.49 stated, "The taxpayer...within thirty calendar days from the date of the notice...may protest thereto. This protest must be in writing and should fully disclose the reasons, together with facts and figures in substantiation thereof, for objecting to the collector's determination. The collector shall consider the protest, and shall grant a hearing thereon, before making a final determination of tax, penalty, and interest due."
22. **Protest Response** – The Bureau of Revenue's response to the taxpayer's Protest which will either confirm the taxes owed or will reduce the tax liability based on the supporting documentation provided in the protest.
23. **Significant** – A "judgment call" by the auditor that is usually based upon the frequency and magnitude of the deficiency or condition.
24. **Standards for Offices of Inspector General** – The standards contained in the GAO's *Standards for Internal Control in the Federal Government* (Also referred to as "The Green Book").
25. **Summary of Tax Deficiency Exhibit** - A summary documenting the taxes owed by a taxpayer.
26. **Tax Review Committee (TRC)** – A committee that reviews questions from taxpayers disputing taxes assessed by the City. This committee can waive penalties, negligence fees, and the audit costs, if deemed appropriate.
27. **Tickler File** – A method of reminding the user of where and when an item is placed in a temporary location and can be structured to remind, or tickle, the user when a certain period of time has elapsed.
28. **U.S. Generally Accepted Accounting Principles (GAAP)** – The standard guidelines used in financial accounting in the United States.
29. **Voluntary Disclosure** – A taxpayer does a self-assessment and the Bureau of Revenue calculates interest and penalties and prepares the case for a hearing with the TRC.
30. **Warrant for Distraint** – A warrant issued by the City to secure (seize and sell) the taxpayer's property for taxes owed to the City.

VI. APPENDICES

Appendix I – Flow Chart of the Enforcement/Settlement Processes



Appendix II – Days Between Each Process & Number of Taxpayers Applicable to Each Process

Number of Days between processes	Number of Taxpayers						
	Audit Report & Exit Conference	Days Lapsing Between Exit Conference & Proposed Assessment	Taxpayer Protest & Revenue Dept. Protest Response (Proposed)	Adjusted Proposed Assessment & Taxpayer Protest Date	Proposed or Adjusted Proposed Assessment & Formal Assessment	Taxpayer Protest & Revenue Dept. Protest Response (Formal)	Adjusted Formal Assessment & Taxpayer Protest Date
Less than 0 days	2	0	0	0	0	0	0
0-30 days	8	9	10	4	1 ²⁰	3	1
31-90 days	2	4	3	1	15	3	1
91-150 days	3	0	3	0	1	0	0
151 days - 250 days	0	0	2	0	1	0	0
Greater than 250 days	0	1 ²¹	0	0	0	0	0
Procedure not performed	0	5 ²²	0	0	1 ²³	0	0
Could not calculate	17 ²⁴	9 ²⁵	0	0	0	3 ²⁶	3 ²⁷
Not Applicable	3 ²⁸	7 ²⁹	17 ³⁰	30 ³¹	1 ³²	11 ³³	15 ³⁴
Total Taxpayers³⁵	35	35	35	35	20	20	20

²⁰ The Bureau of Revenue sent the taxpayer a Formal Assessment before the Proposed Assessment deadline.

²¹ The Bureau of Revenue received the audit file on May 2, 2011 from contract auditors, 413 days after the exit conference was held.

²² Taxpayers were voluntary disclosure taxpayers. The taxpayer came to the Bureau of Revenue and voluntarily disclosed that they had not filed returns. The Bureau of Revenue did not have any collection procedures documented regarding Voluntary Disclosures, and the Bureau of Revenue did not pursue the taxpayer through the settlement/enforcement processes.

²³ The Bureau of Revenue did not send the taxpayer a Formal Assessment after the deadline of the Proposed Assessment.

²⁴ The OIG auditors could not calculate the number of days because 14 taxpayers did not have an exit conference, two taxpayer files did not contain an exit conference memo, and one exit conference memo did not contain a date.

²⁵ Taxpayers were sent a Proposed Assessment, but the OIG auditors could not calculate the number of days between each process because six of the taxpayers did not have an exit conference; two taxpayer files did not contain an exit conference memo, and one exit conference memo did not contain a date.

²⁶ Taxpayer file did not contain protest documentation; therefore, the OIG auditors could not calculate.

²⁷ Taxpayer file did not contain protest documentation; therefore, the OIG auditors could not calculate.

²⁸ The exit conference was waived; therefore, the calculation did not apply.

²⁹ Three exit conferences were waived. Four audits resulted in no liability so the Proposed Assessment was not required.

³⁰ Taxpayers did not protest; therefore, the procedure was not applicable.

³¹ Either the taxpayer did not protest or the protest did not result in an adjustment; therefore, no Adjusted Proposed Assessment was required.

³² Taxpayer paid after the Proposed Assessment deadline, but before a Formal Assessment should have been mailed.

³³ The taxpayer did not protest; therefore, the procedure was not applicable.

³⁴ Either the taxpayer did not protest the tax assessment or the protest did not result in an adjustment. Therefore, no Adjusted Formal Assessment was required.

³⁵ Total taxpayers decrease after each process is completed because the taxpayer's liabilities were settled.

Appendix II – Days Between Each Process & Number of Taxpayers Applicable to Each Process (Continued)

Number of Days between processes	Number of Taxpayers				
	Formal or Adjusted Formal Assessment & Demand Payment Notice	Demand Payment Notice & Taxpayer Lien	Demand Payment Notice & Taxpayer Levy	Lien & Transfer to Law Department	Levy & Transfer to Law Department
Less than 0 days	0	0	0	4 ³⁶	3 ³⁷
0-30 days	1	1	0	0	0
31-90 days	7	0	1	0	1
91-150 days	1	0	0	0	0
151 days - 250 days	2	2	1	0	0
Greater than 250 days	1	2	3	0	0
Procedure not performed	4 ³⁸	4 ³⁹	3 ⁴⁰	3 ⁴¹	3 ⁴²
Could not calculate	0	0	0	0	0
Not Applicable	1 ⁴³	3 ⁴⁴	4 ⁴⁵	2 ⁴⁶	2 ⁴⁷
Total Taxpayers⁴⁸	17	12	12	9	9

³⁶ The taxpayer's file was transferred to the Law Department before the Enforcement process was completed.

³⁷ The taxpayer's file was transferred to the Law Department before the Enforcement process was completed.

³⁸ The Bureau of Revenue did not send the taxpayer a Demand Payment Notice after the deadline in the Formal Assessment.

³⁹ The Bureau of Revenue did not file a lien for 2 taxpayers after the Demand Payment Notice deadline; did not send a Demand Payment Notice or file a Lien for 1 taxpayer; and filed a Lien for 1 taxpayer, but did not send a Demand Payment Notice to that taxpayer. The enforcement process was not completed in order.

⁴⁰ The Bureau of Revenue did not mail Notice of Levy letters after the Demand Payment Notice for two taxpayers and did not issue a Demand Payment Notice or mail Notice of Levy Letters for one taxpayer.

⁴¹ The taxpayer's file was not transferred to the Law Department to continue the collection process.

⁴² The taxpayer's file was not transferred to the Law Department to continue the collection process.

⁴³ Taxpayer filed a lawsuit after the Formal Assessment and before the Demand Payment Notice; therefore, the taxpayer was transferred to the Law Department and all other collection efforts ceased.

⁴⁴ One Taxpayer paid after the Demand Payment Notice deadline, but before a Lien should have been filed. Two taxpayers filed a lawsuit during the enforcement process; therefore, the taxpayer was transferred to the Law Department and all other collection efforts ceased.

⁴⁵ One taxpayer paid after the Demand Payment Notice deadline, but before a Lien should have been filed. Two taxpayers filed a lawsuit during the enforcement process; therefore, the taxpayer was transferred to the Law Department and all other collection efforts ceased. One taxpayer entered into an installment agreement during the Lien/Levy enforcement process. Therefore, only a Lien was required.

⁴⁶ Two taxpayers filed a lawsuit during the enforcement process; therefore, the taxpayer was transferred to the Law Department and all other collection efforts ceased.

⁴⁷ Two taxpayers filed a lawsuit during the enforcement process; therefore, the taxpayer was transferred to the Law Department and all other collection efforts ceased.

⁴⁸ Total Taxpayers decrease after each process was completed because the taxpayer's liabilities were settled.

VII. OFFICIAL COMMENTS FROM THE BUREAU OF REVENUE

City Code Ordinance 2-1120 section (8) (b) "Reporting the results of inspector general findings" provided that a person or entity that was the subject of a report "shall have 30 days from the transmittal date of the report to submit a written explanation or rebuttal to the findings before the report is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation."

An internal review copy of this report was distributed to the Bureau of Revenue on July 11, 2014, to provide an opportunity to comment on the report prior to the public release of the final report. The Bureau of Revenue comments were due and received on August 8, 2014. The Bureau of Revenue's comments are included in the body of this report behind each finding, and in its entirety behind this section.

CHIEF ADMINISTRATIVE OFFICE
CITY OF NEW ORLEANS

MITCHELL J. LANDRIEU
MAYOR

ANDREW D. KOPPLIN
FIRST DEPUTY MAYOR & CAO

August 8, 2014

Mr. Edouard Quatrevaux
Inspector General
City of New Orleans
525 St. Charles Avenue
New Orleans, LA 70130

Re: OIG Performance Audit of the Department of Finance – Bureau of Revenue’s Internal Controls

Dear Mr. Quatrevaux:

The Administration is in receipt of the Office of Inspector General’s draft, “Performance Audit of the Department of Finance – Bureau of Revenue’s Internal Controls”. The scope of the OIG’s audit was to determine whether controls in the Bureau of Revenue for sales tax audit and collections efforts were operating in compliance with state laws.

The Bureau of Revenue is responsible for the collection of sales tax and ensuring that businesses comply with local and state tax laws. Since sales tax is the major source of revenue for the City, the Landrieu Administration welcomes the performance review of such an important activity. In 2013, sales tax collections for the City’s General Fund totaled \$151.6 million, up 9.6% from 2012, and strong enforcement and audit activity contributed to that outcome.

The observations and recommendations identified by the OIG’s audit team are appreciated since it confirms our commitment to adhere to both City and State sales tax regulations as evidenced by this audit review. The Department of Finance values the independent review as a means to improve overall operations, maintain our fiduciary responsibility and preserve public trust.

The OIG’s report found that the sales tax compliance processes were operating as expected. The OIG’s auditor selected 35 taxpayer files for review. The 35 taxpayer audit files yielded a total in final assessment of \$2,871,955. By the end of the OIG’s audit, \$1,581,295 in final assessments was collected and \$156,435 is currently being collected from audited taxpayers on an installment basis. The OIG’s sample noted that some taxpayers with final assessments of \$265,710 sued the City, which by law halts the City’s collections efforts. The sample also disclosed that taxpayers with final assessments of \$319,356 have closed their businesses. Thus, only 6% of the \$2,871,955 of the audit assessments are not in active collection status or uncollectible.

The Bureau of Revenue follows sales tax collections procedures outlined in Louisiana Revised Statutes and City Ordinances. We were pleased that the OIG’s report on the Bureau of Revenue did not reveal any violation of state laws or city ordinances.

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In summary, we understand the recommendations proposed by the OIG to be established to help improve internal controls. Items #1, #3, #4 and #6 relate to recommendations that the Bureau of Revenue adopt fixed timeframes for certain internal activities beyond those outlined in Louisiana Revised Statutes and City Ordinances.

In administering sales tax laws, the Bureau of Revenue balances the responsibilities of tax collections with the rights of taxpayers to have a reasonable opportunity to disagree with a tax assessment and to satisfactorily resolve that disagreement. The Bureau of Revenue will review the recommendations made in this report that the City adopt more consistent fixed timeframes in light of the need to balance tax collection activities with the taxpayer's right to challenge our findings and have a reasonable amount of time to respond, which may differ from one taxpayer to another based on their circumstances.

Below are our detailed comments to the specific recommendations in this report.

1. The Office of Inspector General recommends the bureau should adopt additional policies regarding acceptable timeframes for various enforcement actions to take place. The Bureau of Revenue follows the law as prescribed by the Louisiana Legislature and the New Orleans City Council to enforce collections of sales, use and other taxes administered by the Department of Finance. These laws state who should perform a collection action and what should be done. The Bureau of Revenue does in fact follow specific written guidelines in the collection of taxes: State and local law.
2. The Office of Inspector General recommends that the City acquire a better sales tax collection system. In 2012 the City began the process to acquire a new revenue system and appropriated funding for it. The new revenue system is expected to be put into use by the end of 2014.
3. The Office of Inspector General concluded that the Bureau of Revenue did not maintain complete audit files. A complete audit file contains a large volume of information which may not be necessary in every sales tax audit and is not required by state law. The OIG report points out, "Not all audited taxpayers' files go through each step of the process. For example, if a taxpayer pays his taxes after the Proposed Assessment letter is mailed, then a Formal Assessment letter, Demand Payment Notice, etc. is not necessary." Hence, all files do not contain identical information and nor should they. The Bureau of Revenue believes its audit files do contain adequate documentation, as required by law.
4. The Office of Inspector General recommended that audit durations be monitored. Table 3 measures the number of hours spent actually reviewing taxpayer's records. As noted in Table 3, 80% of the audits were completed in less than 4 work weeks. The Bureau of Revenue agrees that 4 weeks is an acceptable time frame to complete an audit assignment.

The Bureau of Revenue actively monitors audit assignments to manage progress and to ensure that audits are moving forward in a systematic way. The Bureau also assigns audits to internal and external auditors based on their particular expertise and may assign a number of similar

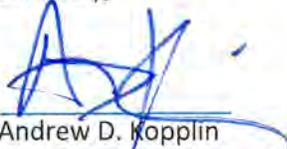
audits to the same firm or individual; hence, in those cases, the Bureau expects that some audits will be completed sooner than others even if multiple audits were assigned on the same day.

5. Effective January 1, 2011, state law modified the number of days that a taxpayer had to respond to a Notice of Assessment. The Bureau of Revenue updated this notice in October 2012 to reflect the change in days. The Bureau of Revenue will ensure future changes in state law are updated more timely.
6. The Office of Inspector General noted that some files did not include all copies of bank levy letters, or did not have a bank levy issued. Levying a bank account is one collection remedy available to the Bureau of Revenue. The Bureau of Revenue levies taxpayer's bank accounts when necessary in order to collect taxes due to the City. One account identified by the OIG was a taxpayer making good faith payments towards an installment agreement. Levying the account in this instance would have been counterproductive to our collection efforts and would have flown in the face of the payment terms the city had already agreed to with the taxpayer.

Regarding copies, the merge document used to create levies contains hard coded address information for all 17 banks. The complete document consists of seventeen (17) levies.

Thanks again for your review and recommendations. They will help us improve our processes and practices.

Sincerely,



Andrew D. Kopplin
First Deputy Mayor and Chief Administrative Officer
City of New Orleans

cc: Norman Foster, Director of Finance
Derrick Muse, Deputy Director of Finance
Romy S. Samuel, Collector of Revenue
Anthony Riley, Assistant Collector of Revenue