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DEPARTMENT OF LOCAL AFFAIRS SENIOR AND DISABLED VETERAN PROPERTY TAX EXEMPTION PROGRAM



AUGUST 2015

PERFORMANCE AUDIT

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August 11, 2015

DIANNE E. RAY, CPA

STATE AUDITOR

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Senior and Disabled Veteran Property Tax Exemption Program. This audit was conducted pursuant to Section 39-3-208, C.R.S., which states the “state auditor shall periodically audit the property tax exemption program to ensure that the program is operating in compliance with Section 3.5 of Article X of the state constitution and this part 2 [of Title 39, Article 3 of the Colorado Revised Statutes].” The statute also states that “the state auditor may suggest means of improving the administration of the program.” This report presents our findings, conclusions, and recommendations, and the responses of the Department of Local Affairs.

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CONTENTS



| | |
|-------------------------------------------|-----------|
| Report Highlights | 1 |
| Recommendation Locator | 3 |
| CHAPTER 1 | |
| OVERVIEW | 5 |
| Eligibility | 6 |
| Program Administration | 7 |
| Fiscal Overview | 10 |
| Audit Purpose, Scope & Methodology | 11 |
| CHAPTER 2 | |
| PROGRAM EFFECTIVENESS | 13 |
| County Eligibility Determinations | 15 |
| Program Design | 26 |
| Review for Multiple Applications | 27 |
| Data Validation | 33 |
| Reimbursements Without State-Level Review | 37 |



REPORT HIGHLIGHTS



SENIOR AND DISABLED VETERAN PROPERTY TAX EXEMPTION PROGRAM PERFORMANCE AUDIT, AUGUST 2015

DEPARTMENT OF
LOCAL AFFAIRS

CONCERN

The fundamental design of the Senior and Disabled Veteran Property Tax Exemption Program (Program) does not sufficiently protect the State from reimbursing counties for non-qualifying exemptions and, within the current Program design, the Department of Local Affairs (DOLA) lacks authority and processes to ensure that only qualifying applicants are approved.

KEY FACTS AND FINDINGS

- State general funds are used to reimburse counties for tax exemptions granted to property owners.
- In Fiscal Year 2015, the State reimbursed counties almost \$117 million for 211,692 senior and disabled veteran property tax exemptions.
- The state reimbursed counties a total of \$169,000 for non-qualifying exemptions for tax year 2013. These exemptions did not meet one or more statutory qualifications.
- We identified indicators that almost 54,000 approved exemptions totaling about \$25.3 million for tax year 2013 may not have met the eligibility requirements. This includes some exemptions that the counties did not send to DOLA for its review for multiple exemptions.
- There is no mechanism for the State to recover funds paid to counties for non-qualifying exemptions.
- DOLA is unable to identify some non-qualifying exemptions because its role is limited to checking for multiple applications. As a result, it does not coordinate with the Department of Revenue to check income tax filing information or with the Department of Public Health and Environment to check death records to improve the effectiveness of its review and help identify non-qualifying applicants.
- The County Assessors' Offices and DOLA do not have any way to validate the social security numbers provided by applicants. DOLA, in particular, relies on social security numbers to complete its eligibility review.

BACKGROUND

- In 2000 and 2006, voters approved amendments to the Colorado Constitution establishing property tax exemptions for qualifying senior citizens and disabled veterans.
- To qualify for the exemptions, seniors must be 65 or older and have owned their homes and used them as their primary residences for at least 10 years; veterans must be disabled and own and use their homes as their primary residences. Married couples are deemed to have the same primary residence and only qualify for one exemption.
- County Assessors' Offices have the primary responsibility for determining whether applicants qualify for the tax exemption.
- DOLA and the Department of Military and Veterans Affairs (DMVA) have supporting roles in eligibility determination. DOLA checks for multiple applications from the same property owner and DMVA verifies disability status.
- Qualifying applicants currently receive an annual exemption of 50 percent of the first \$200,000 of property value on their primary residences.
- After being approved, exemptions remain in effect permanently until County Assessors' Offices are notified of circumstances that would cause them to end, such as the sale of the exempted property.

KEY RECOMMENDATIONS

Work with the General Assembly to develop a process for the State to recover funds from counties for non-qualifying exemptions.

Enter into agreements with the Departments of Revenue and Public Health and Environment to share information to identify potentially non-qualifying exemptions.

Investigate the feasibility of entering into an agreement with the Department of Revenue or the Social Security Administration to validate social security numbers.

Work with the counties, the Office of the State Treasurer, and the General Assembly to establish a process for DOLA to conduct a final review and give final approval for the list of approved exemptions sent to the Office of the State Treasurer for reimbursement.



RECOMMENDATION LOCATOR

AGENCY ADDRESSED: DEPARTMENT OF LOCAL AFFAIRS

| REC. NO. | PAGE NO. | RECOMMENDATION SUMMARY | AGENCY RESPONSE | IMPLEMENTATION DATE |
|-------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------|
| 1 | 24 | Work with the General Assembly to seek statutory changes to strengthen the qualification review process, including: (A) working with the State Treasurer on proposed statutory changes to allow the State Treasurer to recover funds from the counties for any reimbursements made for exemptions approved by the counties that are later found to be non-qualifying, and (B) expanding DOLA's role to include comparing county-reported exemption data with residency status information from tax records and death records to identify potentially non-qualifying applicants. | AGREE | A JUNE 2016 B OCTOBER 2016 |

AGENCY ADDRESSED: DEPARTMENT OF LOCAL AFFAIRS

| REC. NO. | PAGE NO. | RECOMMENDATION SUMMARY | AGENCY RESPONSE | IMPLEMENTATION DATE |
|-------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|----------------------------------|
| 2 | 31 | Expand the processes for identifying and denying non-qualifying applicants by: (A) working with the Department of Revenue to conduct an annual match of filing status data from Colorado tax returns to the DOLA database to identify and deny married couples who apply for more than one property tax exemption, and (B) identifying and addressing the problem with the current social security number search that allows some matches to go unidentified. | AGREE | A OCTOBER 2016 B JANUARY 2015 |
| 3 | 36 | Investigate entering into an agreement with the Colorado Department of Revenue or the Social Security Administration, as appropriate, to annually validate the social security numbers it receives from the counties. | AGREE | SEPTEMBER 2015 |
| 4 | 43 | Work with the counties, the State Treasurer, and the General Assembly to establish a process for DOLA to conduct a final review and give final approval for the list of approved exemptions sent to the State Treasurer for reimbursement. | AGREE | JUNE 2016 |

CHAPTER 1

OVERVIEW OF THE SENIOR AND DISABLED VETERAN PROPERTY TAX EXEMPTION PROGRAM

In 2000, voters approved an amendment to the Colorado Constitution [Article X, Section 3.5], establishing a property tax exemption for qualifying senior citizens. In 2006, voters approved a further amendment to establish a similar exemption for qualifying disabled veterans. Qualifying seniors and disabled veterans currently receive an annual property tax exemption of 50 percent of the first \$200,000 of property value on their primary residences. For example, someone who qualifies for the exemption

with a property valued at \$150,000 would only owe taxes on \$75,000 ($50\% \times \$150,000$) of the property value and someone with a property valued at \$500,000 would owe taxes on \$400,000 ($50\% \times$ the first \$200,000 + the remaining \$300,000) of the property value.

In accordance with the Constitution, the property tax revenue lost by the counties as a result of the exemptions is reimbursed to each local government by the General Assembly. There is no limit on the total amount of exemptions in any given tax year. However, the General Assembly does have the authority to adjust the amount of property value that will be affected by the exemption. For example, for Fiscal Years 2010 through 2012, the General Assembly set the amount of property value that was exempt from taxes for seniors at 50 percent of the first \$0 in value. This effectively meant that there would be no exemptions for seniors in those years. The General Assembly did not lower the exemption for disabled veterans in those years so qualifying disabled veterans continued to receive an exemption based on the \$200,000 limit.

ELIGIBILITY

Section 39-3-203, C.R.S., establishes the following qualifications for receiving an exemption under the Senior and Disabled Veteran Property Tax Exemption Program (Program):

- A senior must be at least 65 years old and have owned and occupied the property as his or her primary residence for the 10 years immediately preceding the assessment date.
- A disabled veteran must have served on active duty in the U.S. armed forces, received an honorable discharge, and sustained a service-connected disability rated by the U.S. Department of Veterans Affairs as a 100 percent permanent disability.
- A disabled veteran must have owned and occupied the property as his or her primary residence since January 1 of the tax year for which the exemption will apply.

An applicant may only receive an exemption on one property in any tax year, and married couples are deemed to occupy the same primary residence for the purpose of determining eligibility. In other words, married couples cannot apply on multiple properties even if each spouse considers a different address as his or her primary residence.

Properties that are owned by a trust, corporate partnership, or other legal entity can qualify as long as the residents of those properties meet all other eligibility requirements. A senior or disabled veteran who is confined to a hospital, nursing home, or assisted living facility may qualify if he or she meets all other eligibility requirements. Finally, the surviving spouse of a senior or disabled veteran who had qualified for the exemption may qualify for the exemption.

Once approved to receive the exemption, the applicant does not need to re-apply for the exemption each property tax year. The senior or disabled veteran exemption remains in effect from year to year until a change in ownership or occupancy triggers its removal.

PROGRAM ADMINISTRATION

The following organizations have a role in administering the Program:

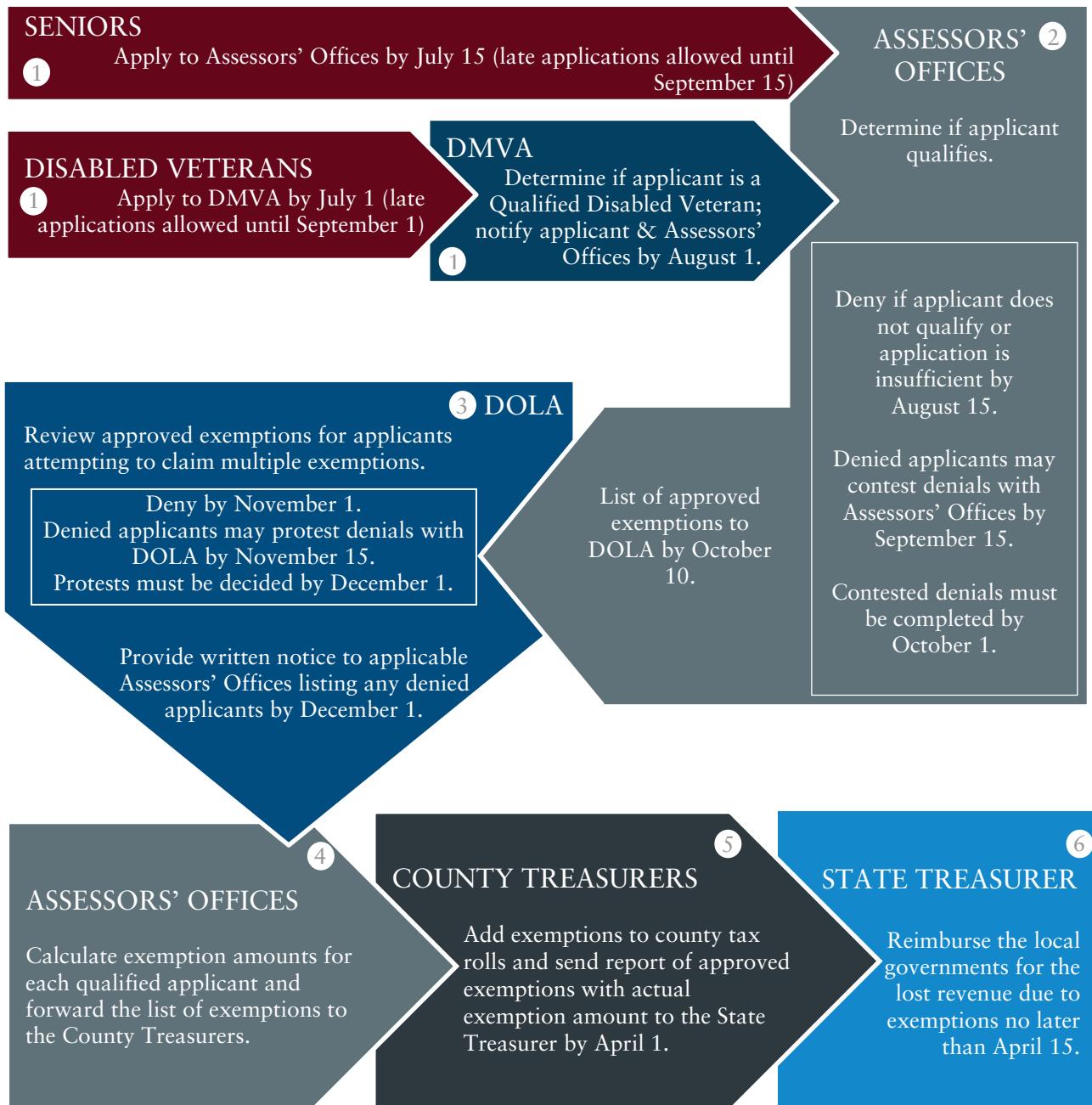
- **THE DEPARTMENT OF LOCAL AFFAIRS, DIVISION OF PROPERTY TAXATION (DOLA)**, through the state property tax administrator, has a duty to “assist and cooperate in the administration of all laws concerning the valuing of taxable property, the assessment of same, and the levying of property taxes,” [Section 39-2-109(1) C.R.S.]. Regarding the Program specifically, statute [Section 39-3-207, C.R.S.] requires DOLA to “examine the reports sent by each assessor...to ensure that no applicant has claimed more than one exemption.” Statute [Section 39-3-205(2) C.R.S.] also requires DOLA to design the application form(s) to be used for the Program.
- **COUNTY ASSESSORS’ OFFICES** (Assessors’ Offices) review applications for the exemptions in their counties to make eligibility

determinations. Assessors' Offices also calculate the exemption amounts.

- **COUNTY TREASURERS' OFFICES** (County Treasurers) update the county's tax rolls based on the approved exemptions to ensure property owners are billed correctly, and provide a final report to the State Treasurer that includes the county's property tax exemptions and amount owed to them for that year.
- **THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS, DIVISION OF VETERANS AFFAIRS (DMVA)** reviews applications it receives from veterans and determines whether the applicants qualify as "disabled veterans" under the statutory requirements.
- **THE OFFICE OF THE STATE TREASURER (STATE TREASURER)** is responsible for the distribution of state general fund monies to reimburse counties for the amounts approved in exemptions.

Statute [Section 39-3-205, C.R.S.] details the application process and the timelines that must be followed for each step. Applications are submitted during the year for which the exemption will first apply, and approved exemptions are applied to the tax payment for that year, due the following spring. For example, an application submitted in 2015 would be for an exemption from the applicant's 2015 property taxes which are typically paid in the spring of 2016. Exhibit 1.1 illustrates the application process and timelines for seniors and disabled veterans:

EXHIBIT 1.1
SENIOR AND DISABLED VETERAN PROPERTY TAX EXEMPTION PROGRAM
APPLICATION PROCESS AND DEADLINES



SOURCE: Office of the State Auditor's analysis of Section 39-3-201, et seq., C.R.S., and Department of Local Affairs' documentation.

FISCAL OVERVIEW

Property owners typically make property tax payments in the spring following the year for which they are owed. Similarly, reimbursements are made to the counties from the state general fund in April of the year following the property tax year for which the exemptions were granted. For example, the first payments were made to counties in April of Fiscal Year 2003 to cover exemptions for Tax Year 2002. In this way the counties are made whole by the State for the exemptions deducted from the taxes due in the same year.

Exhibit 1.2 shows the number and dollar amount of exemptions approved for seniors and disabled veterans each year since the beginning of the Program. In total, the State has reimbursed counties more than \$635 million for property tax exemptions since the Program began.

EXHIBIT 1.2
SENIOR AND DISABLED VETERAN PROPERTY TAX EXEMPTION PROGRAM
FINANCIAL SUMMARY
STATE FISCAL YEARS 2003 TO 2015

| STATE FISCAL YEAR ¹ | PROPERTY TAX YEAR ² | NUMBER OF SENIOR EXEMPTIONS | AMOUNT EXEMPTED FOR SENIORS ³ | NUMBER OF DISABLED VETERAN EXEMPTIONS ⁴ | AMOUNT EXEMPTED FOR DISABLED VETERANS ⁴ | TOTAL NUMBER OF EXEMPTIONS | TOTAL AMOUNT EXEMPTED |
|--------------------------------|--------------------------------|-----------------------------|------------------------------------------|----------------------------------------------------|----------------------------------------------------|----------------------------|-----------------------|
| 2003 | 2002 | 123,400 | \$ 61,491,000 | N/A | N/A | 123,400 | \$ 61,491,000 |
| 2004 | 2003 | 134,100 | \$ 0 | N/A | N/A | 134,100 | \$ 0 |
| 2005 | 2004 | 137,400 | \$ 0 | N/A | N/A | 137,400 | \$ 0 |
| 2006 | 2005 | 138,700 | \$ 0 | N/A | N/A | 138,700 | \$ 0 |
| 2007 | 2006 | 145,600 | \$ 74,232,000 | N/A | N/A | 145,600 | \$ 74,232,000 |
| 2008 | 2007 | 155,800 | \$ 79,138,000 | 1,300 | \$ 690,000 | 157,100 | \$ 79,828,000 |
| 2009 | 2008 | 163,600 | \$ 84,477,000 | 2,000 | \$ 1,072,000 | 165,600 | \$ 85,549,000 |
| 2010 | 2009 | 168,100 | \$ 0 | 3,100 | \$ 1,336,000 | 171,200 | \$ 1,336,000 |
| 2011 | 2010 | 167,700 | \$ 0 | 3,000 | \$ 1,578,000 | 170,700 | \$ 1,578,000 |
| 2012 | 2011 | 169,000 | \$ 0 | 3,300 | \$ 1,756,000 | 172,300 | \$ 1,756,000 |
| 2013 | 2012 | 182,900 | \$ 100,822,000 | 3,600 | \$ 1,906,000 | 186,500 | \$ 102,728,000 |
| 2014 | 2013 | 197,500 | \$ 107,697,000 | 3,800 | \$ 2,083,000 | 201,300 | \$ 109,780,000 |
| 2015 | 2014 | 207,500 | \$ 114,235,000 | 4,200 | \$ 2,646,000 | 211,700 | \$ 116,881,000 |
| TOTAL | | 2,091,300 | \$ 622,092,000 | 24,300 | \$ 13,067,000 | 2,115,600 | \$ 635,159,000 |

SOURCE: Office of the State Auditor's analysis of Department of Local Affairs Annual Report data.

¹ State Fiscal Year is the fiscal year in which the State reimbursed counties for the property taxes exempted for the previous tax year.

² Property Tax Year is the calendar year which the property tax was assessed, due the following year.

³ The General Assembly reduced the senior property tax exemption to \$0 for the following State Fiscal Years: 2004 through 2006 and 2010 through 2012.

⁴ The disabled veterans' exemption became effective for Property Tax Year 2007.

AUDIT PURPOSE, SCOPE & METHODOLOGY

We conducted this performance audit pursuant to Section 39-3-208, C.R.S., which states that the “state auditor shall periodically audit the property tax exemption program to ensure that the program is operating in compliance with Section 3.5 of Article X of the state constitution and this part 2 [of Title 39, Article 3 of the Colorado Revised Statutes].” The statute also states that, “the state auditor may suggest means of improving the administration of the program.” Our audit work was performed from September 2014 through May 2015. We acknowledge the cooperation and assistance provided by management and staff at DOLA, DMVA, and the State Treasurer. The statute also allows the state auditor direct access to related documents at certain county offices. We acknowledge the cooperation of the Assessors’ Offices, and the County Treasurers. We would also like to acknowledge the assistance with our audit work provided by the Department of Revenue and the Department of Public Health and Environment.

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 upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

The primary objectives of this audit were to determine whether the Program is in compliance with the applicable statutes, has adequate controls to ensure that only qualifying seniors and disabled veterans are receiving the exemption, and to identify means of improving the administration of the Program. Our conclusions for each of these objectives are described in the audit findings and recommendations.

To accomplish our audit objectives, we:

- Reviewed relevant state statutes and rules and DOLA policies related to administration of the Program, and interviewed staff at DOLA, DMVA, the State Treasury, and five Assessors' Offices to gain an understanding of the role each entity plays in the process.
- Conducted a survey of all 64 Assessors' Offices to gain an understanding of the specific eligibility determination procedures in place in each county.
- Reviewed applications sent to DMVA, and data sent from all of the Assessors' Offices to DOLA to identify any exemptions that were non-qualifying.
- Performed an analysis of DOLA's database containing the data received from the Assessors' Offices to evaluate DOLA's process to identify applicants applying for multiple exemptions.
- Compared the exemptions included in the reports sent to DOLA with those sent to the State Treasurer to determine whether only qualifying exemptions were included in the reimbursement by the State Treasurer.
- Compared tax filing information from the Department of Revenue (DOR) and death record data from the Colorado Department of Public Health & Environment (CDPHE) with DOLA's database to identify exemptions that may be non-qualifying.

All of our data analysis for this audit involved examining records of the entire population of more than 200,000 exemptions that were initially approved by the Assessors' Offices for Tax Year 2013.

We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives. Our conclusions on the effectiveness of those internal controls, as well as specific details about the audit work supporting our findings, conclusions and recommendations, are described in CHAPTER 2 of the report.

CHAPTER 2

PROGRAM EFFECTIVENESS

The administration of the Senior and Disabled Veteran Property Tax Exemption Program (Program) relies on a coordinated effort between state agencies and county offices. The Program's current structure places the primary responsibility for determining eligibility with the 64 County Assessors' Offices (Assessors' Offices) while two state agencies, the Department of Local Affairs (DOLA) and the Department of Military and Veterans Affairs (DMVA), play supporting roles in ensuring that only qualifying exemptions are allowed. In addition, the County

Treasurers' Offices (County Treasurers) and the Office of the State Treasurer (State Treasurer) have responsibilities for the process of getting State reimbursement to the counties for the exempted taxes.

We considered the extent to which the Program has been effective in making property tax exemptions available to qualified seniors and disabled veterans. As illustrated in CHAPTER 1, Exhibit 1.2, the number of seniors and disabled veterans using the exemption has increased since Tax Year 2007, when the disabled veterans' exemption became effective, from 157,000 to 212,000, or about 35 percent, and the amount of tax relief provided through the Program has increased by about 46 percent, from about \$80 million to \$117 million.

Although these figures indicate that the Program has been effective in reducing property taxes for eligible seniors and disabled veterans who apply, we identified deficiencies in the current operation and design of the Program that have contributed to the State reimbursing counties for some exemptions we could definitively identify as non-qualifying, as well as for a significant amount for which there were either multiple compelling indicators that the exemptions were non-qualifying, or a single indicator that the exemptions may be non-qualifying. For example, we found that the State reimbursed counties in 2014 for some exemptions from applicants who were deceased and did not appear to have a surviving spouse who might qualify for the exemption, as well as some exemptions from applicants who did not file Colorado tax returns, which might indicate the applicant was not using the exempted property as his or her primary residence, as required by statute. This report includes four recommendations to reduce the risk of non-qualifying exemptions being approved by counties and reimbursed by the State without a fundamental change in the Program's design. In addition, the report discusses problems with the current statutory design of the Program; changing the fundamental Program design is a policy issue.

COUNTY ELIGIBILITY DETERMINATIONS

Assessors' Offices have the primary responsibility for determining whether applicants qualify for the senior and disabled veteran property tax exemption. Applicants for the senior exemption must submit an application to their county assessor's office and the Assessor's Office may request additional information from the applicant, if needed, to determine if the senior qualifies for an exemption. Applicants for the disabled veteran exemption submit their application to the Department of Military and Veterans Affairs (DMVA). Once DMVA verifies that an applicant has the necessary disabled veteran status, it forwards the application to the appropriate Assessor's Office for further eligibility determination. Applicants who fail to provide needed information or do not qualify for the exemption receive a denial notice from the Assessor's Office explaining the reason for the denial and the protest process. Each Assessor's Office then sends a list of the approved exemptions in his or her county to DOLA for further review. The data submitted by the counties include each approved exemption as well as notes (e.g., comments regarding changes in ownership of the property or the death of an applicant) that county staff have entered for their own use. DOLA uploads the data into a database and reviews them solely to identify and deny any applicants who are claiming more than one exemption. DOLA notifies the counties of any exemptions it denies.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We analyzed data from DOLA's database containing more than 200,000 exemptions approved by the counties for Tax Year 2013, reviewed relevant statutes and Program rules, surveyed all 64 Assessors' Offices regarding their eligibility determination processes, and interviewed a judgmental sample of five counties and DMVA

staff. The purpose of our audit work was to determine if counties have adequate controls in their processes for determining qualifying applicants and for identifying any non-qualifying applicants approved for Tax Year 2013.

We also matched the data in DOLA's database for Tax Year 2013 with:

- Death records maintained by the Department of Public Health and Environment (Public Health) to determine if there were death records on file for any approved applicants.
- Tax filing data maintained by the Department of Revenue (Revenue) to determine if any approved applicants filed their income taxes as full year non-residents, or did not file Colorado income tax returns, for 2013, for indicators that any approved applicants did not occupy their Colorado residences as their primary residences in 2013.

We conducted these matches to evaluate whether additional controls, including at the state level, are needed to better ensure that only qualifying applicants are approved.

HOW WERE RESULTS MEASURED?

Qualified exemptions must meet the following eligibility requirements:

- **OCCUPATION OF PROPERTY AS PRIMARY RESIDENCE.** Section 39-3-203 (1)(a)(I), C.R.S., states that applicants must have owned and occupied the property as their primary residence for the 10 years preceding the assessment date.
- **ALLOWANCE OF ONLY ONE EXEMPTION PER MARRIED COUPLE.** Section 39-3-203 (5), C.R.S., states that two individuals who are legally married, but who own more than one piece of residential real property, shall be deemed to occupy the same primary residence and may claim no more than one exemption. Section 39-3-207(2)(a)(I), C.R.S., indicates that any applicant, including a

married couple, who applies for more than one exemption is not entitled to any exemption.

- **QUALIFICATION OF SPOUSES OF PROPERTY OWNERS AND TRUSTS.** Section 39-3-202(2)(a), C.R.S., states that a spouse or surviving spouse qualifies for the exemption if the spouse occupied the property as his or her primary residence or did so until the death of the applicant. This section further states that a property held in trust for estate planning purposes will qualify for the exemption. In each of these cases, DOLA has developed a separate “long-form” application that must be completed for a spouse or trust to be approved for the exemption.

In addition to the eligibility requirements, Section 39-3-205(3), C.R.S., gives County Treasurers the authority to recover funds from a taxpayer if it is determined that the taxpayer did not qualify for the exemption.

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

For Tax Year 2013, we found approved exemptions that did not meet all of the eligibility criteria and some that may not have met the criteria based on our comparison of DOLA’s database with tax and death records. We discuss each of these areas below.

NON-QUALIFYING EXEMPTIONS

We identified 137 non-qualifying exemptions totaling about \$57,800 that were approved by counties and reimbursed to counties by the State, as follows:

- **APPLICANT IS NOT THE OWNER OF THE PROPERTY.** We found 83 exemptions totaling almost \$31,200 that should not have been approved because the property on the application was not owned by the applicant. We identified these properties by reviewing DOLA’s database for any notes county staff entered into a

comments field that gave an indication that the exemption did not qualify. The comments often noted that applicants were deceased or that they no longer qualified for some other reason. We asked the Assessors' Offices to double check the 196 exemptions we questioned, and for these 83 the Assessors' Offices reported that the applicant did not own the property. Specifically, in 46 of these cases, the applicant was deceased and the county did not have a record of a surviving spouse that qualified for the exemption. In 37 cases, the applicant was no longer the owner of the property and the exemption should have been removed. In addition, these 37 cases included eight exemptions totaling about \$3,900 that the Assessor's Office approved even though it knew the applicants had transferred ownership of their properties to relatives and, therefore, no longer qualified for the exemption.

- **PROPERTY IS NOT THE APPLICANT'S PRIMARY RESIDENCE.** We found 52 exemptions totaling more than \$26,300 that should not have been approved because the applicant did not use the property as his or her primary residence. We identified these exemptions by reviewing DOLA's database for any applicants who listed a different mailing address than the property address for which the exemption was sought. Applicants might list a different mailing address for a variety of reasons, such as having mail sent to relatives who handle their taxes for them. We asked the Assessors' Offices to verify the residency status for the 407 applicants who used a different address; for 52 of them, the counties determined that the property was not the primary residence of the applicant.
- **MARRIED COUPLE APPLIED ON MULTIPLE PROPERTIES.** We found two exemptions totaling about \$300 that should not have been approved because they were filed by a married couple. We identified these exemptions by reviewing DOLA's database for comments written by county staff. In this case both properties in the same county included a comment stating "husband and wife own two properties, live apart, both qualify, same mailing address." While the husband and wife might each qualify individually for an exemption, because they are married they are

considered to have only one primary residence. However, the Assessor's Office approved both exemptions. The Assessor's Office did not have an explanation for why these exemptions were approved.

EXEMPTIONS THAT MAY NOT QUALIFY

We identified indicators that almost 54,000 approved exemptions for Tax Year 2013 may not have met the eligibility requirements. These exemptions, which totaled about \$25.3 million were approved by counties and reimbursed to counties by the State. As described below, each of these exemptions had one or more indicators that they may not qualify under statute.

- We found 430 approved exemptions totaling about \$234,800 from applicants who may not have used the exempted property as their primary residences in 2013. We identified these exemptions by comparing DOLA's database with tax records. These 430 applicants had filed their 2013 Colorado tax returns as full year non-residents. Revenue defines a full year non-resident as an individual who did not permanently reside within the boundaries of Colorado at any time during the tax year but did receive income from sources within Colorado. The fact that these applicants filed as full year non-residents is a strong indicator that they may not have been using the exempted properties as their primary residences and, therefore, did not qualify for an exemption in Tax Year 2013. Twenty-four of these 430 also provided an out of state mailing address, further increasing the possibility that Colorado is not their primary state of residence.
- We found 10,335 exemptions totaling about \$5.1 million from applicants for whom death records exist at Public Health. The fact that death records are on file for these applicants is a strong indicator that the exemptions may not qualify. In all of these cases, counties have either failed to obtain a long-form application from the surviving spouse or trust in which case the exemption should not be allowed until the correct application is filed, or the

exemption simply does not qualify because the qualifying applicant is deceased. However, 2,436 of these deceased applicants with exemptions totaling about \$1 million did not list any other occupant on their property at the time they applied, making it less likely that there is a surviving spouse who qualifies for the exemption.

- We found 43,138 applicants with approved exemptions totaling about \$20 million who did not file a Colorado tax return for 2013 and were not included in the count of applicants with death records, discussed above. There are a number of reasons why a person might not file a tax return in Colorado. For example, for Tax Year 2013, seniors generally were not required to file if they earned income below \$11,500 if filing an individual return or about \$21,000 if filing a joint return. However, another possibility is that the applicants are not Colorado residents. Of these 43,138 applicants, 205 with exemptions totaling more than \$82,600 also provided an out of state mailing address, further increasing the possibility that they are not Colorado residents.

RECOVERING FUNDS FOR NON-QUALIFYING EXEMPTIONS

We found that counties are not recovering funds from taxpayers for approved exemptions that are later found to be non-qualifying. Specifically, no county reported that it attempts to collect any previously exempted taxes from applicants who are found to be non-qualifying after having been approved for the exemption. Additionally, neither DOLA nor the State Treasurer knew of any instances in which a county had repaid the State upon recovering funds from a taxpayer.

WHY DID THE PROBLEM OCCUR?

DOLA’S ROLE IN ENSURING APPROVED APPLICANTS MEET ALL EXEMPTION QUALIFICATIONS IS VERY NARROW. Under Section 39-3-

207(2), C.R.S., DOLA's sole responsibility with respect to the Program is to identify and deny applicants seeking more than one exemption. This charge does not provide for any further State level evaluation to help ensure that all applicants approved by the counties meet all exemption qualifications. If DOLA's role in statute was expanded, DOLA could compare its database of approved county exemptions with Colorado tax records at Revenue and with death records at Public Health to identify additional exemptions that may not qualify. Doing these comparisons annually would have the additional benefit of ensuring that qualifying exemptions are reviewed on a recurring basis rather than only at the time of the initial application. DOLA could share the results of these comparisons with Assessors' Offices so that they could follow up and deny any non-qualifying exemptions. According to DOLA, its data systems might need to be improved to make these comparisons efficiently, which would require some additional resources.

THERE IS NO MECHANISM FOR THE STATE TO RECOVER FUNDS PAID TO COUNTIES FOR NON-QUALIFYING EXEMPTIONS. Section 39-3-205(3), C.R.S., gives County Treasurers the authority to recover funds from a taxpayer if it is determined that the taxpayer did not qualify for the exemption; however, there is no similar language that pertains to the State Treasurer or to DOLA for recovering State funds. DOLA reported that it does not have the authority to recover funds from the counties and the State Treasurer reported it does not have authority to withhold future reimbursements for any exemptions found to be non-qualifying after having been approved. If DOLA worked with the State Treasurer to develop a mechanism to recover improperly reimbursed exemptions from the counties, then the counties would have an incentive to recover funds from the taxpayers.

PROGRAM DESIGN. In addition to gaps in current Program operations, we found that the fundamental design of the Program does not sufficiently protect the State from reimbursing counties for non-qualifying exemptions. This is because, under statute, the Program allows Assessors' Offices, who have no financial stake in the Program, to determine the eligibility of exemptions with no State involvement.

Because state general fund monies are used to reimburse local governments for property tax revenue lost as a result of the exemptions, counties have no financial motivation to ensure they only approve fully-qualified exemptions.

The lack of state involvement in the eligibility determination process may also contribute to county eligibility procedures that are not uniformly rigorous. According to our survey of the 64 counties, while all do some review to evaluate whether applicants own the properties on which they are requesting exemption, fewer than half check for any other eligibility qualifications (i.e., age, length of residence, or primary residency).

WHY DO THESE PROBLEMS MATTER?

The current lack of state level oversight of county eligibility determinations and the limited role of DOLA in the process creates a significant risk that non-qualifying exemptions will be approved and reimbursed to counties by the State.

Our work in this area definitively identified 137 exemptions totaling about \$57,800 that should not have been approved and, therefore, represent an inappropriate use of state funds. However, the risk that the state is reimbursing counties for non-qualifying exemptions is significantly higher than these definitive figures might indicate. First, the State currently has no mechanism to determine the scope of non-qualifying exemptions that are being allowed. We identified 83 of the non-qualifying exemptions by following up with counties on notes they voluntarily included in the data they sent to DOLA that implied that the exemptions might not be qualifying. Without these notes, our audit would not have discovered many of the non-qualifying exemptions reimbursed for Property Tax Year 2013. We only saw notes in the data from 18 counties. It is likely that similar situations (e.g., the applicant does not own the property) exist in other counties but were not noted in the data. Second, we identified another \$25.3 million in exemptions which may be non-qualifying. Although it is likely that many of these exemptions are allowable, counties would

need to follow up with almost 54,000 applicants across the state to try to verify whether each was qualifying or non-qualifying.

Finally, the amounts we identified are only for one tax year. We worked with Assessors' Offices to try to determine how long the 137 exemptions we identified as non-qualifying have been in place. We were able to determine the length of time exemptions have been allowed for 81 of the 137. Specifically, 49 have been allowed for only 1 year, 26 have been allowed for between 2 and 5 years, and 6 have been allowed for between 6 and 12 years. Since the exemption amount changes over time based on property valuations and mill levies, we were unable to determine the exact amount that has been exempted over these time frames. The average exemption amount for all exemptions granted in 2013 was only about \$545 per exemption per year. However, because applicants only need to be approved once to receive an ongoing exemption, the risk to the State of spending funds for non-qualifying exemptions is increased. Based on our work, the only time a county typically determines that an approved exemption is no longer qualifying is when the property is sold. As we found from our work, there are applicants who are improperly determined as qualifying or who lose their qualifying status through death or a change in residency but these exemptions could exist and be reimbursed by the State for many years before the errors are corrected.

RECOMMENDATION 1

The Department of Local Affairs (DOLA) should work with the General Assembly to seek statutory changes to strengthen the qualification review process for the Senior and Disabled Veteran Tax Exemption Program, including:

- A Working with the Office of the State Treasurer (State Treasurer) on proposed statutory changes to allow DOLA to coordinate with the State Treasurer to recover funds from the counties for any reimbursements made for exemptions approved by the counties that are later found to be non-qualifying.
- B Expanding DOLA’s role to include comparing county-reported exemption data with residency status information from tax records and death records to identify potentially non-qualifying applicants and providing the results of the comparisons to the counties for follow-up. DOLA should enter into agreements to share information with the Department of Revenue and the Department of Public Health and Environment and improve data systems as needed.

RESPONSE

DEPARTMENT OF LOCAL AFFAIRS

A AGREE. IMPLEMENTATION DATE: JUNE 2016.

In DOLA’s reading of the statute we agree there is currently no ability for the State Treasurer to amend the amount of reimbursement requested by a county, or to adjust in the current year for over-reimbursements from a previous year. We further agree that the State Treasurer should be given this authority, and that DOLA has a role in helping the State Treasurer determine that there has been an overpayment to a county. As anticipated by the auditor, such a

solution would need a statutory change, and DOLA commits to working with the State Treasurer and members of the Audit committee, or other legislators if necessary, to seek such legislation.

To implement this recommendation, DOLA will initiate discussions with the State Treasurer and other interested parties after the release of the report and, hopefully, conclude with the passage and signing of legislation in the next session of the General Assembly.

B AGREE. IMPLEMENTATION DATE: OCTOBER 2016.

DOLA strongly concurs these changes will strengthen the integrity of the Program and it is the appropriate agency to conduct these reviews. Unfortunately, current statute grants DOLA very limited authority on why exemptions can be denied by DOLA, and a short timeframe in which to review exemptions that have been granted by the counties. Legislation is necessary to expand DOLA's role in the initial approval of applications (for the residency check), and the ability to dictate removal of already granted exemptions for purposes beyond those already outlined by statute (for the death records check). Expanding the amount of time DOLA has for reviewing the applications as submitted by the counties would also be helpful, as these suggestions significantly increased DOLA's review beyond the current process. Upon the release of the report DOLA will contact both the Department of Revenue and the Department of Public Health and Environment to see how to best begin this implementation, in anticipation of legislation being introduced during the upcoming session.

Assuming legislation passes in the 2016 session, this improved process could be started as early as the fall of 2016. Ultimately, this process will work best with an IT data base solution, that in all likelihood will not meet a 2016 timeframe, but manual processes can be undertaken.

PROGRAM DESIGN

Although the design of the Program is a matter of public policy and therefore outside the scope of our audit, we identified options the General Assembly could consider to help resolve the current problems with how the Program is designed in statute. For example, the Program could be changed to require a state agency, rather than counties, to determine eligibility. Currently, the Property Tax Administrator within DOLA is charged with approving property tax exemptions on certain properties used for religious, charitable, and/or educational purposes [Section 39-2-117, C.R.S.]. This change might require the responsible state agency to involve Assessors' Offices in verifying property ownership as well as implement other procedures to verify eligibility. Another alternative might be for counties to continue making eligibility determinations, but to charge a state agency with directing how counties should verify eligibility and monitoring the determinations through some type of review process. Changing the Program design so that the State has greater assurance that it only pays for qualifying exemptions is likely to require additional state resources.

Our audit recommendations for improvement within the current structure of the Program should help reduce the number of non-qualifying exemptions that are approved. However, without a change in the fundamental design of the Program to give state agencies more authority and responsibility, the State will continue to be at risk of paying significant amounts for non-qualifying exemptions.

REVIEW FOR MULTIPLE APPLICATIONS

While counties are responsible for the bulk of eligibility determination for the senior and disabled veteran property tax exemption, the Department of Local Affairs (DOLA) is responsible for ensuring that no single applicant claims more than one exemption, and it also searches for married couples who apply for the exemption on multiple properties. Statute [Section 39-3-207(1), C.R.S.], requires that each Assessor's Office provide a report to the Department on the senior and disabled veteran property tax exemptions approved in his or her county each year by October 10th. Statute [Section 39-3-205(2)(a), C.R.S.] also specifies that these reports must contain, among other items, the name and social security number of the applicant claiming the exemption, and the name and social security number of each additional person who occupies the property.

DOLA staff upload all of the county reports into a database and conduct a search for multiple applications with the same social security number. Since social security numbers are unique to the individual, any match between two applicants could indicate that an individual has applied for multiple exemptions or that the social security number is wrong for one of the applicants. Additionally, any match between an applicant on one property and an occupant of another property could indicate that a married couple is applying on multiple properties.

When DOLA's search identifies multiple applications with matching social security numbers, DOLA sends a letter to each applicant denying his or her application because of the match. The letters let the applicants know that they can protest the denial by providing proof of their social security number. If DOLA determines that any applicant has applied for more than one exemption, statute requires DOLA to deny all applications from that applicant. DOLA reported it also

denies any applications for which the applicant does not provide proof of his or her social security number. Once protests have been decided, DOLA provides notice to Assessors' Offices of the denied applications in their counties by December 1.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

Our audit work included a review of relevant statutes and Program procedures, a survey of all 64 Assessors' Offices, and interviews with Program staff about DOLA's process for reviewing Assessors' Offices reports. We also performed data analysis using DOLA's property tax exemption database for Tax Year 2013 which included more than 200,000 exemptions and more than 347,000 names of applicants and other occupants of the properties. We compared DOLA's list of approved applicants to the Department of Revenue's (Revenue) tax return information to identify any individual property tax exemption applicant who filed a joint 2013 Colorado tax return. We also compared the results of our analysis to the list of approved exemptions sent by counties to the State Treasurer for reimbursement to determine the amount the State reimbursed counties for non-qualifying applicants.

The purpose of our analysis was to determine whether DOLA has adequate processes to identify and deny non-qualifying applicants. As discussed below, neither individuals nor married couples are allowed more than one exemption per year.

HOW WERE RESULTS MEASURED?

Our audit work tested whether any property tax exemptions that were allowed in Tax Year 2013 did not comply with the following statutory provisions:

MARRIED COUPLES MAY NOT CLAIM SEPARATE EXEMPTIONS. Section 39-3-203(5), C.R.S., states that "two individuals who are legally married, but who own more than one piece of residential real property, shall be

deemed to occupy the same primary residence and may claim no more than one exemption.” DOLA’s Program instructions further clarify that married couples who apply for the exemption on multiple properties will be denied the exemption on each property.

EACH APPLICANT MAY CLAIM ONLY ONE EXEMPTION. Section 39-3-207(2)(a)(I), C.R.S., requires DOLA to examine the reports sent by Assessors’ Offices to, “ensure that no applicant has claimed more than one exemption.” If DOLA determines that an applicant has claimed more than one exemption, statute requires DOLA to provide written notice to the applicant that he or she is not entitled to any exemption. This statute further establishes a process for applicants to protest a denial but only on the grounds that the applicant did not actually apply for more than one exemption.

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY AND WHY DID THEY OCCUR?

First, we found 196 exemptions totaling about \$110,000 that were paid by the State but did not qualify because they were filed by married couples seeking separate exemptions. We worked with Revenue to compare the DOLA data with Colorado tax records and identify applicants who filed joint Colorado tax returns with another applicant. In accordance with statute and DOLA’s Program instructions, each of these 196 exemptions should have been denied. DOLA does not use tax filing information from Revenue to identify married couples who apply for multiple exemptions. However, DOLA could identify more non-qualifying applicants if it worked with Revenue to compare Program exemption data with Colorado tax filing records to identify and deny multiple applications from married couples.

Second, we found six likely non-qualifying applicants with exemptions totaling about \$1,400 that DOLA’s review did not find. Two of these were applicants with different names whose social security numbers

were the same. It is likely that one of these social security numbers is incorrect and that the other is correct, so one exemption may be qualifying. The other four were applicants who appear to be two married couples and who applied for separate exemptions. In these cases, the applicants were each listed as occupants on the other application. DOLA did not identify any of these matches, and it did not issue denials to the applicants requesting that they provide documentation proving they are entitled to an exemption. When we brought these exceptions to DOLA’s attention, staff stated that they will search specifically for these exemptions when they do their review for Tax Year 2015 and deny them if they are still claiming the exemption. According to DOLA staff, their inability to identify these social security number matches is a result of the way in which the database currently handles certain types of properties. DOLA reported that it is working to identify the problem with the current search parameters to solve the problem.

WHY DO THESE PROBLEMS MATTER?

Although the number and amount of non-qualifying exemptions we identified is relatively small, for every instance in which DOLA fails to identify or deny an applicant or married couple applying for multiple exemptions, State funds are improperly paid to counties. In our review we found that the State paid a total of \$110,288 in Fiscal Year 2014 to counties for the exemptions we identified as likely to be non-qualifying. Specifically, \$109,536 in State funds was paid to counties for tax exemptions granted to married couples who submitted multiple applications, and \$752 was paid to counties to cover exemptions for applicants who may have applied with an incorrect social security number.

RECOMMENDATION 2

The Department of Local Affairs (DOLA) should expand its processes for identifying and denying non-qualifying applicants by:

- A Working with the Department of Revenue (Revenue) to conduct an annual match of filing status data from Colorado tax returns to the DOLA database to identify and deny married couples who apply for more than one property tax exemption.
- B Identifying the problem with the current social security number search that allows some matches to go unidentified and changing the search as necessary.

RESPONSE

DEPARTMENT OF LOCAL AFFAIRS

A AGREE. IMPLEMENTATION DATE: OCTOBER 2016.

Checking whether married couples are applying on multiple properties is already within DOLA's statutory responsibility. DOLA will explore its authority to enter into an agreement with Department of Revenue to have them run a comparison on DOLA's current data base and additional 2015 new applicants against Revenue's information on taxpayers' marital status. If it can be done through interagency agreement and without additional statutory permission, DOLA intends to put this review process in practice for 2015 applications. It will be difficult to achieve in the current timeframe that DOLA has to review all applications (October 10 through October 31), and permission to access the Revenue information may need statutory change.

As other improvements to this program will require statutory changes, DOLA will seek a change to provide a reasonable timeframe for this review and any permission necessary for Revenue's examination of

DOLA's information. It will be DOLA's goal to have a process in place to implement this married couple review no later than October, 2015 if it can be done without legislation, October of 2016 if legislation is necessary. Ultimately, this process will work best with an IT data base solution, that in all likelihood will not meet a 2016 timeframe, but manual processes can be underway by that time.

B AGREE. IMPLEMENTATION DATE: JANUARY 2015.

There are more than 200,000 exemptions granted in this program that are reviewed by DOLA on an annual basis. DOLA agrees there were six applications that should have been denied that were not discovered in DOLA's review. DOLA has already worked with OIT staff to explore why these particular applications were not discovered in DOLA's initial check, and changes have been made to the program so this type of error should not happen in the future.

Additionally, DOLA has expanded its comparison of social security numbers to include an "occupants to occupants" match in the event that this information may trigger questions regarding whether an application should be granted. DOLA will use this improved system during our 2015 review. Although these changes have already been completed, they will be tested when DOLA reviews 2015 applications in October.

DATA VALIDATION

As discussed earlier, the Department of Local of Affairs (DOLA) uses data sent by the counties to identify applicants applying on multiple properties using a query in its database that identifies all applicants who have listed a social security number (SSN) that matches another applicant or occupant. In addition, in RECOMMENDATION 1, we discuss the benefits of expanding DOLA's review function to include matching its data with death record and tax filing data from the Department of Public Health and Environment (Public Health) and the Department of Revenue (Revenue), respectively. These matches would be more accurate if they were based on comparing SSNs between DOLA's database and the data available from Public Health and Revenue.

WHAT AUDIT WORK WAS PERFORMED, WHAT WAS THE PURPOSE, AND HOW WERE THE RESULTS MEASURED?

We performed a search for duplicate SSN's contained within the DOLA database and asked DOLA to follow up with any applicant whose SSN matched the SSN of another applicant or occupant. The purpose of our test work was to determine whether DOLA's data for review are accurate.

Because DOLA uses SSNs to identify duplicate applications that should be denied, it is important for the SSNs to be accurate.

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

The SSNs that DOLA uses to perform its review are not always accurate. Overall, we found 96 applications in the 2013 exemption data which contained the same SSN number for applicants or occupants with different names. A person's SSN should be unique to

that individual, so one of the SSNs in each of these matches must be inaccurate. DOLA’s review for matching SSNs among applicants did identify 14 of these matches and DOLA was able to obtain corrected SSNs from the individuals, but DOLA did not identify two applicants with matching SSNs. However, DOLA does not have any reason to search for occupants with matching SSNs, so it did not identify the other 80 matches.

Our testing for invalid SSNs was limited to the data available from DOLA, which means that we were only able to identify possibly invalid SSNs that matched the SSNs of other applicants or occupants. The matches we found indicate that there are likely other invalid SSNs in DOLA’s data that are not identified because they do not match another SSN in the data set.

WHY DID THE PROBLEM OCCUR?

DOLA does not have any way to validate the SSNs reported by counties and none of the Assessors’ Offices we contacted/surveyed had a method to verify that the SSNs reported by applicants are valid. One way SSNs could be validated would be for DOLA to request the Social Security Administration to verify county-reported numbers before conducting its review. According to Revenue, SSN data is federally protected and, therefore, DOLA would need to enter into an agreement with the Social Security Administration to have that agency verify SSNs. Another possibility is for DOLA to enter into an agreement with Revenue that would allow it to share federally protected information. The drawback to this solution is that Revenue would not be able to verify SSNs for anyone who was not required to file a Colorado tax return but may still qualify for the property tax exemption.

WHY DOES THIS PROBLEM MATTER?

Section 39-3-207(2)(a)(I), C.R.S., requires DOLA to annually examine the reports sent by Assessors’ Offices to identify applicants who have claimed more than one exemption and deny all such claims. DOLA’s

review for multiple exemption claims is based on a search of matching SSNs within its database. However, the existence of invalid SSNs within the database creates a risk that DOLA will not identify some applicants applying for multiple exemptions.

Additionally, if DOLA is to use outside agencies, such as Revenue and Public Health, to obtain indications of potential ineligibility, DOLA would want to ensure that the data sent to these agencies is accurate. Considering that an SSN is the most common means of comparing data sets for applicants, it is clear that if an SSN is invalid within DOLA's database, it would not match the presumably valid SSN contained within the other agencies' databases. Therefore, if there were to be an indication of ineligibility for an individual who listed an invalid SSN, DOLA would not be aware of this indicator as the outside agency would be unable to identify that individual within their database.

RECOMMENDATION 3

The Department of Local Affairs (DOLA) should investigate entering into an agreement with the Colorado Department of Revenue (Revenue) or the Social Security Administration, as appropriate, to annually validate the social security numbers it receives from the counties.

RESPONSE

DEPARTMENT OF LOCAL AFFAIRS

AGREE. IMPLEMENTATION DATE: SEPTEMBER 2015.

DOLA agrees that correct social security numbers are vital to the integrity of the review process to determine if there are any applications seeking exemption that should be denied. DOLA will investigate the possibility of and request entering into an agreement to validate social security numbers with Revenue or the Social Security Administration no later than September, 2015.

The implementation date is in regard to the request for an agreement. If DOLA is granted access to this information we will look to implement with our review of applications in the fall of 2016, there is probably not time to implement a process before the 2015 review in October.

REIMBURSEMENTS WITHOUT STATE-LEVEL REVIEW

The final step in processing senior and disabled veteran property tax exemptions is for each county to request reimbursement from the State Treasurer for all of its approved exemptions for the tax year. This process begins with the Assessors' Offices compiling their final report of allowed exemptions, computing the individual exemption amounts, and sending these reports with the exemption amounts to their respective County Treasurers. The County Treasurers each send the State Treasurer a report of the approved exemptions and their requests for reimbursement. The State Treasurer also requires each County Treasurer to send a signed letter attesting to the total dollar amount of reimbursement the county expects to receive.

By statute [Section 39-3-207(4)(a), C.R.S.] the State Treasurer is required to reimburse local governments for property tax exemptions by April 15 of each year. The State Treasurer issues a warrant to each County Treasurer for the amount needed to fully reimburse all local government entities for the amount of revenue lost due to the exemption of property taxes accrued during the previous property tax year. The reimbursement is paid from the State General Fund and is not subject to statutory limitation on State General Fund appropriations. The State Treasurer reimbursed counties roughly \$110 million for more than 200,000 senior and disabled veteran property tax exemptions claimed from Tax Year 2013.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We compared DOLA's final list of roughly 200,000 exemptions (i.e., the list of exemptions approved by counties and not denied by DOLA)

with the list of exemptions for which the State Treasurer reimbursed counties. We refer to this complete list of all exemptions the State Treasurer reimbursed to all counties as the “State Treasurer’s report.” The purpose of the comparison was to determine whether the State Treasurer had reimbursed counties for any exemptions that were unallowable or that the counties did not provide to DOLA for review. The audit work performed also included a review of relevant statutes and procedures, as well as interviews with Program staff regarding the process for reimbursement.

HOW WERE THE RESULTS MEASURED?

We used the following statutory requirements to evaluate whether the State Treasurer had reimbursed counties for any exemptions that were non-qualifying or had not been fully reviewed.

COUNTIES SHOULD SEND ALL EXEMPTIONS ALLOWED TO DOLA FOR REVIEW. Section 39-3-207(1), C.R.S., states that each Assessor’s Office shall forward to DOLA a report on the exemptions allowed in his or her county for the current property tax year. Since these reports go to DOLA for further review, it is reasonable to expect that they contain all of the exemptions that the counties will allow for the current year.

APPLICANTS MUST FILE BY STATUTORY DEADLINES TO QUALIFY FOR EXEMPTIONS. Section 39-3-205(1), C.R.S., establishes the initial deadlines for filing exemption applications. Specifically, seniors must apply by July 15 and disabled veterans must apply by July 1 to be eligible for a protest period. Section 39-3-206(2), C.R.S., allows for the filing of late applications by September 15 for seniors and September 1 for disabled veterans. However, this statute also indicates that applicants may not protest a denial if they file a late application.

THE STATE TREASURER SHOULD ONLY REIMBURSE COUNTIES FOR QUALIFYING EXEMPTIONS FROM THE YEAR PRIOR TO THE YEAR IN WHICH THE COUNTY SEEKS REIMBURSEMENT. Specifically, Section 39-3-207 (3), C.R.S., states that each County Treasurer shall forward to the State Treasurer a report on the exemptions allowed in his or her

county “for the PREVIOUS property tax year” and Section 39-3-207 (4), C.R.S., states that the State Treasurer shall issue a warrant to each County Treasurer for the amount of property tax revenue lost as a result of the exemption to property taxes that accrued during the PREVIOUS property tax year. [Emphasis added.]

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

We did not identify problems with the majority of the exemptions for which the State Treasurer reimbursed counties for Tax Year 2013. However, we did find that the State Treasurer reimbursed counties for a small number of exemptions that were non-qualifying and/or that were not fully reviewed, as described below.

REIMBURSEMENTS FOR UNALLOWABLE EXEMPTIONS. We identified 19 exemptions totaling about \$7,900 that the State Treasurer reimbursed to counties but were non-qualifying. These included:

- 10 exemptions totaling \$2,800 that Assessors’ Offices told us did not meet all of the eligibility requirements for the exemption. These were initially denied by an Assessor’s Office but were then mistakenly left on the list of approved exemptions sent to the County Treasurers.
- 4 exemptions totaling about \$2,600 that were submitted by applicants after the statutory deadlines. Assessors’ Offices should not have approved these applications because they did not meet the requirement of timely application established in Section 39-3-206, C.R.S. In addition, because the applications were late, the counties could not provide the information to DOLA to include in its review for multiple applications.
- 5 exemptions totaling about \$2,500 that were denied by DOLA but were not removed by the county from the reports sent to the State Treasurer for reimbursement.

REIMBURSEMENTS FOR EXEMPTIONS NOT FULLY REVIEWED. We found 130 exemptions totaling about \$60,900 that the State Treasurer reimbursed to counties but that were not provided to DOLA by the counties. Although it is likely that most of these exemptions were allowable, DOLA did not review them to ensure that applicants did not claim more than one exemption. Specifically:

- 122 exemptions totaling about \$56,900 that, according to the counties, were mistakenly left off the reports they sent to DOLA.
- 8 exemptions totaling about \$4,000 that the counties approved after submitting their reports to DOLA. DOLA told us that it had advised the counties to include these exemptions on their reports to the State Treasurer, even though DOLA did not check them for duplicate claims.

REIMBURSEMENTS FOR PRIOR TAX YEARS. We found 62 exemptions totaling \$19,000 for exemptions from years prior to Tax Year 2013. According to Assessors' Offices for the eight counties that included exemptions from prior tax years, these exemptions should have been included in the reimbursement request sent to the State Treasurer in 2013 for Tax Year 2012, but were not. However, statutes appear to allow the State Treasurer to reimburse counties only for the prior tax year (e.g., only for 2013 in the 2014 reimbursement).

WHY DID THE PROBLEM OCCUR?

As the Program is currently structured, there is no single agency that ensures that the State only reimburses counties for qualifying exemptions. Specifically, no state agency is responsible for identifying and correcting discrepancies such as:

- Exemptions denied by Assessors' Offices but mistakenly left on lists forwarded to County Treasurers.
- Exemptions denied by DOLA but sent to the State Treasurer for reimbursement.

- Exemptions sent to the State Treasurer for reimbursement but never sent to DOLA for review.
- Exemptions for previous tax years sent to the State Treasurer for reimbursement.

The Program could be modified to assign this responsibility to DOLA. This would involve requiring DOLA to review all exemptions for allowability and conduct additional reviews, as necessary, before the County Treasurers send requests to the State Treasurer for reimbursement to the counties. This would ensure that DOLA reviews the final list of approved exemptions and that all exemptions sent to the State Treasurer for reimbursement have gone through all review steps, eliminating the risk of non-qualifying exemptions remaining on the list reimbursed by the State.

One way of modifying the process would be for DOLA to compare its list of exemptions reviewed and not denied with the counties' final lists of approved exemptions to ensure that all exemptions sent to the State Treasurer for reimbursement have been fully reviewed and not denied. This option would keep the current process mostly intact; however, it does require DOLA to add a second review. There is currently only a 2-week period (April 1st to April 15th) during which this review could occur. Therefore, the existing statutory timelines would most likely need to be changed such that the counties finalize their lists of approved exemptions and exemption amounts earlier than April 1st or the date of the reimbursement to the counties is delayed beyond April 15th.

Another solution would be to move DOLA's entire review to the very end of the process. In this scenario, DOLA would perform its reviews only after the counties have completed their eligibility reviews and calculated the exemption amounts. DOLA could then provide the State Treasurer with a list of all the approved exemptions and amounts for each county. With this solution, DOLA only has to conduct one review. However, this option would also involve changes to the statutory timelines so that this review could occur early enough

in the process for the counties to calculate the final exemption amounts and issue tax bills by early January, as required by Section 39-10-103(1)(a), C.R.S.

WHY DO THESE PROBLEMS MATTER?

According to the Colorado Constitution, the state is required to compensate each local government entity for the net amount of property tax revenue lost as a result of the property tax exemption. Without adequate review by a State agency of the exemptions on which reimbursement is based, there is an increased risk that the State is reimbursing counties for non-qualifying exemptions. The lack of review at the state level to help ensure reimbursements meet all requirements also increases the risk of fraud since non-qualifying exemptions could be included on the reports sent to the State Treasurer without being detected.

For Tax Year 2013 we identified \$87,800 that was reimbursed to counties for exemptions that were either non-qualifying or were not fully vetted by DOLA. Specifically, \$7,900 was reimbursed for exemptions that did not qualify, and \$60,900 was reimbursed for exemptions that were not reviewed by DOLA and so might be unallowable due to being one of multiple applications filed by a single applicant or a married couple. The remaining \$19,000 were for exemptions for earlier tax years which does not seem to be allowable based on the statutory language that only allows counties to request, and the State Treasurer to reimburse for, exemptions for the prior tax year (in this case, Tax Year 2013).

RECOMMENDATION 4

The Department of Local Affairs (DOLA) should work with the counties, the Office of the State Treasurer (State Treasurer), and the General Assembly to establish a process for DOLA to conduct a final review and give final approval for the list of approved exemptions sent to the State Treasurer for reimbursement.

RESPONSE

DEPARTMENT OF LOCAL AFFAIRS

AGREE. IMPLEMENTATION DATE: JUNE 2016

DOLA agrees that a final examination and approval of the counties' requests for exemption reimbursements prior to payment by the State Treasurer would improve controls over the program and it is logical for DOLA to be responsible for that review. DOLA will work to include this issue in any legislation introduced on the program, and will coordinate with both the counties and the State Treasurer to develop a process for completing this final examination and approval of the counties' requests.

If legislation passes in 2016, this process of a final review should be able to take place prior to the State Treasurer's disbursement of funds in April of 2017.



