



# City of New York

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## OFFICE OF THE COMPTROLLER

**John C. Liu**  
**COMPTROLLER**



## AUDIT BUREAU

**Tina Kim**

Deputy Comptroller for Audit

Report to the Mayor and City Council  
on City Comptroller Audit Operations  
Fiscal Year 2012

March 1, 2013

<http://comptroller.nyc.gov>

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JOHN C. LIU  
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March 1, 2013

**Mayor Bloomberg, Speaker Quinn, and Members of the City Council:**

I hereby transmit the annual report on the operations of the Audit Bureau of the New York City Comptroller's Office for Fiscal Year 2012. This report is mandated under Section 93 (f) of the City Charter, which stipulates that no later than March 1 of each year, the Comptroller is to provide a report to the Mayor and City Council on all major audit activities of City Agencies conducted in the previous fiscal year.

As Comptroller, I am committed to making aggressive and vigorous use of the power of audit to both champion and pursue the achievement of efficient, effective City operations and services. The severe national and local recessions have resulted in lower tax collections at the State and City level. As a result, the City is facing looming budget deficits in the billions of dollars in each of the next several years. Therefore, it is critical that we root out waste, mismanagement, and inefficiency in City government. As New York City Comptroller, my audits will be crucial in accomplishing that task and in putting government resources to work to improve the lives of all New Yorkers.

In Fiscal Year 2012, the Audit Bureau issued 92 audits and special reports that resulted in \$307.4 million in actual and potential revenues and savings and called into question another \$25.6 million associated with claims filed against the City. Additionally, the Audit Bureau offered 403 recommendations to City Agencies and other related entities to improve government programs and operations. While Agency managers are responsible for resolving and implementing recommendations promptly and effectively, auditors are responsible for following up to see that action is taken and that intended results are realized. Follow-up of this year's recommendations found that Agencies reported implementing or being in the process of implementing 304 recommendations (75.4%) and not implementing 99 recommendations (24.6%).

The Comptroller's Office welcomes your interest in ensuring that those recommendations made by the Audit Bureau that have not been implemented are carefully considered by City Agencies. The benefit from audit work is not in the recommendations made, but in their effective implementation. Corrective action taken by management is essential to improving the effectiveness and efficiency of government operations. To that end, we have provided supplementary information on the status of all our recommendations by both audit report and by Agency.

Our office is using its audit power to ensure that money is recouped and saved whenever and wherever possible and that waste, fraud, and abuse are continuously rooted out. During the first three years of my tenure in office, the 245 audits and special reports issued by my Audit Bureau have generated a total of \$502.1 million in actual and potential revenues and savings, and have called into question \$218.2 million associated with claims filed against the City.

Sincerely,

A handwritten signature in blue ink, appearing to read "JCL", is positioned above the printed name "John C. Liu".

John C. Liu

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## **SUMMARY OF AUDIT RESULTS**

Actual savings and revenues identified in Fiscal Year 2012 totaled \$46.6 million.

Potential cost avoidance, savings, and revenues identified in Fiscal Year 2012 totaled \$286.4 million. These are estimates of what could be achieved if all the audit and special report recommendations were implemented. Of this \$286.4 million:

- \$260.8 million represents potential cost savings or revenues from a variety of management and financial audit findings, and
- \$25.6 million represents potential cost avoidance resulting from analyses of claims.

The Comptroller's Audit Bureau issued 92 audits and special reports in Fiscal Year 2012. Audits of managerial lump-sum and welfare-fund payments were also performed.

This report is divided into three sections. One section covers audits and special reports of City agencies and public authorities. Another section covers audits and special reports about private entities that received funding from or generated revenue for the City. The audits were performed in accordance with generally accepted government auditing standards (GAGAS) as required by the New York City Charter. The third section has Government Non-GAGAS letter reports.

Many of the audit recommendations have been implemented either in whole or in part. Information on implementation status of the recommendations (as described in the "Audit Follow-up" section of each audit summary) was provided by the auditees in response to our follow-up inquiries.

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**ECONOMIC IMPACT OF AUDITS OF GOVERNMENT AND NON-GOVERNMENT AGENCIES**  
**ACTUAL/ POTENTIAL SAVINGS/REVENUE & POTENTIAL COST AVOIDANCE**  
**FROM AUDITS AND SPECIAL REPORTS FOR FISCAL YEAR 2012**

<b><u>REPORT TYPE</u></b>	<b><u>FISCAL YEAR 2012 NUMBER OF REPORTS</u></b>	<b><u>FISCAL YEAR 2012 ACTUAL SAVINGS/ REVENUE</u></b>	<b><u>FISCAL YEAR 2012 POTENTIAL SAVINGS/ REVENUE(1)</u></b>	<b><u>FISCAL YEAR 2012 POTENTIAL COST AVOIDANCE</u></b>	<b><u>TOTAL</u></b>
<b>Government Agencies</b>					
Audits and Special Reports	70	\$45,221,956	\$260,639,207	\$0	\$305,861,163
Managerial Lump Sum Reviews	NA	\$755,844	\$0	\$0	\$755,844
High Risk Voucher Reviews	7	\$121,066	\$18,805	\$0	\$139,872
<b>Total Government Agencies</b>	<b>77</b>	<b>\$46,098,866</b>	<b>\$260,658,012</b>	<b>\$0</b>	<b>\$306,756,878</b>
<b>Non-government Agencies</b>	<b>15</b>	<b>\$484,148</b>	<b>\$126,335</b>	<b>\$25,568,952</b>	<b>\$26,179,435</b>
<b>Grand Total Government and Non-Government Agencies</b>	<b>92</b>	<b>\$46,583,014</b>	<b>\$260,784,347</b>	<b>\$25,568,952</b>	<b>\$332,936,313</b>

(1) The potential savings/revenue amounts are estimates that could be achieved if recommendations are implemented.

**SECTION I**  
**GOVERNMENT AGENCIES**



## **BROOKLYN BOROUGH PRESIDENT'S OFFICE**

Audit Report on the Brooklyn Borough President's Office's Cash Controls over Transactions from the Topographical Bureau

Audit # MD11-140A  
Comptroller's Audit Library #8155  
Issued: December 30, 2011  
Monetary Effect: None

### **Introduction**

This audit determined whether the Brooklyn Borough President's Office (BBPO) is complying with the cash control procedures as set forth in Comptroller's Directive #11, "Cash Accountability and Control" for its Topographical Bureau sales.

The Borough Presidents are the executive officials of each borough and are elected by the people of each of the five New York City boroughs for a term of four years. The BBPO has a Topographical Bureau that supplies the public with street maps, grade studies, and certificates related to building and development and issues house numbers. The BBPO accepts currency, certified checks, and money orders as payment for the fees it charges for these services.

In Fiscal Year 2011, the City of New York Comprehensive Annual Financial Report prepared by the Comptroller's Office reported that the BBPO had revenue from Sundries Sales (sales from the Topographical Bureau) of \$217,400, which matched the amount recorded as deposited in the City's Financial Management System.

### **Results**

The BBPO generally complied with the cash control provisions over its Topographical Bureau sales as set forth in Comptroller's Directive #11, "Cash Accountability and Control," except for the provision regarding the daily depositing of cash receipts. The BBPO did not ensure that cash receipts were deposited on a daily basis as required. Comptroller's Directive #11, §3.4 states that "the inordinate accumulation of in-office cash receipts is not acceptable and, generally, all funds received must be deposited in the bank on at least a daily basis." The BBPO, however, deposits its cash receipts on a weekly rather than daily basis.

To address this issue, the audit made two recommendations. The BBPO should, to the extent feasible, ensure that cash receipts are deposited on a daily basis. Additionally, the BBPO should establish a dollar-value threshold for the maximum amount of cash receipts allowed to be maintained on site and ensure that the threshold is not exceeded.

BBPO officials stated that, due to a shortage of staff, they are unable to implement the recommendation to ensure that cash receipts are deposited on a daily basis, but agreed to establish a dollar-value threshold for the maximum amount of cash receipts to be maintained on site.

### **Audit Follow-up**

The BBPO did not implement the recommendation to deposit cash receipts on a daily basis, but reported that it has implemented the audit recommendation to establish a dollar-value threshold for the maximum amount of cash receipts maintained on site.

## MANHATTAN BOROUGH PRESIDENT'S OFFICE

Audit Report on the Manhattan Borough President's Office's Cash Controls over Minor Sales

Audit #FM12-054A

Comptroller's Library #8138

Issued: November 2, 2011

Monetary Effect: None

### Introduction

This audit determined whether the Manhattan Borough President's Office (MBPO) is in compliance with cash control procedures as set forth in the Comptroller's Office Directive #11, "Cash Accountability and Control."

Borough Presidents are the executive officials of each of the five boroughs, elected by the people of their borough for a term of four years. It is a Borough President's responsibility to prepare and review budget proposals; recommend capital projects; hold public hearings on matters of public interest; consult with the Mayor and the City Council on the preparation of the executive and capital budgets; review and recommend applications and proposals for the use, development, or improvement of land in the borough; prepare environmental analyses required by law; provide technical assistance to the borough's community boards; monitor and make recommendations regarding the performance of contractual services in the borough; and propose legislation to be introduced in the City Council. Minor sales are generated by the Topographical Unit, which collects fees for assigning new or alternative addresses and copies of maps. The MBPO collected \$137,610 in minor sales during Fiscal Year 2011.

### Results

The audit found that the MBPO complied with most aspects of Comptroller's Office Directive #11, *Cash Accountability and Control*, but not all. The audit found that there was an adequate segregation of duties with the various cash handling processes, all checks received were made payable to the MBPO, a rubber stamp endorsement was placed on the back of all checks, and copies of bank deposit slips and customer receipts were maintained. However, the audit also identified three requirements of Directive #11 that MBPO did not comply with. Specifically, the MBPO did not: deposit cash collected daily; issue pre-numbered receipts; and store daily cash receipts in the agency safe when a deposit was not made for the day.

To address these issues, the audit made three recommendations. The MBPO should:

- Deposit cash receipts daily.
- Use pre-numbered receipts for fees collected.
- Store cash receipts held overnight in the agency safe.

MBPO officials agreed with the audit's findings and recommendations and stated that a memorandum will be distributed to all staff informing them of the changes that are being implemented in the agency's minor cash sales procedures pursuant to the audit.

### Audit Follow-up

MBPO reported that all of the audit recommendations have been implemented.

## QUEENS BOROUGH PRESIDENT'S OFFICE

Audit Report on the Queens Borough President's Office's Cash Controls over Minor Sales

Audit #FM12-074A

Comptroller's Audit Library #8158

Issued: January 20, 2012

Monetary Effect: None

### Introduction

This audit determined whether the Queens Borough President's Office (QBPO) is in compliance with cash control procedures as set forth in the Comptroller's Office Directive #11, "Cash Accountability and Control."

Borough Presidents are the executive officials of each of the five boroughs, elected by the people of their borough for a term of four years. It is a Borough President's responsibility to prepare and review budget proposals; recommend capital projects; hold public hearings on matters of public interest; consult with the Mayor and the City Council on the preparation of the executive and capital budgets; review and recommend applications and proposals for the use, development, or improvement of land in the borough; prepare environmental analyses required by law; provide technical assistance to the borough's community boards; monitor and make recommendations regarding the performance of contractual services in the borough; and propose legislation to be introduced in the City Council. Minor sales are generated by the Topographical Unit, which collects fees for assigning new or alternative addresses and copies of maps. The QBPO collected \$231,535 in minor sales during Fiscal Year 2011.

### Results

The audit found that the QBPO complied with Directive #11 cash control procedures, except for the timely deposit of cash receipts. The audit found that there was adequate segregation of duties with the various cash handling processes, the cash receipt amounts agreed with the amounts deposited into the corresponding bank accounts, the deposits were entered into the City's Financial Management System, all checks received were made payable to the QBPO, a rubber stamp endorsement was placed on the back of all checks, copies of bank deposit slips and customer receipts were maintained, customer receipts were pre-numbered, and the daily cash receipts were stored in the agency safe when the deposits could not be made.

However, the audit did find that proceeds from topographical sales were not deposited in a timely manner as required by Comptroller's Directive #11. All cash receipts (checks and money orders) collected for the month of March 2011 were deposited from three to 15 days after received. Regarding cash deposits, Comptroller's Directive #11 states, "generally, all funds received must be deposited in the bank on at least a daily basis."

The audit recommended that QBPO officials should ensure that funds collected are deposited on the same business day they are collected.

QBPO officials agreed with the audit's findings and recommendations and stated, "This office has fully complied with the policy requiring all funds received must be deposited in the bank on at least a daily basis."

### Audit Follow-up

The QBPO reported that the audit recommendation has been implemented.

## CAMPAIGN FINANCE BOARD

### Audit Report on the Other Than Personal Service (OTPS) Expenditures of the New York City Campaign Finance Board

Audit # FL11-069A

Comptroller's Audit Library #8108

Issued: July 8, 2011

Monetary Effect: None

#### Introduction:

This audit determined whether the Campaign Finance Board (CFB) complied with certain purchasing and inventory procedures as set forth in the Comptroller's Internal Control and Accountability Directives (Comptroller's Directives); Procurement Policy Board (PPB) rules; City Financial Management System (FMS) accounting policies, procedures, and related bulletins; the Comptroller's "Fiscal Year-End Closing Instructions" for June 30, 2010; Division of Municipal Supply Services (DMSS) Office of Surplus Activities Agency User Guide; and other applicable OTPS and inventory guidelines.

The OTPS expenditures of CFB during Fiscal Year 2010, the period covered by the audit, amounted to \$7,277,925.

#### Results

The audit disclosed that CFB generally adhered to the requirements of Comptroller's Directives #6 and #24, Department of Investigation's inventory standards, and applicable PPB rules. In addition, all the purchases reviewed were for proper business purposes, properly authorized and approved, and the purchased goods were received and the services rendered. However, CFB did have instances of non-compliance with certain aspects of these requirements. These instances of non-compliance did not cause a change in the audit's overall opinion.

The audit made 10 recommendations. CFB should ensure that:

- Requisitions are processed when a purchase exceeds the micro-purchase limits as required.
- Miscellaneous vouchers are used only when appropriate.
- Employees submit documentation for reimbursement of travel expenses to justify the nature and purpose of the trip as recommended by Comptroller's Directive #6. In addition, CFB should maintain statements of business conducted for all overnight travel expenses.
- Five bids are solicited for each purchase exceeding \$5,000 and maintain evidence of the solicitation and bids.
- Purchases are made from requirement contracts when available.
- Complete and accurate information is entered in FMS. This includes entering the actual dates of occurrence for purchases in the designated FMS fields.
- Personnel properly complete and maintain all purchase documents.
- Complete and accurate records of all equipment are maintained.
- Relinquished items are removed from the inventory list.

- Sequential identifying control numbers are included on all asset tags.

CFB generally disagreed with the audit's findings. CFB did not specifically address any of the audit's recommendations in its response.

### **Audit Follow-up**

CFB reported that it is implementing seven recommendations, but did not address the remaining three recommendations concerning maintaining accurate records of equipment and sequential identification of control numbers on equipment tags.

**DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES****Audit Report on the Department of Citywide Administrative Services' Use of Purchasing Cards**

Audit # MD11-105A  
Comptroller's Audit Library #8152  
Issued: December 29, 2011  
Monetary Effect: None

**Introduction**

The audit determined whether the Department of Citywide Administrative Services (DCAS) has adequate controls over the use of procurement cards (p-cards), whether it realized cost savings from its use of p-cards, and whether additional cost savings can be realized. The audit scope was Fiscal Year 2010.

A p-card is an agency-issued credit card that allows micro-purchases for needed goods and services to be made quickly and with a streamlined procurement process at an anticipated reduced administrative cost. DCAS, like the majority of City agencies, uses p-cards issued by Bank of America. DCAS had 12 active p-cards with 369 transactions totaling \$259,995 during Fiscal Year 2010.

**Results**

The audit found that, for the most part, DCAS complied with the guidelines set forth in Comptroller's Memorandum #01-1 and Mayor's Office of Contract Services' (MOCS') guidelines. The cardholders maintained receipts and invoices for all sampled p-card transactions, maintained procurement logs, and conducted monthly reconciliations. Additionally, user contracts were on file for all cardholders, the monthly statements and supporting documents were sent to the Audits and Accounts department for an independent review, and DCAS paid its credit card bills on time. The audit found no evidence that the sampled p-card transactions were intentionally split to circumvent the p-card purchasing limit.

However, the audit found that DCAS needs to improve its internal controls over its use of procurement cards. DCAS's procedure for documenting receipt of goods purchased with p-cards is inadequate, and there was a lack of segregation of duties regarding the ordering and receipt of p-card purchases. In addition, DCAS does not maintain inventory records for or tag equipment purchased with p-cards. Further, DCAS incorrectly paid sales tax for some p-card purchases.

To address these issues, the audit made seven recommendations, including that DCAS should:

- Revise its procedure for documenting receipt of p-card purchases to include maintaining receiving reports, packing slips, or marked invoices and ensure that the receipt of goods and services is consistently documented.
- Ensure that the functions of ordering and receiving goods and services are adequately segregated.
- Maintain inventory records of equipment purchased with p-cards. In addition, items should be tagged and a physical inventory count should be conducted periodically.
- Remind cardholders of their responsibility to avoid sales tax payments and recoup the sales tax that has yet to be recouped.

DCAS officials generally agreed with six of the audit's seven recommendations and partially agreed with the remaining recommendation.

#### **Audit Follow-up**

DCAS reported that it has implemented six recommendations and is in the process of implementing the remaining recommendation.

## MANHATTAN COMMUNITY BOARDS

Audit Report on the Manhattan Community Boards' Compliance with Meeting and Public Hearing Requirements

Audit # MD12-080A

Comptroller's Audit Library #8173

Issued: March 15, 2012

Monetary Effect: None

### Introduction

The audit determined whether the Manhattan Community Boards (Boards) are complying with the rules and regulations set forth in the New York City Charter regarding meetings and public hearings. The audit scope was Fiscal Year 2011.

Boards are local representative bodies that serve as advocates for the City's residents and communities. Boards are mandated to meet at least once a month except during the months of July and August. Each community board is required to establish and publish a meeting schedule. Boards regularly conduct public hearings on the City's budget, land use matters, etc., to give community members the opportunity to express their opinions and concerns.

### Results

The audit found that the Boards adhere to the provisions set forth by the Charter and New York State's Open Meeting Law (NYS's OML) with regard to meetings and public hearings. For Calendar Year 2011, the audit found that each of the 12 Manhattan Boards held a monthly full board meeting (with the exception of the months of July and/or August), provided adequate public notice of meetings, allotted time for members of the public to voice their issues and concerns at meetings, and prepared meeting minutes. Consequently, there are no recommendations in the audit report.

Because the audit report did include any recommendations, we did not receive a response from any of the 12 Boards.

## **NEW YORK CITY COMPTROLLER'S OFFICE**

Cost Allocation Plan Fiscal Year 2011

Report: #FM12-081S

Comptroller's Audit Library # N/A

Issued: December 15, 2011

Monetary Effect: None

### **Introduction**

The Cost Allocation Plan of the City of New York is used to identify and distribute allowable indirect costs of certain support services to City agencies. A portion of these costs may eventually be passed on to programs eligible for federal funding, and thus be reimbursed to the City.

The New York City Comptroller's Office review of its own costs resulted in a summary schedule that was sent to the Office of Management and Budget (OMB) for inclusion in the City's Cost Allocation Plan. The schedule indicated, by bureau, the percentage of staff time spent providing services to various City agencies during Fiscal Year 2011.

### **Results**

A letter report was issued to the OMB indicating various statistics for inclusion in its annual Cost Allocation Plan.

**DEPARTMENT OF CONSUMER AFFAIRS****Audit Report on the Department of Consumer (DCA) Affairs' Controls over Resolving Consumer Complaints**

Audit # MG11-127A  
Comptroller's Audit Library #8190  
Issued: June 13, 2012  
Monetary Effect: None

**Introduction**

This audit determined whether DCA has established adequate controls over its complaint resolution process.

DCA is responsible for ensuring that New York City's consumers and businesses benefit from a fair and vibrant marketplace. DCA achieves this mission through resolving and mediating consumer complaints, licensing 55 industries, and enforcing the City's landmark Consumer Protection Law and other related City and State laws. One of DCA's critical objectives is to expedite the resolution of complaints made by consumers against businesses operating in the City.

According to information reported in the Fiscal Year 2011 Mayor's Management Report (MMR), DCA opened 4,580 consumer complaint cases in Fiscal Year 2011. DCA also reported that the median processing time for complaints was 15 days and that 56 percent of the complaints were resolved to the satisfaction of businesses and consumers. During this period, DCA reported closing 4,695 cases (including 160 opened in the previous year).

**Results**

The audit found that DCA needs to strengthen its controls over its complaint resolution process. DCA has established adequate procedures that govern a large portion of its mediation services; however, it does not have specific written procedures for supervisors to follow when reviewing the processing of complaints. In addition, one of the indicators reported in the Fiscal Year 2011 MMR may be inaccurate. Furthermore, DCA does not currently measure customer satisfaction nor solicit any feedback from consumers to determine if they are satisfied with the mediation services provided by DCA. As such, there is an increased risk that mediators may not process complaints properly and DCA cannot determine how satisfied consumers are with its mediation services.

To address these issues, the audit made four recommendations. DCA should:

- Develop written standards pertaining to what constitutes a supervisory review, which files must be reviewed, and how the review should be documented;
- Ensure that mediators recommend site inspections when appropriate and that they make all required attempts to contact unresponsive businesses and consumers;
- Ensure that the critical indicator in the MMR is reported accurately by verifying that all complaints closed with "consumer satisfied" codes had a mutual agreement between the consumer and the business; and
- Solicit feedback from consumers about their satisfaction with the complaint mediation service provided by DCA.

DCA officials agreed to implement three of the four recommendations in the report, but did not clearly address the recommendation pertaining to developing written policies and procedures for the performance and documentation of supervisory reviews.

**Audit Follow-up**

DCA reported that it has taken steps to implement all of the audit recommendations.

## DESIGN COMMISSION

### Audit Report on the Design Commission's Controls over the Design Review Process

Audit # MD11-089A

Comptroller's Audit Library #8182

Issued: May 4, 2012

Monetary Effect: None

### Introduction

The audit determined whether the Design Commission (Commission) has adequate controls over the design review process to ensure that the process is completed in an efficient manner and whether cost-benefit considerations are formally considered in the design process. The audit scope was Fiscal Years 2008 through 2010.

The Commission is responsible for approving permanent works of art, architecture, and landscape architecture proposed on or over City-owned property. In general, the Commission's written approval is required for any works of art or structure on or over City-owned property. Projects include construction, renovation, or restoration of buildings, such as museums and libraries; creation or rehabilitation of parks and playgrounds; installation of lighting and other streetscape elements; and design, installation, and conservation of artwork.

### Results

The audit found that the Commission held all the required public hearings within the audit scope and posted the agendas, submission guidelines, and presentation guidelines on the Commission's website. The Commission's staff performs a thorough review of the submission documents and their follow-up questions are pertinent and necessitated by the Commission's instructions to revise designs and technical details, and generally follow-up questions are sent to agencies in a timely manner.

However, the audit also found that the Commission does not have adequate controls over the design review process to ensure that it is completed in an efficient manner. The Commission has not established formal procedures governing the design review process and has not established goals to assess the efficiency and timeliness of the design review process. In addition, the Commission does not formally factor in cost-benefit considerations when requesting design changes.

To address these issues, the audit made five recommendations, including that the Commission should:

- Develop and use formalized written procedures for its design review process.
- Develop efficiency and timeliness measures for the design review process and establish performance targets to be met.
- Document the discussions with submitting agencies regarding cost changes to projects due to design modifications requested by the Commission. The final outcome of those discussions should also be documented.

In their response, Commission officials disagreed with the audit's findings and recommendations stating, "the Design Commission will maintain its current procedures with respect to the design review process."

### **Audit Follow-up**

The Design Commission reported that it continues to disagree with the audit findings and recommendations.

## DEPARTMENT OF DESIGN AND CONSTRUCTION

Audit Report on Job Order Contracting by the Department of Design and Construction

Audit #7E11-120A

Comptroller's Audit Library #8195

Issued: June 28, 2012

Monetary Effect: Potential Savings: \$2.52 million<sup>1</sup>

### Introduction

The audit determined whether the Department of Design and Construction (DDC) is properly administering job order contracts to ensure that the cost of the work is reasonable and the quality of work is satisfactory. DDC uses job order contracting (JOC), a construction procurement method, for performing small- or medium-sized construction projects. Under a job order contract, DDC's Job Order Contracting Unit (JOC Unit) can direct a contractor to perform individual tasks as needed rather than awarding individual contracts for each small project. The cost of JOC work is based on previously established unit prices for specific items (e.g., roofing, drywall, etc.). Using the established unit prices, the JOC Unit will issue a job order to a job order contractor to carry out the work based on specific tasks.

In Fiscal Years 2009 and 2010, DDC utilized 19 job order contracts authorizing up to \$74 million in construction expenditures. Under these contracts, DDC executed 139 specific job orders totaling \$24,549,827. Information about the administration of JOC projects is contained in PROGEN, a proprietary software application developed and maintained by the Gordian Group.

### Results

DDC is unlikely to attain between \$2 million and \$3.7 million in cost savings from the JOC program because the program is not being administered as effectively as it should be. Had the program been administered more effectively, DDC might have achieved cost savings that, according to the DDC's JOC Training and Reference Manual, could **"save a typical facility owner 8-15% [highlighted in the manual] in overall project costs as compared to traditional contracting methods."** Specifically, the audit found that job orders are not developed in a timely manner, cost estimates are not reliable indicators of the actual cost of work, and construction work is not carried out in a timely manner. Moreover, there is a lack of guidelines that spell out the circumstances and monetary threshold for job order work and a lack of standards for measuring whether the JOC program is, in fact, achieving anticipated cost savings.

When job order work was delayed, DDC did not impose liquidated damages totaling more than \$450,000. Furthermore, there was a large disparity between the estimated and actual job order costs, which casts doubt on the worthiness of employing design consultants to provide estimates. The cost of estimates for the sampled job orders totaled \$70,000.

Additionally, problems with DDC's PROGEN database impede the agency's ability to effectively monitor the status of JOC project work and ensure that projects are proceeding expeditiously. The audit concluded that the quality of work overall was satisfactory.

This report makes a total of 12 recommendations, including that DDC:

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<sup>1</sup> This amount consists of: \$2 million to \$3.7 million in foregone cost savings from the JOC program; \$450,000 in liquidated damages not recouped; and \$70,000 for engineering consultants to prepare cost estimates.

- Formulate measurement criteria to assess whether the JOC program is attaining its goal of achieving savings in overall project costs.
- Complete development and submit job orders for registration within the required 45-day timeframe.
- Provide independent estimates for job order work.
- Ensure that JOC contractors complete work on schedule.
- Develop and implement written guidelines that stipulate the circumstances and monetary threshold under which the use of job order contracts would be appropriate.
- Ensure that all job orders contain provisions for liquidated damages.
- Ensure that accurate and complete information is recorded in the PROGEN system.

In its response, DDC stated, “The Department of Design and Construction (DDC) appreciates the City Comptroller’s efforts with respect to this audit of DDC’s administration of the Job Order Contracting (JOC) program and will be using this report to help improve our process.” Nevertheless, DDC disagreed with the recommendation to formulate measurement criteria to assess whether the JOC program is attaining its goal of achieving savings in overall project costs. DDC believes that the main purpose of the JOC program, which is to expedite the procurement process for work for which it is ideally suited, may not necessarily translate to cost savings and that the criteria that we used to estimate possible cost savings and which we obtained from the DDC’s JOC Manual, was simply part of the DDC’s JOC consultant’s marketing material. Consequently, DDC intends to remove any “marketing materials” from its updated JOC Manual.

DDC agreed with eight recommendations and disagreed with four recommendations.

### **Audit Follow-up**

DDC reported that it disagreed with one recommendation to assess whether the JOC program was attaining goals. However, DDC stated that it has updated its JOC Manual. DDC also reported that written justifications are being kept in the JOC files when there are job order development delays, a tracking system is being developed, all job orders contain provisions for liquidated damages, and PROGEN system deficiencies are being reviewed.

## OFFICE OF THE KINGS COUNTY DISTRICT ATTORNEY

### Audit Report on the Controls of the Kings County District Attorney's Office over Its Computer and Electronic Equipment

Audit #MJ11-122A

Comptroller's Audit Library #8171

Issued: March 9, 2012

Monetary Effect: None

### Introduction

This audit determined whether the Kings County District Attorney's Office (KCDA) maintains adequate controls over its computer and electronic equipment inventory.

KCDA is responsible for protecting the public by investigating and prosecuting criminal conduct in Kings County, enforcing the provisions of the penal law and all other statutes, screening new cases, and preparing and presenting cases in court for hearing, trial, or appeal.

As of June 30, 2011, KCDA had 2,836 items in its computer and electronic equipment assets inventory (desktop computers, laptops, printers, copiers, smart phones, etc.) valued at approximately \$4.3 million (based on original purchase or replacement cost as provided by KCDA). An accurate and reliable inventory system for computer and computer-related assets is essential to track and safeguard the assets.

### Results

The audit concluded that KCDA needs to improve its controls over its computer and electronic equipment assets to ensure that they are adequately tracked and accounted for in its inventory records. The audit showed that 30 (16 percent) of the 191 tested equipment items were either not found or properly accounted for or not at the locations indicated in KCDA's inventory records. The audit also disclosed that KCDA did not consistently use property identification tags to identify and track its equipment inventory. Equipment valued at \$3.3 million (77 percent) of the total value of \$4.3 million of KCDA's equipment inventory were not identified, tagged, or tracked with a property asset identification tagging system. Further, the audit disclosed that KCDA did not maintain a perpetual inventory system, did not update its inventory records as changes occurred, did not adequately segregate duties within its inventory processes, and did not have formal policies and procedures governing inventory of its computer and electronic equipment assets.

To address the above weaknesses, the audit made four recommendations, including that KCDA should:

- Continue with the development and implementation of its perpetual inventory database. The database should provide for accurate, detailed accounting of its equipment inventory. These records should be updated as needed to reflect the acquisition, disposal, reassignment, or relocation of assets, and should be reconciled periodically to ensure accuracy and completeness. Variances (i.e., missing equipment) should be investigated and reported to appropriate channels.
- Ensure that property identification tags are affixed to all computer and computer-related equipment items and include a sequential internal control number.

### **Audit Follow-up**

KCDA reported that all of the audit recommendations have been implemented.

## **QUEENS DISTRICT ATTORNEY'S OFFICE**

Audit Report on Queens District Attorney's Office Controls over Its Inventory of Computer and Computer-related Equipment

Audit #ME11-125A

Comptroller's Audit Library #8183

Issued: May 4, 2012

Monetary Effect: None

### **Introduction**

This audit determined whether the Queens District Attorney's Office (QDA) maintained adequate controls over its inventory of computer and computer-related equipment.

QDA is responsible for the investigation and prosecution of criminal cases within Queens County, the City's second most populous borough.

QDA's Administration Division is responsible for administrative management and includes the Fiscal Services and Budget, Personnel and Payroll Services, and Systems Management and Information Services units. The Systems Management and Information Services unit is responsible for QDA's information technology, including its computer hardware and networking equipment, which is located in six separate facilities in Queens.

During Fiscal Year 2011, QDA's expenditure for computers and computer-related items was approximately \$110,900.

### **Results**

The audit concluded that QDA had adequate controls over its inventory of computer and computer-related equipment. Specifically, the audit determined that QDA's inventory policies and procedures were appropriate and that the sampled computers and computer-related items were properly identified on the inventory records, were appropriately tagged, and were at their assigned locations.

However, QDA's written procedures on the relinquishment of its computer-related equipment were not current. To address this issue, the audit recommended that QDA update and clarify these written procedures.

In its response, QDA agreed to implement the audit's recommendation.

### **Audit Follow-up**

The Queens District Attorney's Office reported that the audit recommendation has been implemented.

## **RICHMOND COUNTY DISTRICT ATTORNEY'S OFFICE**

Audit Report on Inventory Controls over Computer and Computer-related Equipment by the Richmond County District Attorney's Office

Audit # MG11-131A  
Comptroller's Audit Library #8161  
Issued: January 27, 2012  
Monetary Effect: None

### **Introduction**

This audit determined whether the Richmond County District Attorney's Office (RCDA) maintained adequate controls over its inventory of computer and computer-related equipment purchased through the City's Financial Management System (FMS).

RCDA is responsible for ensuring the safety and security of the residents of Staten Island by investigating crime, fairly and aggressively prosecuting those who violate the law, and providing services to those impacted by crime.

During the last three fiscal years (2009-2011), RCDA spent a total of \$52,582 on computer and computer-related items. RCDA had a total of 1,178 computer and computer-related items in its inventory as of June 20, 2011.

### **Results**

RCDA generally adhered to its own policies and procedures when maintaining inventory of computer and computer-related equipment. Specifically, RCDA maintained detailed records; all items tested from the inventory system were located at RCDA's office; and agency identification tags were affixed.

Although RCDA had some detailed policies and procedures, the audit found instances where RCDA either did not have or did not enforce its existing rules pertaining to changes in and the counting of its inventory. In addition, RCDA has neither segregated the duties of maintaining and counting inventory among its staff nor established sufficient compensating controls in lieu of segregating those duties. As a result of these deficiencies, RCDA may not always be certain that all of its inventory items are properly accounted for.

To address these issues, the audit made four recommendations. RCDA should:

- Develop and adhere to policies and procedures pertaining to the replacement and relinquishment of defective items.
- Update its procedures to ensure that in addition to scanning item tags, serial numbers on selected items are verified during inventory counts.
- Update its procedures to ensure that the same individual who maintains the equipment is not solely responsible for conducting an inventory count.
- Comply with its procedures and ensure that all required information is entered into its inventory system.

RCDA officials agreed with all four recommendations in the report and have already implemented them.

### **Audit Follow-up**

RCDA reported that all of the audit recommendations have been implemented.

**ECONOMIC DEVELOPMENT CORPORATION****Audit Report on Coney Island Development Corporation's Financial and Operating Practices and Its Compliance with Its EDC Funding Agreement**

Audit # FM11-070A

Comptroller's Audit Library #8140

Issued: November 7, 2011

Monetary Effect: None

**Introduction**

The Coney Island Development Corporation (CIDC) is a not-for-profit local development corporation which was established in September 2003 to build on the City's efforts to revitalize and enhance the Coney Island section of Brooklyn. Beginning in December 2006, CIDC has carried out its responsibilities through a funding agreement with the New York City Economic Development Corporation (EDC). Because CIDC does not have its own staff or office space, it also contracts with EDC, through a separate service agreement, to provide personnel, office space, and equipment to perform the day-to-day operations of CIDC.

This audit determined whether CIDC accurately accounted for its program funds and conducted its economic activities in accordance with the funding agreement. The audit covered Fiscal Year 2010 (July 1, 2009, to June 30, 2010). In Fiscal Year 2010, EDC charged CIDC \$208,317 for these contracted services. Of the \$357,120 EDC provided during Fiscal Year 2010, CIDC spent \$349,175.

**Results**

EDC properly accounted for CIDC's revenues and expenses and conducted economic activities in accordance with the funding agreement. However, we found that EDC paid \$20,856 in inappropriate or questionable expenditures (approximately 6 percent of the total expenditures) and could enhance the controls over CIDC's operations to ensure that all transactions are properly authorized and processed in accordance with procedures.

The audit made five recommendations.

EDC, on behalf of CIDC, should:

- Ensure all payments processed have sufficient documentation to justify that the expenses are necessary and business-related.
- Pay credit card charges on time to avoid unnecessary finance and late charges.
- Ensure segregation of duties is in place when approving expenses of all CIDC representatives.
- Adhere to its accounting policies and procedures by ensuring that all expenses are supported by original receipts and/or invoices before processing payments.

EDC should also:

- Reimburse CIDC \$17,180 for inappropriate and unnecessary expenses disbursed (i.e., web camera rental, printing and mailing expenses, finance and late charges, a parking violation ticket, and payment towards a farewell party for an EDC employee).

CIDC officials disagreed with the audit's findings and recommendations.

## **Audit Follow-up**

EDC reported that CIDC will have two officers sign off on purchases, but did not address the remaining recommendations.

## **ECONOMIC DEVELOPMENT CORPORATION**

Audit Report on the Administration of Public Purpose Funds by the New York City Economic Development Corporation July 1, 2008, to June 30, 2010

Audit Number: FN11-077A

Comptroller Library #8122

Issue Date: September 21, 2011

Monetary Effect: Potential Revenue \$9,362,895

## **Introduction**

Public purpose funds comprise restricted assets designated by the New York City Economic Development Corporation (EDC) in connection with project agreements among various project developers, the City, and EDC. Under these agreements, EDC acts as trustee for the City regarding amounts received from the developer of certain projects in the City. EDC's custodial duties regarding the public purpose funds are also governed in part by EDC's Master and Maritime Contracts with the City, as discussed in our prior audit, *Financial and Operating Practices of the New York City Economic Development Corporation and Compliance with Its Master and Maritime Contracts—# FN09-104A*, dated April 27, 2010.

The restricted assets of the public purpose funds generally represent the amounts (developer contributions) project developers are required to deposit with EDC in lieu of what would have been otherwise remitted to New York State and the City had no exemption from sales and compensating use taxes been granted. Public purpose funds are established to accomplish specific purposes for the benefit of the projects or the surrounding communities.

As the trustee for these funds, EDC has the custodial responsibility to ensure that the assets of the public purpose funds are safeguarded and properly maintained. Currently, EDC maintains a total of 20 public purpose funds. For Fiscal Years 2009 and 2010, the total balances reported for the 20 funds in EDC financial statements were \$41,894,681 and \$37,714,617, respectively.

The audit determined whether EDC collects and disburses the public purpose funds in accordance with its trustee custodial responsibilities under the fund agreements and returns any unused fund balances due the City.

## **Results**

EDC has not been able to disburse \$9,362,895 in public purpose funds created from developer contributions and maintained by EDC as a trustee on behalf of the City or the project developers. Accordingly—and given the lengthy amount of time that has elapsed since these funds were created—EDC should reconsider whether the original purposes of the funds are still viable or whether the \$9,362,895 funding should be remitted to the City, given that the funds represent City tax savings and other City benefits.

Of the retained funding, EDC has been unable to utilize \$8,898,321 in a public purpose fund created under a 1992 restrictive declaration for the benefit of the Harlem River Rail Yards facility in the Bronx. Although project correspondence indicates that, since 2002, EDC has been involved in attempts to find a use for these funds, these attempts have apparently been unsuccessful. In another case, EDC retained \$464,574 in three funds, including funds that were established in 1982 and 1991 to rehabilitate Astoria Studios in Queens and create job training programs.

Further, EDC failed to collect a total of \$725,720 due from Keyspan that was to be used to fund local community interests. (On July 15, 2011, EDC collected \$250,000—two years after all the funding was supposed to have been obtained.)

We also found that EDC did not properly administer total disbursements of \$247,800 from Fund #39 and incurred unnecessary audit fees of \$28,934 on certain funds that did not have financial activities or audit requirements.

To address these issues, we make four recommendations, including that EDC:

- Reconsider whether the original purposes of inactive Funds #12, #18, #31, and #36 are still viable or whether the \$9,362,895 funding should be remitted to the City's general fund.
- Ensure collection of the remaining balance of \$725,720 in unbilled developer contributions identified by this audit.
- Properly verify future submissions for payment to ensure all funding criteria have been met prior to disbursements.
- Discontinue incurring unnecessary audit fees.

In their response, EDC officials partially agreed with the finding regarding the Harlem River Rail Yards facility in the Bronx, stating, "Over the last few decades EDC has worked very hard to secure and disburse over 80% of the nearly \$50 million in public purpose funds and fully expects to spend the remainder of the funds prudently and as soon as practical. . . . The fact that funds in these accounts have not yet been spent is not an indicator that funds should have been spent."

EDC officials did not address the report's recommendations.

### **Audit Follow-up**

EDC reported that it has ceased all voluntary audits of public purpose funds in response to the finding that it incurred unnecessary audit fees. EDC also stated that it is continuing to seek opportunities for appropriate projects to disburse funds. However, EDC did not address the remaining two audit recommendations.

## DEPARTMENT OF EDUCATION

### Audit Report on the Performance of the New York City Department of Education's Achievement Reporting and Innovation System

Audit #7111-118A

Comptroller's Audit Library #8159

Issued: January 23, 2012

Potential Monetary Effect: None

#### Introduction

The audit determined whether the Department of Education's (DOE) Achievement Reporting and Innovation System (ARIS) has positively affected student performance, is user-friendly, and met its intended goals. ARIS was developed under the DOE's "Children First Intensive" professional development program. In 2007, the City awarded an \$81 million contract to the International Business Machines, Corp. (IBM) to develop and implement the ARIS system. ARIS would allow data analysis and collaboration tools to permit knowledge sharing across City schools, track student and school performance, and enable data integration and data quality assurance. Additionally, ARIS was intended to enable New York City educators to improve student performance by viewing student data, exploring instructional resources, sharing effective practices, and collaborating with colleagues within schools and City-wide. The system was placed in service in October 2008.

#### Results

Despite spending more than \$80 million on system design and development, DOE lacks effective measurements for gauging whether ARIS is an effective tool for enhancing and improving student performance. In addition, educators are not using ARIS to the extent for which it was intended. According to the audit's survey of teachers and principals, many educators are not using the ARIS system to collaborate with other teachers as was intended, are using alternative computer systems to obtain information in place of, or in conjunction with, ARIS, and are not utilizing the system to its fullest extent. Therefore, DOE is not completely attaining all the benefits for which ARIS was intended.

This report makes a total of nine recommendations, including that DOE:

- Ensure that information in ARIS is always up-to-date.
- Provide additional training to users of the ARIS system.
- Ascertain why ARIS Connect is not being efficiently utilized by educators.
- Formulate measurements to assess whether ARIS is attaining its goal to improve and enhance student performance.
- Monitor the frequency and usage of ARIS by system users.

In its response, DOE agreed with six recommendations and disagreed with three recommendations.

#### Audit Follow-up

DOE reported that it already has measurements to assess whether ARIS is improving and enhancing student performance. Furthermore, DOE reported that it has already incorporated in ARIS certain features in alternative systems; has reviewed external research on educators' use of ARIS Connect; and continues to promote ARIS Connect. DOE also reported that it

will continue its current practices of: monitoring the frequency and usage of ARIS; ensuring that school staff are maintaining accurate student data; conducting and reviewing periodic surveys of ARIS users; and providing additional training to users of the ARIS system. DOE stated that the reports that staff regularly use are not discrepant and are not missing information.

## DEPARTMENT OF EDUCATION

Audit Report on the Procurement of Direct Student Services by the Department of Education

Audit #FK10-147A

Comptroller's Audit Library #8160

Issued: January 24, 2012

Potential Monetary Effect: None

### Introduction

This audit determined whether the Department of Education (DOE) complied with relevant procurement and other rules and regulations when procuring Direct Student Services.

DOE serves approximately one million students in more than 1,600 schools as well as non-public (i.e., charter, parochial, private, and out-of-City) school students. To serve students, DOE employs pedagogic staff and procures consultant services from companies and individuals. During Fiscal Year 2010, DOE expended \$836.2 million on Professional Services for Direct Educational Services to Students (Direct Student Services).

When procuring Direct Student Services, DOE must comply with New York State Education Law Article 52-A, § 2590 (h), DOE's Procurement Policy and Procedures (PPPs), Other Than Administrative Individual Consultants Standard Operating Procedures (SOPs), and other relevant laws and rulings. DOE's PPPs and SOPs set forth policies and procedures for procuring goods and services and assign individuals and units with specific responsibilities in the procurement process. These rules and regulations are intended in part to ensure the wise, prudent, and economical use of public money; make as consistent as possible the uniform application of these policies; foster broad-based competition; and meet the needs of DOE students, staff, and offices.

A large part of the Direct Student Services that DOE provides are made up of Related Services. Related Services are defined as "developmental, corrective and other support services required to assist a student with a disability to benefit from instruction" and include services such as occupational, physical, and speech therapy. Under federal and State laws, DOE is mandated to provide students Related Services of the type, frequency, duration, and manner specified in their Individualized Educational Programs (IEPs) and within prescribed timeframes.

This audit covered the period July 1, 2009, through June 30, 2010.

### Results

It is not clear whether DOE made maximum reasonable efforts to contract with Related Service providers because it: did not utilize open-ended solicitations or re-solicit for Related Service providers more frequently to directly engage needed providers; imposed overly

restrictive staffing requirements on prospective contractors; discouraged prospective contractors because it allowed contracted consultant companies to also act as independent consultants; and did not assign and award contracts based on a systematic needs analysis. Consequently, DOE does not have a sufficient pool of contracted resources to provide mandated Related Services. As a result, DOE is authorizing the use of independent consultants through Related Service Authorization (RSA) Forms to provide these services, which may result in higher rates paid under lesser performance standards, monitoring constraints, and insurance requirements. More important, according to DOE's Division of Instructional and Information Technology (DIIT) Related Service Status Reports for June 2010, DOE failed to provide Related Services to 72,302 of 285,736 students referred for such services—more than 25 percent.

Additionally, DOE did not ensure that available DOE internal or contracted resources were utilized prior to authorizing the use of independent consultants; review consultants' past performance prior to retaining services; or maintain and register independent consultant agreements. Consequently, DOE may have unnecessarily engaged independent consultants and may have employed consultants incapable of satisfactorily providing services to students. Additionally, DOE cannot effectively monitor independent consultants and hold them sufficiently accountable for their performance.

To address these issues, the audit recommends that DOE should:

- Utilize open-ended solicitations or solicit more frequently for Related Service providers in order to retain sufficient contracted consultants to provide Related Services which cannot be fulfilled through DOE staff.
- Ensure that minimum staffing capacity requirements for future solicitations are not overly restrictive.
- Reconsider its practice of allowing contractors to also act as independent consultants while paying them at their highest contract rate for the service provided and not holding them to the associated contract terms.
- Assign and award future contracts based on a systematic needs analysis that considers all factors affecting the need for services including, but not limited to, the length, frequency, and duration of services.
- Ensure that it provides all students Related Services of the type, frequency, duration, and manner specified by their IEPs and within prescribed timeframes.
- Institute controls to ensure that available DOE personnel and contracted consultant companies are utilized prior to authorizing the use of independent consultants. These controls should include, but not be limited to, making written determinations that DOE personnel and contracted consultant companies are not available to perform services and employing computer system edits to ensure that DOE personnel and contracted consultant companies are successively exhausted prior to engaging independent consultants.
- Complete Performance Evaluations and enter cautionary information in VENDEX.
- Review consultants' past performance prior to retaining services.
- Maintain RSA Forms used to engage independent consultants.
- Register all contracts and agreements as required by New York State Education Law Article 52-A, § 2590 (h) and DOE procurement rules.

DOE stated it was concerned and took issue with the report's "unsupported findings, leaps of logic and largely stale and unviable recommendations." Nevertheless, DOE acknowledged the report's findings by agreeing to implement or partially implement many of our recommendations. In particular, DOE indicated that its new Request for Proposals (RFP) would address the report's recommendations and improve its contracting efforts. However, during the course of the audit, DOE did not inform the audit team that the RFP was completed or share this critical document with them. As a result, auditors cannot determine whether the new RFP will, in fact, address the recommendations and improve DOE's contracting process.

### **Audit Follow-up**

DOE reported that four recommendations were already in place or subsequently implemented, one recommendation is in the process of being implemented, and another recommendation will be partially implemented. DOE did not agree to implement three recommendations and did not address the remaining recommendation.

## **DEPARTMENT OF EDUCATION**

Audit Report on the Department of Education's Compliance with the Physical Education Regulations in Elementary Schools

Audit # MD11-083A  
Comptroller's Library #8126  
Issued: October 4, 2011  
Monetary Effect: None

### **Introduction**

This audit determined whether New York City School Districts were in compliance with key provisions of the State Education Department's (SED's) Physical Education Regulations for students in elementary schools. The audit scope was School Year 2010-2011.

Support for delivering physical education in New York City public schools is primarily provided by the Office of School Wellness Programs (OSWP). OSWP is a joint collaboration between the Department of Education (DOE) and the Department of Health and Mental Hygiene (DOHMH) and was created in 2010. OSWP was formerly known as the Office of Fitness and Health Education (created in 2007), and prior to this change was called the Office of Fitness and Physical Education (created in 2003).

During May 2003, in conjunction with DOHMH, DOE conducted a study of students in elementary schools. Using height and weight measurements of a representative sample of public elementary school students, researchers concluded that nearly 50 percent of kindergarten through fifth grade students were overweight or obese.

Chapter 11 of the Regulations of the Commissioner of the SED requires all schools under the jurisdiction of the SED to provide a program of health, physical education, and recreation. Section 135.4 of Chapter 11 (Physical Education Regulations) requires the trustees and boards of education to develop and implement school district plans to provide physical education to all pupils. The current plans should be kept on file in the school district office

and should be filed with the SED. In addition, the Physical Education Regulations provide the minimum frequency and time requirements of physical education that is to be provided to students in kindergarten through grade 12.

## **Results**

The audit found that DOE is not in compliance with the SED's Physical Education Regulations for elementary-level students and middle-level students in elementary schools. DOE does not have an overall written physical education plan nor does it monitor schools' compliance with the regulations. Therefore, DOE has no assurance that students in elementary schools are receiving the minimum required physical education. In fact, the audit's review of a sample of 31 elementary schools found limited evidence that any of the sampled schools were in compliance with the SED physical education requirements for all of its students.

To address these issues, the audit made seven recommendations, including that DOE should:

- Ensure that it creates, implements, and regularly updates a physical education plan that includes all requirements of the SED physical education regulations for all schools under its jurisdiction and ensure that a current plan is appropriately filed with the SED.
- Ensure that it adequately monitors its schools' compliance with the physical education requirements of the SED's Physical Education Regulations.
- Ensure that principals are aware of the SED's physical education requirements and advise them that it is their responsibility to ensure that their students receive the minimum physical education requirements.

DOE officials generally agreed with five of the audit's seven recommendations, but disagreed with the recommendation to ensure that DOE adequately monitors schools' compliance with physical education requirements and did not directly address the recommendation to require that principals certify whether students are receiving the minimum required physical education.

## **Audit Follow-up**

DOE reported that six of the audit recommendations have either been implemented or are in the process of being implemented. DOE did not specifically address the remaining recommendation.

**DEPARTMENT OF EDUCATION****Audit Report on Champion Learning Center, LLC's Compliance with the Supplemental Education Services Vendor Agreement with the Department of Education**

Audit # MD11-106A  
Comptroller's Audit Library #8186  
Issued: May 16, 2012  
Monetary Effect: Actual Savings: \$859,064

**Introduction**

The audit determined whether Champion Learning Center, LLC (Champion) (1) complied with the key provisions of its No Child Left Behind (NCLB) contract with the New York City Department of Education (DOE) and (2) had adequate controls in place for providing Supplemental Education Services (SES) and processing student attendance. The audit also reviewed DOE's monitoring of Champion's compliance with SES requirements.

Under the Federal NCLB Act, DOE is required to offer contracts to those New York State Education Department (NYSED)-approved SES providers that submit contract proposals. There were a total of 52 NYSED-approved providers during School Year 2009-2010, one of which was Champion. Champion contracted with DOE to offer tutoring services from September 1, 2009, through August 31, 2012, for an estimated contract amount of \$40,003,578. Champion mainly offers individual home-tutoring services but is also contracted to provide group services.

**Results**

The audit disclosed that Champion has control weaknesses, which prevented the company from adequately complying with key provisions of its contract with DOE to provide SES. Champion had inadequate controls to ensure that SES was provided and student attendance was processed in accordance with program requirements. These weaknesses were compounded by DOE's own control weaknesses, which led to inadequate monitoring of Champion's compliance with the SES program. Champion billed and was paid by DOE for services for which there was inadequate or questionable support. An analysis of payments made to Champion for School Years 2009-2010 and 2010-2011 identified a total of about \$858,779 in questionable payments that should be investigated and, where warranted, recouped. These amounts were identified as a result of certain focused tests conducted to identify control weaknesses. Auditors, therefore, cannot be assured that the remaining amount that DOE paid to Champion for SES is fully supported and accurate. Also, based on the identified weaknesses, there is no reasonable assurance that the possibility of fraud is adequately controlled.

Champion did not comply with the provision of the NCLB contract requiring all SES providers to offer tutoring services only during non-school hours. In addition, there were a number of isolated instances when Champion reported that it provided services to students at odd times (between midnight and 5:00 a.m.). In addition, Champion did not consistently obtain the required signatures before processing student attendance for reimbursement and did not ensure that the attendance information it certified was adequately supported by attendance sheets. Further, Champion did not always create and share Student Education Plans (SEPs) with parents in a timely manner and had no evidence that progress reports were shared with parents in a timely manner.

To address these issues, the audit made 13 recommendations, of which seven were made to Champion, including that Champion should ensure that:

- SES is provided only during hours allowed by the contract.
- It consistently complies with the NCLB requirements and that the invoices it certifies are adequately supported by attendance sheets.
- SEPs and progress reports are shared with parents in a timely manner.

The audit also made six recommendations to DOE, including that DOE should:

- Recoup the amount identified in the report for services reportedly provided between 8:00 a.m. and 2:30 p.m. on school days.
- Investigate the appropriateness of the remaining payments identified in the report for services reportedly provided either during sessions that started during school hours or at odd hours and recoup any payments deemed to be unjustified.
- Update its Vendor Portal validation rules to ensure accurate billing and compliance with the contract provisions and NCLB requirements.

DOE and Champion officials generally agreed with the 13 recommendations made in the report.

### **Audit Follow-up**

DOE reported that the six audit recommendations addressed to it have been implemented. DOE recouped \$859,064 from Champion in June 2012. However, DOE stated that it has since replaced SES with the Expanded Learning Time programs, which will shift oversight responsibility from a central office to the schools. The SES Vendor Portal will no longer be used for enrollment, tracking attendance, or billing. Instead, the schools will enter the purchase orders in the DOE's Financial Management System and will invoice for services provided.

## **DEPARTMENT OF EDUCATION**

Audit Report on the Department of Education's Utilization of the Absent Teacher Reserve Pool

Audit # MD11-108A  
Comptroller's Audit Library #8118  
Issued: September 6, 2011  
Monetary Effect: None

### **Introduction**

This audit determined whether the Department of Education's (DOE) efforts to assist Absent Teacher Reserve (ATR) Pool teachers in finding permanent positions were effective and how teachers in this pool are being utilized. The primary audit scope was School Year 2010-2011.

Teachers for whom there is no full-time teaching position in their current building for the upcoming school year are considered to be in excess. Excessed teachers include those from closing or phasing out schools, those returning from reassignment, and those who are in excess from their home school due to changing conditions at the school (e.g., budget reductions). Excessed teachers who do not find a permanent position at a school by the start of the upcoming school year are placed in the ATR pool. The cost of these ATR teachers, who continue to receive their full salaries and benefits, is charged at least partially to the central DOE rather than the individual schools. These teachers are assigned to schools across the City and perform a variety of jobs, such as substituting or performing administrative work. As of March 1, 2011, there were 1,219 teachers in the ATR pool.

## **Results**

The audit revealed that teachers in the ATR pool are primarily assigned to schools and that most of them appear to be working in teaching and teaching-related positions. In addition, DOE has made a number of efforts to assist teachers in the pool in finding permanent positions at schools. However, the effectiveness of DOE's efforts cannot be determined because the agency presently does not formally or centrally track and maintain the data needed for such an assessment to take place.

DOE records indicate that 95 percent of the teachers in the pool as of March 1, 2011, have been assigned to work in schools; the remaining 5 percent have been assigned to non-school locations. A review of those in the pool who have been there for at least two years revealed that 164 (45.9 percent) had been assigned to the same schools for two or more consecutive years. Responses from a survey of principals and administrators revealed that 72 percent of the sampled teachers are reportedly working in teaching and teaching-related positions.

DOE has various resources, information, and support services available to its teachers offering a wide array of assistance designed to help them find new positions within DOE's school system. DOE has also attempted to add incentives and remove disincentives so that school administrators would be more inclined to offer permanent positions to teachers in the ATR pool. However, DOE is significantly hindered in evaluating the effectiveness of these efforts because the agency does not collect and track the data needed for such an evaluation. For instance, DOE does not track all applications made by the ATR teachers nor does it assess which of its efforts are most effective in helping teachers find permanent teaching positions. This information would enable DOE to reallocate its resources to those efforts that appear to be working the best and afford it the opportunity to create new initiatives to assist teachers who remain in the ATR pool.

To address these issues, the audit made two recommendations. DOE should:

- Collect sufficient data and assess whether its efforts are effective in helping teachers in the ATR pool find permanent teaching positions.
- Maintain and track sufficient data on the teachers who leave the ATR pool to assist the agency in developing initiatives and strategies to help teachers remaining in the pool find permanent positions.

DOE officials agreed with the recommendations, but contended that they already capture, maintain, and analyze data which they believe meets the intents and purposes of the recommendations.

## **Audit Follow-up**

DOE reported that both audit recommendations have been implemented.

## **DEPARTMENT OF EDUCATION**

### **Audit Report on the Department of Education's Food Distribution Vendor Contracts**

Audit # ME10-144A

Comptroller's Library #8148

Issued: December 13, 2011

Monetary Effect: Potential Savings: \$410,144

## **Introduction**

This audit determined the adequacy of the Department of Education's (DOE) payment and contract management controls concerning the provision of food distribution services. Through a competitive bidding process, DOE entered into contracts with four food distribution vendors to procure and distribute about 550 food items to City schools. The contracts for Manhattan, Brooklyn, Queens, and Staten Island began on May 1, 2006, and were renewed through August 31, 2012. The combined contract total is \$278,182,585 for this period. The contract for the Bronx started on August 4, 2004, and was renewed through August 31, 2012, for a total amount of \$75,187,330. Payments to food distributors for deliveries to schools in Fiscal Year 2010 totaled \$113.9 million.

DOE's Office of School Food and Nutrition Services (OSFNS) manages these contracts in an effort to ensure that students receive quality food at a reasonable cost. The food distribution contracts provide for the purchase, storage, and distribution of both donated and vendor-procured food. The New York State Office of General Services delivers food donated by the U.S. Department of Agriculture and other organizations to the vendors' warehouses or, if necessary, to food manufacturers for processing. For non-donated food items, the food distributors purchase the goods from food manufacturers or suppliers. The food distribution vendor contracts stipulate that distributors must offer the items to DOE at specified manufacturer prices plus a mark-up to cover the costs of receiving, handling, warehousing, tracking, and delivering the food.

School managers place food orders with the distributors. In case there is food spoilage or a shortage or non-delivery of items, school personnel inform OSFNS, which is responsible for resolving the issue and assessing liquidated damages, if necessary. For each delivery, distributors submit signed receipts and invoices to OSFNS. OSFNS reviews the invoices and supporting documentation and requests payments through the Financial Management System, the City's centralized accounting and budgeting system.

The primary scope of the audit was Fiscal Year 2010 (July 1, 2009, through June 30, 2010).

## **Results**

The audit revealed that DOE's payment and contract management controls over its procurement of food distribution services were insufficient. The audit identified weaknesses in the food delivery payment process and in the monitoring of food distributor performance.

The weak controls resulted in unsupported payments to distributors, failure to receive prompt-payment discounts, and overpayments for donated food. An analysis of payments made to food distributors in Fiscal Year 2010 identified a total of about \$410,144 that should be recouped. (This finding is the result of the focused testing conducted for this audit and does not suggest that the remaining amount that DOE paid for food distribution services in Fiscal Year 2010 is fully supported and accurate.)

In addition, DOE is not closely monitoring the prices charged by manufacturers/suppliers for the food items they provide to the distributors. As a result, DOE is hindered in identifying opportunities to negotiate with the distributors for lower food prices. Furthermore, there was insufficient documentation to support DOE's decisions concerning the imposition of liquidated damages for distributors' performance violations. Finally, DOE did not evaluate the performance of the food distribution vendors as required by the contracts and its own procurement manual.

To address these issues, the audit recommends, among other things, that DOE:

- Upgrade its vendor invoice verification and payment system, the Usage Basket System (Usage), so that it maintains complete payment information.
- Ensure that there is support for deliveries made by distributors before payments are processed.
- Ensure that Usage properly distinguishes between purchased and donated food items during the discount calculation process.
- Maintain a central inventory system that is linked to Usage and tracks in a timely manner the receipt of donated food by the distributors and the delivery of donated food to the schools.
- More closely monitor manufacturers'/suppliers' prices to identify opportunities to negotiate lower prices with the distributors.
- Obtain sufficient documentation to support its decisions concerning the imposition of liquidated damages for distributors' performance violations.
- Evaluate vendor performance on a regular basis as required by the contract and its own procurement manual.

In their response to the audit report, DOE officials agreed or partially agreed with 11 recommendations and disagreed with three.

### **Audit Follow-up**

DOE reported that eight recommendations have been implemented and that the remaining six recommendations have not been implemented.

## DEPARTMENT OF EDUCATION

### Audit Report on the Department of Education's Planning and Allocation of Funds to Community-based Organizations for the Universal Pre-Kindergarten Program

Audit # MH11-059A  
Comptroller's Audit Library #8135  
Issued: October 13, 2011  
Monetary Effect: None

#### Introduction

The audit determined the adequacy of the Department of Education's (DOE) efforts over the planning and allocation of funds to its DOE-contracted community-based organizations (CBOs) for the Universal Pre-kindergarten Program (UPK).

UPK is a voluntary New York State-funded program designed to provide comprehensive early childhood education at no charge to parents who choose to enroll their eligible children (four years of age). The program operates in all five boroughs in public and non-public school settings – operated by CBOs. UPK is administered by DOE's Office of Early Childhood Education (OECE). OECE's three field offices are responsible for monitoring and assessing the UPK programs provided by the CBOs within their geographic boundaries and report directly to the OECE.

In Fiscal Year 2010, DOE had 398 contracts with 368 CBOs providing UPK services to approximately 18,500 children at 448 separate sites. In addition, UPK services were provided to another 15,500 students at 444 Administration for Children's Services (ACS) CBO sites through an ACS/DOE Memorandum of Understanding (MOU) agreement, while an additional 22,700 students received UPK services at 549 public schools. For Fiscal Year 2010, the State's UPK appropriation to the City totaled \$248 million, of which \$99 million was spent on DOE UPK programs by the public schools, \$65 million by DOE-contracted CBOs, and \$51 million by ACS. Additional general programmatic expenditures totaled almost \$4 million.

The primary audit scope was Fiscal Year 2010; however, the period was expanded to Fiscal Years 2007 to 2011 to include a review of DOE's allocation of UPK funds provided by the State.

#### Results

The audit found that DOE has not adequately planned for and distributed all the funds appropriated by the State for the pre-kindergarten program. Further, the audit found that \$29 million, which could potentially have been used to place 8,000 additional children in a UPK program, was unused by DOE and reverted to the State in Fiscal Year 2010. During Fiscal Years 2007 to 2010, \$133 million of the appropriate balance that was unused by DOE for the UPK program reverted to the State.

Specifically, DOE did not provide adequate evidence that it sufficiently evaluated demand for UPK services or provided additional UPK services to districts with greater demand nor did it recruit new CBOs that might have been capable of providing UPK services or target and enter into contracts with qualified CBOs that offer full-day wraparound services. Additionally, DOE did not provide any evidence that it conducted any trend analyses to determine which CBOs have a proven track record and the ability to fill UPK seats.

The audit made 10 recommendations, including that DOE should:

- Implement its pipeline strategy for the coming school years by developing a recruitment process to solicit additional independent contractors interested in participating in the State-funded UPK program and utilizing the Department of Health and Mental Hygiene's (DOHMH) online listing of licensed preschool providers.
- Require that CBOs maintain and submit a waitlist of applicants who were turned away due to unavailability at their site in order to more effectively plan and distribute UPK funds in future years.
- Use the information compiled by the CBOs to more effectively plan and distribute UPK funds in future years.
- Based on the data DOE collects, it should target and enter into contracts with qualified CBOs that offer free additional full-day wraparound services to encourage more working parents to enroll their children in the UPK program
- Continue to lobby the State to allow use of UPK funds for full-day UPK programs.

In their response, DOE officials generally agreed with nine recommendations and only disagreed with the recommendation that DOE collect waitlists maintained by the CBOs. However, officials strongly disagreed with the audit's methodology and the findings upon which the audit's recommendations are based. Additionally, DOE submitted its response under protest, citing as its reasons perceived flaws and material omissions in the report as well as our office's refusal to grant them an extension to respond to the report. After carefully reviewing DOE's arguments and protest, we found them to be without merit.

### **Audit Follow-up**

DOE reported that it has implemented seven of the audit's 10 recommendations that it agreed with and continues to disagree with the remaining three recommendations. Specifically, DOE states that it disagreed with recommendations 7 and 8, which recommended that CBOs maintain waiting lists of applicants who were turned away due to unavailability at their site and that the information compiled be used more effectively to plan and distribute UPK funds in future years. DOE contends that this is not feasible and it is still DOE's position that developing a central tracking process is likely to yield obsolete data that would be useless to parents and families. DOE will continue to encourage CBOs to redirect families to the multiple resources that are currently available such as redirecting waitlisted families to 311, which is DOE's enrollment hotline.

Regarding recommendation 9, that DOE target and enter into contracts with qualified CBOs that offer free additional full-day wraparound services, DOE states that it will continue to offer full-day UPK seats through ACS community-based organizations, public schools, and community-based organization contracts.

## **BOARD OF ELECTIONS**

### **Audit Report on the Procurement Practices of the New York City Board of Elections**

Audit # MJ11-066A

Comptroller's Audit Library #8149

Issued: December 23, 2011

Monetary Effect: None

#### **Introduction**

This audit determined whether the New York City Board of Election's (BOE) procurement practices complied with applicable City rules and regulations (i.e., Comptroller's Directives #1, #6, and #24, and Procurement Policy Board Rules).

BOE is responsible under New York State Election Law for all matters associated with voters and Election Day operations throughout the five boroughs of New York City. In Fiscal Year 2010, BOE expended a total of \$95.7 million, consisting of \$68.7 million for Other Than Personal Services (OTPS) expenditures, covering the procurement of supplies, materials, goods, and services necessary to support agency operations and \$27 million in Personal Service (PS) expenditures.

#### **Results**

With some minor exceptions, this audit determined that BOE's procurement practices complied with key provisions of applicable City rules and regulations, including Comptroller's Directives #1, #6, and #24, and Procurement Policy Board (PPB) Rules. The minor exceptions noted include that BOE incorrectly used miscellaneous vouchers to pay for goods and services that should have been purchased on standard vouchers. Additionally, BOE incorrectly paid one vendor \$1,352 for some excessive charges.

To address these weaknesses the audit made two recommendations that BOE should:

- Limit the use of miscellaneous vouchers to those purchases in which the estimated or actual expenditures cannot be determined as per Comptroller's Directive #24, and
- Ensure that its staff closely reviews car service invoices and disallow charges for excessive wait time.

#### **Audit Follow-up**

BOE reported that both audit recommendations have been implemented.

**OFFICE OF EMERGENCY MANAGEMENT**

Audit Report on the Office of Emergency Management's Controls over Its Inventory of Emergency Supplies

Audit #ME10-084A

Comptroller's Audit Library #8107

Issued: July 7, 2011

Monetary Effect: None

**Introduction**

The audit determined whether the Office of Emergency Management (OEM) has adequate controls over the Coastal Storm Plan (CSP) emergency supplies stored at its contractor's warehouse facilities.

OEM plans and prepares for emergencies, such as coastal storms, educates the public about preparedness, coordinates emergency response and recovery, and collects and disseminates emergency information. According to the CSP, OEM is responsible for coordinating all phases of the response to a serious coastal storm, including meeting the needs of evacuees requiring shelter, food, and other necessities. As part of its Shelter System Stockpile Plan, OEM has contracted with a vendor to receive and store CSP emergency supplies and to deliver and distribute these supplies to shelters in the event of a serious storm. The contractor stored the CSP emergency supplies at two warehouses, one in Nassau County, New York, and the other in New Jersey. Under this contract, the vendor stores several thousand containers of emergency supplies. As of the end of Fiscal Year 2009, OEM stated that the total cost of the CSP emergency supplies stored in inventory was approximately \$5.14 million.

**Results**

The results of this audit were discussed with OEM officials, and their comments were considered in preparing a "limited use" report that was provided to them.

The details of the "limited use" report were not made public so that certain procedures relating to public safety were not disclosed. The OEM officials' acknowledgement of receipt of the "limited use" report was attached as an addendum to the public report.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Audit Report on the Department of Environmental Protection's Monitoring of Prime Contracts with Subcontracting Goals Covered by Local Law 129

Audit # MJ11-124A

Comptroller's Audit Library #8188

Issued: June 1, 2012

Monetary Effect: None

**Introduction**

This audit determined whether the Department of Environmental Protection (DEP) adequately monitors prime contractors' compliance with Local Law 129 ("LL129") with regard to monitoring their use of Minority- and Women-owned Business Enterprises (M/WBEs) and whether those contractors complied with the City's prompt payment rules with regard to paying their subcontractors. The audit scope period covered Fiscal Years 2007 through 2011.

LL129 of 2005 created the City's M/WBE Program. LL129 was enacted to address significant disparities in contracting opportunities afforded to certain M/WBE groups in City procurement. LL129 establishes M/WBE certification requirements, contract-participation goals, technical assistance, administrative, and enforcement procedures to promote the use of M/WBE firms for City contracting and subcontracting procurement opportunities under \$1 million. Each City agency that oversees prime contracts covered by LL129 is required to monitor the prime contractors' compliance with their plans to use subcontractors and M/WBEs (i.e., their utilization plans).

DEP is responsible for protecting the City's environmental health. According to agency records, during Fiscal Years 2007 through 2010, DEP awarded 14 prime contracts (valued at \$47 million) with M/WBE subcontractor participation goals, totaling \$2.6 million, subject to LL129.

**Results**

The audit determined that DEP complied with provisions of LL129 with respect to monitoring prime contractors' use of M/WBEs firms. However, weaknesses were identified in DEP's monitoring activities that limit the agency's ability to effectively assess its prime contractors' overall compliance in attaining their M/WBE subcontracting goals.

DEP's primary monitoring activities included performing job site visits, requiring that its prime contractors submit certain periodic reports, and performing a close-out reconciliation near the end of the contract term. In mid-2011, DEP implemented a new procedure requiring a spot check review of prime contractors' files early on to assess and track issues related to their compliance. Even though these procedures addressed some deficiencies, DEP still did not contact M/WBE subcontractors on a regular basis to verify their use by prime contractors nor did it require proof of prime contractors' payment to their subcontractors until near the end of the contract and the close-out reconciliation is performed. Further, DEP does not periodically audit its contractors' books and records to verify payments made to subcontractors.

The audit also noted that DEP's ability to effectively monitor its prime contractors was limited by other weaknesses, including that: (1) DEP's Bureau of Engineering Design and Construction (BEDC) and the office of the Agency Chief Contracting Officer (ACCO) did not have a clear line of communication with regard to sharing contract matters, and (2) DEP did

not ensure that prime contractors submitted all quarterly reports and, as a practice, did not adequately review or evaluate the information reported by the prime contractors.

To address the above weaknesses, the audit made nine recommendations, including that DEP should:

- Continue to improve its monitoring of prime contractors' progress in meeting their M/WBE subcontracting goals.
- Ensure that prime contractors promptly submit all key documents, (e.g., Quarterly Reports and Subcontractor Approval Forms) required by LL129, DEP regulations, and related contract provisions.
- More closely review and evaluate the prime contractors' subcontracting plans as reported on Subcontractor Approval Forms and actual payments to subcontractors reported on quarterly reports.
- Establish formal procedures for communicating problems and relevant contract information between departments to document and communicate to all related parties (BEDC, ACCO's Office, etc.) contractor deficiencies observed at the job sites and other related concerns along with the actions taken to remedy such deficiencies and address matters of concern.

In their written response, DEP officials generally agreed with eight of the audit's recommendations and stated that it will consider implementing the recommendation that it develop a standard tool for engineers to use to document their job site observations.

#### **Audit Follow-up**

DEP reported that the audit recommendations have either been implemented or are in the process of being implemented.

## **EQUAL EMPLOYMENT PRACTICES COMMISSION**

Follow-up Audit Report on the Compliance of the Equal Employment Practices Commission with Its Charter Mandate to Audit City Agencies

Audit # MJ11-123F

Comptroller's Audit Library #8137

Issued: October 26, 2011

Monetary Effect: None

### **Introduction**

This follow-up audit determined whether the Equal Employment Practices Commission (EEPC) implemented the two recommendations made in the previous audit report, entitled "*Audit Report on the Compliance of the Equal Employment Practices Commission with its Charter Mandate to Audit City Agencies*" (#MD09-057A), issued May 29, 2009.

EEPC is responsible for monitoring City agencies' compliance with the City's Equal Employment Opportunity (EEO) policy as well as related federal, state, and local laws. Accordingly, EEPC is mandated to audit and evaluate the equal employment practices and procedures of each agency at least once every four years and whenever requested by the Civil Service Commission or the Human Rights Commission.

### **Results**

The audit found that EEPC implemented the two recommendations made in the referenced previous audit. However, due to EEPC's budgetary and staffing constraints, the audit concluded that it is likely that EEPC will again fall short of meeting its mandate of auditing all City agencies under its jurisdiction within the current four-year audit period, ending December 31, 2012.

To address these weaknesses, the audit made three recommendations, including that EEPC ensure that agencies not audited within the previous (2005–2008) and current (2009–2012) audit periods are the next agencies scheduled to be audited.

### **Audit Follow-up**

EEPC reported that all of the audit recommendations have been implemented.

## DEPARTMENT OF FINANCE

Audit Report on the Development and Implementation of the Computer Assisted Mass Appraisal System by the Department of Finance

Audit # 7A11-126

Comptroller's Audit Library #8179

Issued: April 12, 2012

Monetary Effect: None

### Introduction

The objectives of the audit are to determine whether the agency's implementation of the Computer Assisted Mass Appraisal (CAMA) system as a finished product will meet the overall goals as stated in the system justification and meet the initial business and system requirements.

The Department of Finance (DOF) collects City revenues, calculates the value for all real property in the City, and maintains accurate property records. New York State and City real estate law is applied each year by DOF's Property Division to estimate the value of every New York City residential and commercial property.

In 2007, DOF entered into a \$4.3 million contract with Vision Appraisal Technology, Inc. to develop a new system, CAMA, to collect property-related information and perform valuation calculations. Since August 2010, CAMA has been used by DOF in its annual valuations. In 2010, DOF renewed the contract for an additional \$734,204 to provide training, software license, and maintenance for CAMA.

### Results

CAMA generally met the initial business and system requirements and the overall goals as stated in the system justification. DOF expected that the off-the-shelf CAMA package with modifications would be implemented in 2007; however, DOF encountered problems during system development and testing. As a result, the implementation was delayed until August 2010, which was three years behind schedule. DOF has also identified numerous changes necessary for system enhancement.

The audit found that CAMA used inappropriate comparable properties to assess the valuation of condominiums and cooperatives, which may affect their current market value assessments.

Additionally, the result of the audit's user satisfaction survey revealed that 80 percent of the regular users stated they would like to see changes made to CAMA. The audit found 33 percent of the respondents rarely or never used CAMA, but these inactive users were not disabled or deleted from the system. Finally, the audit found DOF does not have a formal business continuity plan to bring the system up in the event of emergency or system failure.

To address these issues, the audit makes eight recommendations that DOF should:

- Monitor and ensure all future system developments are completed on schedule.
- Ensure all problems and concerns reported by the users on the Clear Quest log are addressed in Phase II agreement.
- Ensure CAMA selects appropriate comparable properties for annual valuations.
- Review and modify its criteria when selecting comparable properties.

- Ensure that the user concerns identified in the report are addressed.
- Conduct periodic surveys to ensure that their concerns are addressed.
- Develop written policies and procedures for tracking system users and terminating inactive users. In addition, DOF should periodically review the status of inactive user accounts and terminate access when appropriate.
- Develop a formal business continuity plan for CAMA. Periodically update the plan to ensure that it functions as intended and is adequate to quickly resume computer operations without material loss of data.

DOF officials agreed with three recommendations, partially agreed with two recommendations, and disagreed with three recommendations of this audit.

### **Audit Follow-up**

DOF reported that three recommendations have been implemented, four recommendations were partially implemented, and the remaining recommendation has not been implemented.

## **DEPARTMENT OF FINANCE**

Letter Report on the Department of Finance's Recordkeeping and Reporting of Outstanding Parking Summonses Issued to Diplomats and Consuls

Audit # FM11-109AL

Comptroller's Audit Library #8157

Issued: January 9, 2012

Monetary Effect: None

### **Introduction**

The Department of Finance (DOF) is responsible for the adjudication and reporting of parking summonses issued to diplomats, consuls, and their staff. For the period from November 1, 2002, to June 28, 2011, diplomats, consuls, and their staff received a total of 31,046 in parking summonses. There was an outstanding amount totaling \$1,206,267 of unresolved parking summonses as of June 28, 2011, which includes \$716,146 in outstanding summonses for 189 countries and \$490,121 in outstanding summonses under the category "Countries to be Identified" that could not be assigned to any particular country.

On November 1, 2002, the United States Department of State (State Department) and the City of New York entered into a Memorandum of Understanding (MOU) to deter diplomat officials from accumulating parking violation debt while greatly enhancing the City of New York's ability to collect millions of dollars in unpaid parking summonses.

Our audit objective was to determine whether DOF accurately maintained records of parking summonses issued to diplomats and consuls and adequately reported those summonses to the State Department, the agency authorized to pursue collections.

## **Results**

The audit found that DOF maintained adequate records on the \$716,146 in outstanding summonses and that DOF did report the outstanding summonses to the State Department for enforcement on a monthly basis as required. A review of the outstanding summonses reported to the State Department found that enforcement actions were taken when warranted. However, for the remaining outstanding summonses totaling \$490,121, under the category named “Countries to be Identified,” testing found that the summonses had issuance errors such as wrong plate numbers or incorrect vehicle identification and could not be traced to any particular country. As a result, these summonses were not reported to the State Department for enforcement action.

The audit recommends that these summonses issued under “Countries to be Identified” be written off after they have been reviewed and deemed to be unassignable to a specific country due to issuance errors. In addition, while the audit recognizes it is not DOF’s role to issue summonses, DOF should consider following up with the appropriate issuing agency on any trends regarding defective summonses so that the agency can take corrective action.

DOF officials agreed with the audit’s findings and recommendations stating, “The Comptroller’s Office made two recommendations to improve the entire issuance and enforcement process for summonses written to Diplomats and Consuls.”

## **Audit Follow-up**

DOF reported that one recommendation was implemented and the remaining recommendation is in the process of being implemented. DOF stated that it is in the process of developing an automated procedure that will identify and write off summonses when they meet specific criteria.

## **DEPARTMENT OF FINANCE**

Joint Audit Report on the Department of Finance’s Inclusion of Cell Antenna Revenue in Assessment of Real Property Taxes

Audit # FM11-132A

Comptroller’s Audit Library #8194

Issued: June 27, 2012

Monetary Effect: Potential Revenue \$24.3 million

## **Introduction**

The Department of Finance (DOF) is responsible for collecting City revenues efficiently and encouraging compliance with City tax and other revenue laws. One of the ways DOF does this is by valuing real property in the City. DOF is charged with valuing almost one million properties. The market or property value assessed by DOF is a factor in the calculation of property taxes. The real property tax is the City’s largest single revenue source.

Owners of income-producing real property are required to electronically file an annual Real Property Income and Expense (RPIE) statement with the Department of Finance. DOF uses information from the RPIE to estimate the market value of property for tax calculation.

purposes. Cellular carriers pay property owners cell antenna lease rates for allowing the carrier to mount cell antennas or other equipment on their property. Property owners are required to report this cell site income on the RPIE if they are not exempt from RPIE filing.

This audit determined whether all owners accurately report cell antenna income on the RPIE statement; whether additional property tax would be due from unreported cell antenna income; and whether penalties are assessed for not reporting cell antenna income.

## **Results**

DOF did not use all the readily available resources to identify additional property owners who were required to report cell site income on their 2008 or 2009 RPIE statements. The audit found an additional 569 properties for 2008 and 1,539 properties for 2009 with cell antenna equipment for which owners failed to report cell site income. Had DOF used the additional resources, the audit estimates that DOF could have ascribed additional cell site income totaling \$66,720,000 and, applying DOF's methodology, the potential tax impact of this additional income may have been \$24.3 million in additional City revenue.

The audit made the following four recommendations to DOF to address these issues:

- Conduct matches of its records of property owners who reported cell site income and the New York City Department of Buildings Cell Antenna Record, found on the Department of Buildings (DOB) website, to identify property owners who have cell antennas/equipment and did not report cell site income on the RPIE.
- Conduct matches of its records of property owners who reported cell site income and the Real Estate of Utility Corporation list that DOF compiles to identify property owners who have cell antennas/equipment and did not report cell site income on the RPIE.
- Ascribe cell site income when it identifies and verifies additional properties that are cell sites and were not reported by property owners.
- Consult with its Legal Department to determine if penalties can be assessed against property owners who fail to include cell site income on the RPIE. The penalty should be calculated based on the income the assessor ascribes.

DOF agreed or partially agreed with the four recommendations. DOF stated in its response that it recognized that there were owners who were not reporting cell site income as required on the RPIE form.

## **Audit Follow-up**

DOF reported that two recommendations have been implemented and the remaining two recommendations were partially implemented.

## DEPARTMENT OF FINANCE

Audit Report on the Valuation of Class 2 Properties by the New York City Department of Finance Fiscal Year 2011/2012

Audit #FN11-130A

Comptroller's Audit Library #8178

Issued: April 12, 2012

Monetary Effect: None

### Introduction

This audit determined whether the Department of Finance (DOF) properly calculated Tax Class 2 property values.

DOF is responsible for billing and collecting City property tax revenues, determining property assessed value for tax purposes, and maintaining accurate property records. Tax Class 2 consists of certain residential properties, including multi-family cooperatives and condominiums. Each year, DOF determines the market value of the properties, from which the taxable value is calculated. For Tax Class 2 residential properties, market value is based on current value of the projected future income stream from the building. To calculate the market values of the properties, DOF uses two different methods. These methods are Gross Income Multiplier (GIM) and Net Income Capitalization.

DOF uses mass appraisal techniques to determine market value for assessment purposes. For initial valuation of its residential properties, DOF uses a Computer Assisted Mass Appraisal System (CAMA 2). CAMA 2 collects property-related information, selects comparable properties to be used to value cooperatives and condominiums, and performs valuation calculations.

### Results

DOF's changes in property valuation methodology and the use of inconsistent criteria to determine the market values of Class 2 residential properties resulted in large fluctuations in market values that, in turn, significantly affected some properties' tax liability in Fiscal Year 2011-2012. Before Fiscal Year 2008-2009, DOF valued Class 2 properties using the Net Income Capitalization methodology. In Fiscal Year 2008-2009, DOF changed this methodology to the Gross Income Multiplier method. In Fiscal Year 2011-2012, DOF reverted to the Net Income Capitalization method. Although both methods are permissible, DOF did not provide a basis for this latest change. DOF's change in valuation methodology resulted in significant market fluctuations for Class 2 properties with 11 or more units. Further, changes in the criteria DOF used to develop market values for Class 2 properties with less than 11 units in Fiscal Year 2011-2012 also significantly affected the calculated market value of these properties.

In addition, DOF did not properly follow its own Property Valuation Guidelines when selecting comparable properties. Comparable properties are used to help set market value. The audit found that for certain cooperatives in all boroughs of New York City, the estimated Gross Income per square foot was significantly lower than the income of any of the selected comparable properties. As a result, these coops were under-valued based on their income. In addition, for some properties, the gross income indicated in the Notice of Property Value was much higher than the Gross Income estimated using the comparable properties' income. As a result, these properties were over-valued based on their income. Finally, DOF issued its 2011-2012 Tentative Assessment Roll without sufficient review of the calculated market

values and adequate assessment adjustments before sending Notices of Property Value to the properties' owners.

The report recommended that DOF should:

- Review and evaluate the impact of new methodologies and ensure that the same income factors and criteria are consistently applied.
- Ensure that proper disclosure and notification of upcoming changes is provided to the public.
- Re-evaluate the properties that were over-assessed/under-assessed in Fiscal Year 2011-2012 and ensure that in the following years these properties are valued properly.
- Review and analyze the cooperatives and condominiums comparables files and check for the existence of unusually low or high gross income numbers assigned to these properties compared to the selected comparable rental properties.
- Run and review reports produced by CAMA 2 and analyze unusual market value fluctuations.
- Make timely adjustments to the properties before the Tentative Assessment Roll is published and the Notice of Property Value is sent to the property owners.

In their response, DOF officials partially agreed with each of the six recommendations contained in the audit report.

### **Audit Follow-up**

DOF reported that three recommendations have been implemented. Two recommendations were partially implemented and DOF disagreed with and will not implement the remaining recommendation.

## **DEPARTMENT OF FINANCE**

Audit Report on the Department of Finance's Hotel Room Occupancy Tax Collection Practices

Audit # FP11-084A

Comptroller's Audit Library #8144

Issued: November 22, 2011

Monetary Effect: Potential Revenue \$8,894,040

### **Introduction**

This audit determined whether the Department of Finance (DOF) had adequate controls over its tax collection practices to ensure that hotel operators and room remarketers collect and remit the Hotel Room Occupancy tax due to New York City as required.

DOF is responsible for collecting City revenues efficiently and encouraging compliance with City tax and other revenue laws. One such revenue DOF collects is the Hotel Room

Occupancy tax (HROTX), which is imposed upon the occupancy of a hotel room in the City of New York. DOF collected \$369.1 million in HROTX revenue for Fiscal Year 2010.

All hotel operators are required to file a Certificate of Registration with DOF within three days after the opening of a new hotel. DOF will issue a Certificate of Authority, within five days of registering, to collect the HROTX. During the 2010 tax year, the HROTX was and continues to be 5.875 percent of the total room rate of all room types, plus an additional charge per room per day between 50 cents and \$2 depending on the room rate.

## **Results**

The audit found that DOF had significant internal control weaknesses regarding HROTX collection practices that, if corrected, could increase collections. DOF did not maintain a complete list of all hotels that are required and authorized to collect the HROTX. Also, DOF did not ensure that all hotel operators and room remarketers commencing business, or opening new hotels, file a Certificate of Registration within three days after the commencement or opening. The audit several internal control weaknesses regarding DOF's HROTX collection practices that resulted in 92 hotels owing \$8,894,040 in HROTX.

The audit made 16 recommendations to DOF to address these issues, including the following:

- Conduct audits of the 64 hotels identified in this report as non-filers.
- Conduct further reviews of the 20 room remarketers to determine whether they should be paying the HROTX and pursue actions for those deemed to be non-filers.
- Conduct audits of the eight hotels mentioned in this report that under-reported the amounts of HROTX due and recoup any additional amounts owed.

DOF officials agreed with eight recommendations and partially agreed with eight recommendations. DOF did not agree with the audit calculation of \$1.8 million in hotel tax due from the 64 hotels during the audit period.

## **Audit Follow-up**

DOF reported that seven recommendations have been implemented, five recommendations are in the process of being implemented, and the remaining recommendations have been partially implemented. DOF stated that it has no authority to impose a financial penalty if a hotel operator does not file a Certificate of Registration.

## DEPARTMENT OF FINANCE

Audit Report on the Administration of the Senior Citizen Rent Increase Exemption Program by the Department of Finance

Audit # MG11-053A

Comptroller's Audit Library #8123

Issued: September 23, 2011

Monetary Effect: Actual Revenue: \$28.5 million

### Introduction

This audit determined the adequacy of controls in place to ensure that property tax abatement credits (TACs) are appropriately issued to landlords in the Senior Citizen Rent Increase Exemption program (SCRIE).

The Department of Finance (DOF) administers a broad range of programs that offer tax credits, one of which is SCRIE. This program provides an exemption to eligible tenants from future rent increases and offers the landlords an equivalent credit on their property taxes. In return for the exemptions, the City pays property owners an amount equal to the difference between the last amount of rent paid by the tenant prior to applying for SCRIE and the current legal regulated rent. This amount is paid in the form of TACs issued on behalf of the tenant to the landlord against the landlord's real estate taxes six months in advance.

Prior to September 18, 2009, SCRIE applications were processed by the Department for the Aging (DFTA) and TACs were issued by DOF. As of September 18, 2009, DOF also began processing initial applications and by January 2010, DOF was responsible for the entire SCRIE program. For the period July 1, 2009, through November 30, 2010, DOF issued \$171.2 million in TACs on behalf of 47,282 tenants. During this period, DOF also recouped \$8.9 million in previously issued TACs.

### Results

The audit found that DOF has inadequate controls in place to ensure that all TACs are appropriately issued to landlords. A major contributing factor is the absence of defined policies and procedures governing the process to help ensure that all TACs to landlords are made on behalf of eligible tenants. In fact, as a result of these inadequate controls, auditors could not determine how much of the \$171.2 million in TACs issued during the audit's 17-month scope period was made on behalf of eligible tenants. A portion of these benefits may be attributable to incomplete benefit transfers to eligible household members, thereby directly affecting the accuracy of DOF's database.

Since assuming responsibility for SCRIE, DOF has made some efforts to improve its controls. However, DOF has no controls in place that would allow it to identify when circumstances change (e.g., a tenant dies or moves out) and SCRIE benefits should be discontinued or transferred to another household member. During the audit review period (July 1, 2009 – November 30, 2010), DOF issued more than \$11.8 million in TACs on behalf of 3,801 tenants who were reported as deceased as early as January 2000<sup>2</sup> and had TACs

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<sup>2</sup> We obtained this information using the Social Security Administration Death Master file as of March 2011. The file is electronic, updated monthly, and contains death records reported to SSA by family members, funeral homes, etc.

issued on their behalf. DOF recouped only \$3.3 million of the TACs, leaving \$8.5 million that still needs to be investigated.

The audit made seven recommendations, including that DOF should:

- Develop comprehensive policies and procedures for issuing TACs and for supervisory reviews of applications processed by staff. These policies and procedures should be enforced and communicated during periodic training sessions.
- Periodically match recipients listed in its databases with individuals listed as deceased in the Social Security Administration's Death Master File to ensure that benefits are not issued on behalf of deceased tenants and to identify TACs that may need to be recovered.
- Develop controls to ensure that when it does identify deceased tenants with eligible household members, that its records are accurately updated and that benefit transfers are correctly performed, listing the new tenant's date of birth and social security number.

Of the audit's seven recommendations, DOF officials generally agreed to implement six recommendations and disagreed with one recommendation.

### **Audit Follow-up**

DOF reported that six recommendations have been implemented and the remaining recommendation is in the process of being implemented. Subsequent to the publication of the audit report, the Office of Management and Budget has credited DOF with \$7.1 million in estimated revenue in each fiscal year against planned budget cuts beginning in Fiscal Year 2013 through Fiscal Year 2016, for a total of \$28.5 million in additional revenue.

## NEW YORK CITY FIRE DEPARTMENT

### Audit Report on the Fire Department of New York's Automatic Vehicle Location System

Audit #FM11-094A

Comptroller's Audit Library #8141

Issued: November 9, 2011

Monetary Effect: None

### Introduction

On April 1, 2005, the Department of Information Technology and Telecommunications (DoITT) entered into an agreement with the Hewlett-Packard Company (HP) for the Emergency Communications Transformation Program (ECTP). The objective of ECTP is to centralize and integrate the call-taking and dispatch operations among the New York Police Department, Fire Department of New York (FDNY), and Emergency Medical Services (EMS), which merged with FDNY in 1996, into two Public Safety Answering Centers. ECTP is divided into a number of sub-projects, one of which is the development and deployment of an Automatic Vehicle Location (AVL) system for both fire emergency response vehicles and EMS vehicles. As of February 2011, the total cost of the AVL project for Fire and EMS was approximately \$39 million.

FDNY implemented a GPS device to locate and track its emergency response vehicles as part of the AVL project, thus helping dispatchers more accurately deploy emergency resources and creating a visual map of where resources are located and their movements. FDNY's two Computer Aided Dispatch (CAD) systems (one for fire emergency vehicles and the other for EMS) are designed to serve the demanding call-taking and dispatching needs of FDNY. However, FDNY officials stated that AVL is fully integrated into the EMS CAD system, but not into the Starfire CAD (for fire emergency vehicles) system.

This audit determined whether the AVL system functions as intended and whether the resources to maintain the system were appropriate. The audit scope was the duration of HP's contract, April 1, 2005, to March 31, 2011.

### Results

The audit found that the AVL system has limited use for fire emergency vehicles and questioned whether the \$7.3 million expended on the fire emergency response vehicles was a good use of project funds or if these funds could have been used more effectively elsewhere. The audit also found that the AVL system does not track or display the location of FDNY vehicles in "real time" and, in some instances, displays vehicles inaccurately or not at all. Additionally, FDNY's Radio Shop does not maintain accurate inventory records or a suitable inventory tracking system to account for all of its emergency response vehicles equipped with AVL or for its AVL ensembles. Finally, despite investing \$39 million in the AVL system, it appears that FDNY has not provided appropriate resources to maintain the system.

The audit made six recommendations. FDNY should:

- Assess whether additional resources should be spent on enhancements to the AVL system for fire emergency response vehicles and related equipment.
- Prior to each EMS shift, have vehicle crews confirm with their dispatchers that their vehicles' AVL units are functioning properly. Any exceptions should be documented and referred to the appropriate party.

- Perform periodic diagnostics to identify exceptions that occur within the AVL system. These exceptions should be documented and corrective action taken to ensure that the exceptions are corrected.
- Ensure that all AVL exceptions are tracked independently.
- Ensure that there are adequate resources to maintain the AVL system.
- Ensure that all AVL equipment is accurately engraved, bar-coded, and entered into the electronic inventory tracking system in a timely manner.

FDNY officials agreed with five of the six audit recommendations and partially agreed with one.

### **Audit Follow-up**

FDNY reported that five recommendations have either been implemented or are in the process of being implemented and the remaining recommendation is being partially implemented. FDNY stated that the Mobile Data Terminals (MDTs) in EMS vehicles are equipped with red lights to indicate when a GPS is not functioning. In the case of an inoperable MDT after the start of a tour, the event would be reflected on the AVL map as an anomaly. Dispatchers can confirm AVL map anomalies by communicating with an EMS unit.

## **NEW YORK CITY FIRE DEPARTMENT**

Audit Report on the New York City Fire Department's Performance Indicators as Reported in the Mayor's Management Report

Audit # MH10-139A

Comptroller's Audit Library #8136

Issued: October 19, 2011

Monetary Effect: None

### **Introduction**

This audit determined whether the New York City Fire Department's (FDNY) controls are adequate to ensure that its performance indicators as reported in the Mayor's Management Report (MMR) are accurate and reliable. This audit concentrated on the following four critical indicators: 1) average response time to structural fires; 2) average response time to structural fires and medical emergencies by fire unit; 3) average response time to life-threatening medical emergencies by ambulance unit; and 4) combined response time to life-threatening medical emergencies by ambulance and fire units.

The MMR serves as a public report card on City services affecting the lives of New Yorkers and mainly covers the operations of City agencies reporting directly to the Mayor. FDNY responds to fires, public safety and medical emergencies, natural disasters, and terrorist acts to protect lives and property in the City. As reported in the MMR, the FDNY's Key Public Service Areas includes protecting lives and property from fire hazards and other emergency conditions and providing quick and efficient responses to medical emergencies.

The scope period of this audit was July 2008 through October 2010.

## **Results**

Overall, FDNY's controls are adequate to ensure that its performance indicators as reported in the MMR, regarding the four critical indicators reviewed on response times, are accurate and reliable. However, due to a policy change that occurred in May 2009, the time it took the FDNY Alarm Receipt Dispatchers (ARDs) to process calls, which are now handled by the New York City Police Department's (NYPD) Unified Call Takers (UCTs), is no longer included in the fire response time calculations. As a result, starting in the Fiscal Year 2010 MMR—the first full fiscal year affected by this policy change—the fire response time statistics for two of the four critical indicators reviewed in this audit are no longer comparable to the response time statistics reported for prior years.

In addition, the audit found that the STARFIRE Computer Aided Dispatch (CAD) system does not require individual user identifications or passwords to access the system, except for the maintenance personnel who have the ability to modify data. While the Emergency Medical Service (EMS) CAD system does require individual user identifications and passwords, FDNY did not disable the accounts for some of its users who are on extended leave or no longer employed by the FDNY. The agency also assigned multiple EMS CAD system user identifications to the same individual. Finally, the audit found that FDNY does not have written disaster recovery plans specifically for the STARFIRE CAD system or the data warehouse containing the data downloaded from both CAD systems.

The audit made five recommendations. The FDNY should:

- Determine the average processing time that was eliminated with the implementation of the UCT procedures and adjust either the prior years' response times or the current year's response times to make them comparable to one another. If FDNY is unable to make these calculations, it should separately report the response time statistics using the pre- and post-UCT implementation methods.
- Install user identifications and passwords for its non-maintenance personnel of the STARFIRE CAD system.
- Ensure that access of employees whose services are terminated or on extended leave be removed from the EMS CAD system.
- Periodically review the EMS CAD system users who have multiple user identifications to ensure that only individuals who currently need multiple user identifications have them.
- Develop written disaster recovery plans for the STARFIRE CAD system and its data warehouse.

FDNY officials agreed with four of the five audit's recommendations. They disagreed with the recommendation that the FDNY account for the implementation of the UCT procedures in its reporting of average response times.

## **Audit Follow-up**

FDNY reported that it has either implemented or is in the process of implementing the four recommendations that it agreed with.

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Follow-up Audit Report on the Shelter Conditions and Adoption Efforts of Animal Care of New York City

Audit #7F11-086F

Comptroller's Audit Library #8125

Issued: September 29, 2011

Monetary Effect: None

**Introduction**

This follow-up audit determined whether Animal Care and Control (AC&C) implemented the 13 recommendations made in the previous audit, *Audit Report on Shelter Conditions and Adoption Efforts of Animal Care and Control of New York City*, (MH06-082A), issued on June 19, 2006.

AC&C of New York City is a not-for-profit organization responsible for operating New York City's municipal animal shelter system, including rescuing, caring for, and finding homes for homeless and abandoned animals in New York City. AC&C is the largest pet organization in the Northeast, rescuing nearly 40,000 animals each year, and has facilities operating in all five boroughs. The agency's mission is "to promote and protect the health, safety and welfare of pets and people in New York City." AC&C is the sole organization responsible for the care of the City's entire homeless and unwanted animal population.

AC&C currently operates five facilities-- three shelters (in Manhattan, Brooklyn, and Staten Island) and two receiving centers (in Queens and the Bronx). Shelters are open from 8am to 8pm, seven days a week. Adoption hours are from noon to 7pm, seven days a week. The Queens Receiving Center is open on Wednesdays from 8am to 4pm, and the Bronx Receiving Center is open from 8am to 4pm on Tuesdays and Saturdays. Receiving Centers take in animals that the public drops off as lost, stray, or injured. These facilities do not hold animals overnight nor do they provide adoption services; animals stay at these facilities no more than a few hours before they are transferred by van to a full-time shelter. All branches of the agency are closed on major holidays.

AC&C has been under contract with the New York City Department of Health and Mental Hygiene (DOHMH) since January 1995. The organization most recently renewed its current five-year contract in July 2010. This contract expires on July 1, 2015, with two three-year renewals. The contract requires that AC&C provide and operate facilities to shelter, hold, examine, test, spay, neuter, place for adoption, assure humane care and disposition of, and otherwise control animals deemed a threat to public health. The DOHMH Bureau of Veterinarian and Pest Control, Veterinary Public Health Services provides oversight and administers Departmental programs.

**Results**

The current follow-up audit found that of the 13 recommendations made in the previous audit, AC&C has implemented seven, partially implemented four, not implemented one, and one is no longer applicable. Specifically, the audit found that AC&C has strengthened its dog-walking capacity through the development of a volunteer program and hiring of a staff person dedicated solely to volunteer recruitment and management. Actual dog-walking outcomes, however, are still limited, with various deficiencies identified regarding documentation and verification of the decision-making process of dogs to be walked.

Shelter security has improved with the purchase of a security system. Also, there has been strong enforcement by staff with assisting customers in handling animals. AC&C has also ensured that staff wears appropriate protective gear when handling animals. However, animal security has not sufficiently improved. The audit found that weaknesses remain in the investigation of missing animals; the agency's computer system lacks reliable reports; and the agency has weak controls over determining the actual location of an animal.

Administratively, the agency has improved its adoption documentation process. It has taken additional steps to improve this process and cut costs, including purchasing a scanner as well as an electronic signature function, which has eliminated the need to store paper hard copies in the future. In the meantime, the agency has a contract with City Storage to maintain original adoption papers. AC&C has also instituted a cleaning procedure based on staff use of the Spot Check Log, which was developed as a result of the previous audit.

Underfunding continues to plague the agency and has resulted in a shortage of medical staff, leaving the agency vulnerable to not meeting the medical needs of the animals it houses. Additionally, the audit's observations demonstrate that AC&C needs to improve its separation of sick and healthy dogs. The agency does have a system in place through the use of Chameleon (AC&C's in-house reporting and tracking system) regarding animals that missed their initial medical exam (an exam required within the first 24 hours of admission to the shelter) through a daily email alert system. This email alert highlights animals in need of medical review. The agency has responded promptly by providing animals identified in these alerts with medical care.

Additionally, the agency has partnered with Pets for Life in order to provide a formal customer quality assurance program that randomly selects customers to call for a customer feedback survey. Pets for Life provides AC&C with monthly reports of problems identified and possible recommendations to address concerns that are raised.

In addition, the audit found that there are limitations to reports produced by Chameleon. The agency does not have adequate internal controls in place to identify where an animal is throughout the course of the day.

To improve upon existing procedures, the audit makes 10 recommendations, including that:

- AC&C should ensure that sick animals are separated from healthy animals.
- AC&C should focus its limited resources on animals that have been confined for longer periods of time.
- AC&C should develop a written dog-walking policy that outlines the criteria used to determine which dogs to prioritize for walking, including a system to verify that high-needs dogs be walked first by staff and volunteers.
- AC&C should modify its Missing Animal Tracking policy to provide clearer guidelines about what information should be contained in its missing animal memos and verification that all steps of the investigation procedures were followed.
- AC&C should revise its Missing Animal Tracking policy to include procedures outlining the investigation of missing foster care animal cases.

In their response, AC&C officials generally agreed with nine of the 10 recommendations and described the actions to be taken to address them.

## **Audit Follow-up**

AC&C reported that nine recommendations have either been implemented or are in the process of being implemented and the remaining recommendation has not been implemented. AC&C stated that it made a recommendation to the vendor to upgrade Chameleon, but the vendor decided not to upgrade the software.

## **DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Audit Report on the Management and Control of Overtime Costs by the Department of Health and Mental Hygiene

Audit # MG11-067A  
Comptroller's Library #8129  
Issued: October 6, 2011  
Monetary Effect: None

## **Introduction**

This audit determined whether the Department of Health and Mental Hygiene (DOHMH) (1) appropriately approved, authorized, and paid overtime in compliance with City rules, regulations, and agreements, and (2) effectively managed and controlled its employee overtime costs.

DOHMH is composed of 13 divisions and employed approximately 6,800 individuals during Calendar Years 2009 and 2010. Employees who are covered under the collective bargaining agreement (i.e., Citywide Agreement) between the City and DC 37 AFSCME and who hold certain civil service titles are eligible to earn overtime payments. In accordance with the Citywide Agreement and Fair Labor Standards Act (FLSA), all overtime beyond 40 hours actually worked by an employee is paid at a premium of time-and-a-half (excluding those designated as managers).

During Calendar Year 2009, DOHMH paid a total of \$8.3 million in overtime costs to 3,409 (49 percent) of its 7,010 employees, and during Calendar Year 2010, DOHMH paid \$5.2 million in overtime costs to 2,035 (31 percent) of its 6,628 employees. The salary (including differentials) of all employees during Calendar Years 2009 and 2010 was approximately \$359 million and \$398 million, respectively.

## **Results**

The audit revealed that DOHMH did not comply with the Citywide Agreement's overtime cap, which precludes certain employees from obtaining payments for overtime. As a result, during Calendar Years 2009 and 2010, DOHMH paid a total of \$3.7 million for overtime hours worked by ineligible employees. The audit also found that DOHMH lacks a centralized review process that would allow it to effectively monitor employees earning overtime and ensure that overtime is distributed equitably and to avoid potential abuse.

The audit made five recommendations, including that DOHMH should:

- Comply with regulations governing employees whose salaries exceed the overtime cap. Specifically, DOHMH should either obtain appropriate waivers or credit employees with compensatory time rather than paid overtime.
- Create a centralized review process that would allow DOHMH to assess whether the overtime is distributed equitably and to avoid potential abuse.

DOHMH officials agreed with the audit's five recommendations and stated that they are being implemented.

### **Audit Follow-up**

DOHMH reported that four recommendations have been implemented and the remaining recommendation is in the process of being implemented.

## **DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Audit Report on the Oversight and Monitoring of Mental Hygiene State Funds Administered by the Department of Health and Mental Hygiene

Audit # MG11-139A

Comptroller's Audit Library #8185

Issued: May 10, 2012

Monetary Effect: None

### **Introduction**

This audit determined whether the Department of Health and Mental Hygiene (DOHMH) has adequate oversight to maximize the use of State funds for mental hygiene services.

State funding for the DOHMH's mental hygiene services is outlined in the State Aid Letters sent to DOHMH on an annual basis by various State Agencies, which outline the appropriation for each funding code. On a quarterly basis, DOHMH receives advance payments from the State based on the dollar amounts stipulated in the letters. At the end of the year, unused funds are offset against future spending.

During Fiscal Year 2010, DOHMH received \$205.8 million in advanced State funding for mental hygiene services, of which \$189.9 million was allocated directly to over 700 program units.

### **Results**

A review of DOHMH's oversight of the utilization of State funds revealed that it needs to improve its monitoring of State funds earmarked for mental hygiene services. Specifically, DOHMH did not develop adequate strategies to maximize the use of the State funds and ensure that all funds made available to it by the State were spent. As a result, during Fiscal Year 2010, DOHMH did not distribute \$10.4 million out of \$189.9 million in State funds (5.5 percent). The unused funds remain in the advanced revenue source account to offset against future spending, resulting in an overall reduction in State funding provided.

DOHMH does not have an established strategic plan in place to reallocate unspent funds from one program to other programs (within the same funding source) that have higher

demand for services or a greater capacity to serve additional clients. As a result, there is an increased risk that individuals who are eligible for DOHMH's mental hygiene services may not always be receiving those services. In addition, DOHMH does not perform any trend analyses to identify at an early stage of the operating period those contracts whose funds may not be fully utilized. The identification of such tendencies may serve as an indicator that DOHMH officials can work with the providers to deal with operating issues and develop strategies in time to maximize the use of the State funds.

To address these issues, the audit made three recommendations. DOHMH should:

- Develop strategies for the reallocation of unspent funds among programs within the same funding source.
- Continue working with the State to obtain greater flexibility in using State funds.
- Perform, on a quarterly basis, trend analyses of the spending of State funds and work with providers on a continuous basis to address issues that may negatively affect the ability to utilize State funds.

DOHMH officials generally agreed to implement two recommendations and disagreed with one recommendation.

### **Audit Follow-up**

DOHMH reported that two recommendations are being implemented and the remaining recommendation will not be implemented. DOHMH continues to disagree with the audit finding and recommendation that it underspent \$10.4 million.

## DEPARTMENT OF HOMELESS SERVICES

Audit Report on the Department of Homeless Services' Controls Over Billing and Payments Made to Aguila, Inc.

Audit # FK10-130A

Comptroller's Audit Library #8139

Issued: November 4, 2011

Potential Monetary Effect: Potential Savings: \$1,384,846

### Introduction

This audit determined whether the Department of Homeless Services (DHS) adequately monitored Aguila to ensure that it satisfactorily provided shelter and social services for which it was paid; payments and payment rates were reasonable, appropriate, and adequately supported; and that Aguila satisfactorily provided shelter and social services for which it was paid.

DHS is responsible for providing temporary emergency shelter and social services to eligible homeless families. These services are primarily delivered by approximately 150 for-profit and non-profit providers. Aguila is a non-profit provider that serves homeless families at 16 different facilities in the Bronx and Manhattan. Under Chapter 24-A, §612 (5) of the New York City Charter, DHS is required to establish performance criteria, goals, and objectives for providers and monitor and evaluate provider performance. In Fiscal Year 2010, DHS paid Aguila approximately \$27.3 million for services it provided directly and indirectly as a sub-contractor. Aguila provided services under both formal written contracts and unwritten or handshake agreements with DHS. For the contracted facilities, DHS paid Aguila \$16 million using per diem rates based on Aguila-reported operating expenses, and for non-contracted facilities, DHS paid Aguila \$10.3 million based upon mutually agreed-upon per diem rates and Aguila-reported client lodging data. With regard to facilities where Aguila indirectly provided services, Aguila received \$965,313 to provide social services.

This audit covered the period July 1, 2008, through June 30, 2010.

### Results

DHS did not adequately monitor Aguila's fiscal and operational performance. Specifically, DHS did not ensure that Aguila's monthly invoices were accurate and supported by client sign-in logs and attendance records. Consequently, for June 2010, we found that DHS paid Aguila for 4,494 unsupported care days costing \$470,897. Further, DHS did not adequately review Aguila-contracted facility expenditures and did not conduct any reviews of Aguila non-contracted facility expenditures. Therefore, payment rates were not reasonable. The audit's review of Aguila financial records for two of 16 facilities with expenditures totaling \$15.3 million found a total of \$913,949 in expenditures were for improper purposes and a total of \$9.1 million was insufficiently supported. As a result, DHS should recoup \$1,384,846 million for these unsupported payments (\$470,897) and funds used to make improper expenditures (\$913,949). DHS should also immediately investigate expenditures totaling \$9.1 million that were insufficiently supported and recoup funds accordingly.

Furthermore, the audit found that DHS paid Aguila \$10.3 million to provide shelter and social services at six facilities without entering into formal written contracts in violation of the City's procurement rules and to ensure that rates paid Aguila for these six facilities were reasonable and appropriate. In addition, DHS did not adequately review agreements and

other expenses supporting documentation to ensure that \$19.5 million in rent and security service payments were appropriate.

Additionally, DHS did not effectively monitor Aguila's operational performance to ensure that Aguila housed clients in safe and sanitary conditions and transitioned its clients to permanent housing in a timely manner. Our review of June 2010 invoices and payments for Aguila social service clients found that 473 of 1,389 Aguila social service clients—more than 34 percent—resided in transitional housing for more than six months. The audit estimated that DHS paid \$9.1 million to house these 473 clients beyond six months.

To address these issues, the audit makes 19 recommendations, including that DHS should:

- Investigate unsupported client-lodging days identified in this report and recoup payments as appropriate.
- Recoup \$913,949 from Aguila related to improper expenditures.
- Investigate insufficiently supported expenditures totaling \$9.1 million and recoup funds accordingly.
- Review and approve Aguila sub-contracts for the performance of its obligations.
- Enter into written contracts with Aguila for directly-operated facilities that, at minimum, specify or restrict how funds may be expended, delineate services to be provided, establish minimum performance standards, and detail remedies or termination clauses for failure to meet standards.
- Establish non-contracted facility per diem rates based upon audited line-item operating budgets.
- Routinely check whether facilities have open violations and ensure that providers rectify open violations in a timely manner.
- Require Aguila to develop improvement plans for facilities that do not meet housing placement targets.

DHS and Aguila generally disagreed with the report's findings and recommendations.

### **Audit Follow-up**

DHS reported that nine recommendations have been implemented, three recommendations are in the process of being implemented, and disagreed with and does not plan to implement the remaining seven recommendations. With regard to these seven recommendations, DHS either disagreed with the finding upon which the recommendation was based or maintained the recommended practices were already in place.

## DEPARTMENT OF HOMELESS SERVICES

### Audit Report on the Management and Control of Overtime Costs at the Department of Homeless Services

Audit # MJ11-071A  
Comptroller's Library #8128  
Issued: October 6, 2011  
Monetary Effect: None

#### Introduction

This audit determined whether the Department of Homeless Services (DHS) appropriately approved and paid overtime in compliance with its own policies and procedures, labor laws, and other City regulations and guidelines, and effectively manages and controls its overtime costs.

DHS partners with public agencies and private sector organizations to provide temporary, emergency shelter to homeless families and individuals. Non-managerial DHS employees covered under collective bargaining agreements between the City and municipal labor unions are eligible to earn overtime pay. In accordance with the Citywide Agreement and the Fair Labor Standards Act (FLSA), most non-managerial employees must be paid overtime at a premium of one-and-one-half times the regular rate of pay for all hours worked in excess of 40 hours. For employees whose work week is 35 hours, straight time is paid for hours worked in excess of 35 hours but less than 40 hours. Employees who work overtime may be compensated either by cash payment or in time off (compensatory time).

DHS's Personal Services (PS) expenditures totaled \$122.3 million and \$120.3 million for Fiscal Years 2009 and 2010, respectively. For the same years, DHS's total overtime expenditures represented 7.9 and 7.3 percent, respectively, of its total PS expenditures. According to the City's Payroll Management System (PMS), DHS paid \$9.7 million in overtime wages in Calendar Year 2009 to 1,816 of its approximately 2,000 employees and paid \$8.8 million in overtime wages in Calendar Year 2010 to 1,549 of its approximately 1,900 employees.

#### Results

DHS did not fully comply with its own procedures and other applicable rules and regulations governing the approval and payment of overtime. Such inconsistencies along with other disclosed control weaknesses inhibit DHS's effectiveness in managing and controlling employee overtime costs.

Audit tests involved 48 sampled employees, whose 2009 earnings totaled \$4,104,449, including regular earnings of \$3,044,920 and overtime earnings of \$1,059,529. Due to the disclosed control weaknesses regarding these 48 sampled employees, DHS paid overtime wages of: (1) \$220,690 to 39 employees without the required levels of senior management sign-off; (2) \$32,641 to 23 employees who exceeded the City's overtime cap and did not have required waivers; and (3) \$3,579 to four employees without justification for the overtime hours worked.

Tests of compliance with applicable criteria disclosed that DHS employees generally provided justification for overtime requests and all such requests were signed as being reviewed by unit supervisors or lower level managers as required. However, senior management approvals for overtime exceeding 10 percent or more of employees' regular

earnings were not always obtained. Further, DHS did not have a formal mechanism or procedure to follow up or investigate continuous high-overtime earners.

On a more positive note, DHS paid overtime wages only to eligible employees and paid those wages at straight time for overtime hours worked in excess of 35 hours but less than 40 hours and at premium pay for hours worked in excess of 40 hours. Further, the audit found that the duties of approving and processing payroll were adequately segregated in compliance with Directive #13.

To address these weaknesses, the audit made five recommendations, including that DHS should:

- Ensure that procedures set in place to manage and control overtime (i.e., DHS's updated overtime control policy, effective March 2011) are implemented, enforced, and appropriately followed by agency management and staff as part of the agency's normal day-to-day business functions. These procedures should be reviewed periodically and updated as required to reflect changes in management's policies.
- Going forward, ensure that overtime waivers are obtained each year from the Office of Labor Relations for applicable employees when they exceed the overtime cap, currently set at \$74,079. For employees who require a waiver but one is not requested and obtained, the employee should receive compensatory time rather than paid overtime wages in accordance with the Citywide Agreement.
- Design and implement a procedure to investigate and follow up on continuous high-overtime earners as a means to mitigate and reduce the risk associated with potential overtime abuse.

### **Audit Follow-up**

DHS reported that all of the audit recommendations have been implemented.

## NEW YORK CITY HOUSING AUTHORITY

### Audit Report on New York City Housing Authority Oversight of the Construction Management/Build Program

Audit #7E11-119A

Comptroller's Audit Library #8172

Issued: March 15, 2012

Monetary Effect: Potential Savings: \$7,654,708<sup>3</sup>

### Introduction

The audit determined whether contractors participating in the New York City Housing Authority's (NYCHA) construction management/build program (CM/Build) are being adequately monitored. NYCHA's Five-Year Capital Plan for Fiscal Years 2011-2015 provides for \$2.4 billion for infrastructure, modernization, and other systemic improvements to NYCHA housing. To carry out some of these improvements, NYCHA implemented the CM/Build program in 2003 "to improve the quality of construction projects and ensure that they are administered effectively and efficiently." Under the current phase of the program, NYCHA awarded CM/Build requirement contracts totaling \$425 million to 10 construction management companies. NYCHA uses a computerized project management system, Primavera, to track critical project information such as budgets, project schedules, project updates, critical issues, requests for information, change orders, and payments to ensure that projects are completed on time.

### Results

NYCHA's senior officials are hampered in their ability to adequately oversee contractors in the CM/Build program because of problems with obtaining accurate and complete information from the Primavera system. In addition, NYCHA lacks a method for tracking and identifying those change orders whose tardy resolution led to delays in completing construction and closing out project work. As a result, senior officials were unable to respond promptly to delays in completing construction and closing out projects. Furthermore, while NYCHA properly assigned in-house staff to the project locations to oversee the CM/Build program, NYCHA could save \$1,529,488 annually if the in-house staff were assigned to project locations on a part-time basis. Additionally, delays in completing and closing out projects compelled NYCHA to expend an additional \$6,125,220 to pay for construction management personnel. Although NYCHA's CM/Build program does not utilize City funding, problems with NYCHA's inefficient use of the Primavera system are indicative of control deficiencies that may adversely affect NYCHA's capital improvement projects that do use City funding.

This report makes a total of seven recommendations, including that NYCHA:

- Ensure that accurate and complete information is recorded in and obtained from the Primavera system.
- Ensure that CM/Build projects are completed and closed out within their originally scheduled timeframes.
- Consider the viability of assigning in-house construction project managers on a part-time basis to oversee the CM/Build program.

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<sup>3</sup> This figure consists of \$1,529,488 for NYCHA in-house personnel and \$6,125,220 for construction manager personnel.

- Regularly update the “Required Documents” and “Bi-Week” updates sections in Primavera.
- Ensure that CPD Portfolio Tracking Reports contain information about all projects that have not obtained an “A” notation in the Primavera system.
- Designate timeframes for carrying out all the steps required to process change orders, including initiation, estimating, negotiation, and approval.
- Track designated change order timeframes in the Primavera system and CPD Portfolio Tracking Reports.

In its response, NYCHA agreed with four recommendations and disagreed with two recommendations. One recommendation-- to ensure that accurate and complete information be recorded in the Primavera system-- was not directly addressed by NYCHA. However, while acknowledging that Primavera lacked meeting minutes, NYCHA contended that it conducted meetings with project managers and senior staff.

### **Audit Follow-up**

NYCHA stated that it is “no longer using the CM/Build method and is currently closing out contracts that have been completed. Staff is regularly updating the Required Documents and Bi-Week updates section in Primavera, as well as, regularly reviewing the CPD Portfolio tracking reports to ensure that projects are up to date including those that may not have an ‘A’ notation in the Primavera System. CPD revised its Change Order process in September 2011 which requires Executive approval for initiation, estimation and negotiation prior to execution and is closely monitoring the progress.” NYCHA did not address the remaining six recommendations.

## **NEW YORK CITY HOUSING AUTHORITY**

Letter Report on the Use of Corporate Credit Cards by the New York City Housing Authority and Its Small Procurement Process

Audit # FL11-095AL

Comptroller's Library #8153

Issued: October 14, 2011

Monetary Effect: None

### **Introduction**

During Calendar Year 2010, the New York City Housing Authority (NYCHA) had four corporate credit cards. Two corporate credit cards were used for out-of-town travel expenses, one corporate credit card was for emergency purchases, and one corporate credit card was used by NYCHA's chairman for business-related expenses. In Calendar Year 2010, NYCHA recorded a net total of \$118,817 in out-of-town travel and business-related expenses against the corporate credit cards.

NYCHA uses one of two methods to make small procurement purchases that are over \$300 and up to \$5,000; for the purchase of services, it uses a computerized purchasing system known as Movaris, and for purchases of goods for non-urgent and non-emergency

transactions, it uses another computerized purchasing system called the i-procurement system.

The first audit objective was to determine whether NYCHA has adequate internal controls over the use of corporate credit cards. The second objective was to determine whether any potential cost savings or revenue enhancement could take place through the use of purchasing cards to make small procurement purchases.

## **Results**

As for the first objective, the audit found that NYCHA has adequate internal controls over the use of corporate credit cards. The out-of-town travel and chairman's business expenses charged to the corporate credit cards were properly documented and recorded. In addition, the auditors were able to reconcile these expenses to the general ledger and then to the audited financial statements in Calendar Year 2010.

As for the second objective, NYCHA's small procurement process is fully automated; a purchase is processed, approved, and payment is routed to the vendor electronically. Therefore, the audit concluded that there would be no cost savings attained through the use of purchasing cards as NYCHA's automated process is similar. The audit also confirmed that NYCHA's electronic transactions were supported by the related documentation (i.e., receipts, invoices, purchase order, and payment records).

No recommendations are being made in this Letter Report.

## DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Audit Report on the Department of Housing Preservation Development's Administration of Its Relocation Shelter Account

Audit # FM11-081A

Comptroller's Audit Library #8143

Issued: November 21, 2011

Monetary Effect:      Actual Revenue:    \$3 million  
                                 Potential Revenue: \$6.8 million

### Introduction

This audit determined whether the Department of Housing Preservation and Development (HPD) administered its Relocation Shelter account in accordance with applicable rules and regulations.

HPD operates its own shelter system to assist people who are vacated from their homes as a result of emergencies such as fires. Families are placed in one of three government-funded shelters (Ruth Fernandez Family Residence, Convent House Shelter, and H.E.L.P. USA), while single adults are placed in government-funded hotels. HPD also contracts with the American Red Cross (ARC) for temporary relocation services. In 1987, HPD received permission from the New York City Department of Finance (DOF) to establish the Relocation Shelter account in order to pay capital expenditures associated with the shelters. As of October 2010, HPD maintained \$9.8 million in the Relocation Shelter account. According to HPD records, the balance of the account is composed of seven subledgers. Five of the subledgers include funds derived from agreements with the contractors hired to provide shelter and hotel services. In addition, HPD has a "Hotels" subledger, which has not been used since 2005, and a "Vacate" subledger designated to provide moving expense reimbursements to individuals ordered to vacate their homes. During the period of July 2009 through October 2010, the only subledger with more than one recorded disbursement was Vacate.

### Results

HPD does not properly administer its Relocation Shelter account in accordance with City regulations. As of October 2010, HPD maintained over \$9.8 million in Relocation Shelter funds that have accumulated and have essentially remained unused since 2007. Approximately \$8.9 million of these funds originated from five contracts that have expired. At least \$3.1 million of the \$8.9 million from one of the contracts should not have been directed to this account. Furthermore, HPD accumulated nearly \$5.7 million of the \$8.9 million through a clause in four of the five contracts that allowed HPD to indefinitely retain reserve funds. This clause is particularly questionable because agencies are usually not permitted to keep funds left over from expired contracts. The remaining \$933,654 has not been used since 2005. Regardless of whether HPD should have retained the \$9.8 million in funds, the funds are unused, the amounts are excessive, and they should be promptly appropriated to the City's Fiscal Year 2012 budget.

In addition, HPD is using this account for purposes other than those for which it received permission. HPD received permission to use the account to pay capital expenditures, but now uses the account to pay vacate order reimbursements and other shelter expenses.

The audit report made two recommendations that HPD should:

- Transfer and appropriate the \$9.8 million, less any funds claimed by another funding source, from the Relocation Shelter account to the general fund and adjust the Relocation Shelter account ledgers to reflect the disbursement, and
- Decide if the Relocation Shelter account should remain open and, if so, submit a revised City bank account request form to DOF that establishes the new business purpose for the account.

In its response, HPD disagreed with the audit's conclusion that the Relocation Account is essentially unused. HPD stated that it worked with the Office of Management and Budget to use the funds to support the original programmatic intent – emergency shelter for households vacated from their homes. HPD further stated that it agreed to work with DOF to modify the business purpose of the Relocation Shelter account.

### **Audit Follow-up**

HPD reported that both audit recommendations are in the process of being implemented. HPD will transfer an appropriate amount from the account to the General Fund over a period of time. The current balance in the account as of October 18, 2012, is \$6.8 million. HPD stated that it worked with DOF to modify the business purpose of this account. HPD further stated that the Relocation Shelter Account will remain open to support relocation expenses with respect to temporary housing.

## **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

Audit Report on the Department of Housing Preservation Development's Administration of Its 8A Section 17 Account

Audit # FM12-083A

Comptroller's Audit Library #8150

Issued: December 27, 2011

Monetary Effect: Actual Revenue: 12.86 million

### **Introduction**

This audit determined whether the Department of Housing Preservation and Development (HPD) administered its 8A Section 17 account in accordance with applicable rules and regulations.

In 1985, HPD received permission from the New York City Department of Finance (DOF) to establish a bank account in order to make loans available to homeowners through the 8A Loan Program, which was originally federally funded. Currently, the Article 8A Loan Program provides rehabilitation loans to correct substandard or unsanitary conditions and to prolong the useful life of multiple dwellings in New York City. As of October 2010, HPD maintained \$16.9 million in the 8A Section 17 account. Currently, HPD utilizes the 8A Section 17 account to hold unspent funds from previously issued loans. According to HPD, the balance in the account is composed of funds from several different loan programs, including but not limited to, the Neighborhood Entrepreneur Program and the Neighborhood Redevelopment Program.

## **Results**

HPD did not properly administer its 8A Section 17 account. As of October 2010, HPD maintained nearly \$17 million in funds administered under various loan programs that were not used and should have been returned to the City unrestricted. Previously, these funds would revert directly back to the City and not the 8A Section 17 account. However, since 2007, these funds have been redirected to this account. The accumulation of funds allocated to this account may affect the budget and finances of the City because they are not available for other purposes. Furthermore, an undetermined amount of these funds do not comply with the original purpose of the account because they belong to other programs outside of the 8A loan program and are not federal funds. The exact amount allocated to these other programs could not be determined because HPD does not have a full accounting of the funding. Specifically, HPD does not have a breakdown of which funding sources and programs compose the balance. Inadequate and incomplete recordkeeping has resulted in the commingling of funds that belong to different funding sources and programs.

The audit report made two recommendations that HPD should:

- Determine the exact composition of the account balance.
- Transfer and unrestrict the \$16.9 million, less any funds claimed by another funding source, from the 8A Section 17 account to the general fund/capital fund and return the funds to their appropriate budget codes in the Financial Management System (FMS). If needed, seek assistance from the Comptroller's Bureau of Accountancy for guidance on how to account for prior-year funds using FMS.

In its response, HPD did not dispute the audit's findings and agreed with the two recommendations. However HPD stated that as of December 2011, the balance in the Section 17 account was \$13.9 million.

## **Audit Follow-up**

HPD reported that both audit recommendations are being implemented. HPD determined the composition of the funds. Upon instructions from the City's Office of Management and Budget, HPD transferred \$12.86 million to the general/capital fund.

## **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

Audit Report on the Department of Housing Preservation and Development's Performance Indicators as Reported in the Mayor's Management Report

Audit # MH11-075A  
Comptroller's Audit Library #8184  
Issued: May 4, 2012  
Monetary Effect: None

## **Introduction**

This audit determined whether the Department of Housing Preservation and Development's (HPD) controls are adequate to ensure that its performance indicators as reported in the Mayor's Management Report (MMR) are accurate and reliable. This audit concentrated on

the following four critical indicators: 1) total completions financed or assisted under the New Housing Marketplace Plan; 2) total emergency complaints; 3) average time to close emergency complaints; and 4) percent of non-lead emergency C violations issued in reporting year pending at end of reporting year.

The MMR serves as a public report card on City services affecting the lives of New Yorkers and mainly covers the operations of City agencies reporting directly to the Mayor. HPD's mission is to improve the availability, affordability, and quality of housing in the City. As reported in the MMR, HPD's Key Public Service Areas include encouraging the preservation and increasing the supply of affordable housing and ensuring the quality of the City's housing stock through enforcement of housing maintenance code standards.

The scope period of this audit was Fiscal Years 2010 through 2012 (through December 2011). For certain tests involving analyses of reported indicators, the audit scope was expanded to include fiscal years going back to 2008.

## **Results**

Overall, the audit found that HPD's controls are adequate to ensure that its performance indicators, as reported in the MMR regarding three of the four critical indicators reviewed on completions and complaints, are sufficiently accurate and reliable. However, there is limited assurance that the violation indicator regarding non-lead emergency C violations published in the MMR is accurate and reliable because of control weaknesses that result from HPD's use of Microsoft Access to perform calculations for the non-lead emergency C violation data gathered. In addition, the data extracted from the Housing Preservation and Development Information System (HPDInfo) for this indicator and the resulting calculations are not maintained by HPD.

The audit also found some minor weaknesses which should be addressed because they may compromise the accuracy and reliability of the performance indicators in future years. These weaknesses seem to stem from the fact that HPD does not have adequate written policies or procedures for its Office of Development and Performance Analysis personnel regarding the collecting, compiling, maintaining, and reporting of the performance indicator data to the Mayor's Office Performance Management Application Tool. Further, while the audit found that the definition associated with each indicator was readily understandable to any reasonably informed interested party, HPD did not adequately disclose all necessary information for the housing completion data for Fiscal Year 2011.

The audit made six recommendations, including that HPD should:

- Ensure that HPDInfo is updated so that the calculations for the performance indicator *'Percent of non-lead emergency C violations issued in reporting year pending at end of reporting year'* can be performed and maintained within HPDInfo.
- Prepare and disseminate to the appropriate staff adequate formal written policies and procedures.
- Disclose in the MMR the number of housing completions reported as current year that were actually completed in the prior fiscal year that resulted from HPD's timing policy.
- Disclose in the MMR that there was a counting rule change in Fiscal Year 2011 that included additional housing completions that had previously not been included and adjust the prior fiscal years' numbers to make them comparable.

HPD officials agreed to implement all six of the audit's recommendations.

### **Audit Follow-up**

HPD reported that four recommendations have been implemented and the remaining two recommendations are in process of being implemented.

## HUMAN RESOURCES ADMINISTRATION

Audit Report on the Human Resources Administration's Awarding of Non-competitive and Limited-competition Contracts

Audit #ME11-088A

Comptroller's Audit Library #8181

Issued: May 3, 2012

Monetary Effect: None

### Introduction

This audit determined whether the Human Resources Administration (HRA) had adequate controls relating to the awarding of contracts on a non-competitive or limited-competition basis and whether HRA evaluated contractor performance before awarding such contracts.

HRA assists individuals and families in achieving and sustaining their maximum degree of self-sufficiency. HRA provides cash assistance, public health insurance, employment services, and other support services. HRA uses many vendors to provide these services. Contracts with vendors are awarded based on the procurement method used, which is an indicator of whether the contract was awarded on a competitive, non-competitive, or limited-competition basis. Requests for Proposals (RFPs) are one of the methods used to award contracts on a competitive basis. According to the New York City Procurement Policy Board (PPB) Rules, "procurement by competitive sealed proposals is the preferred method for awarding contracts for ... client ... services." A significant portion of HRA contracts is for the provision of client services.

Renewals and negotiated acquisition extensions are methods used to continue existing contracts for limited periods of time. Renewals and extensions are considered to be awarded on a non-competitive basis. Negotiated acquisitions are used in time-sensitive situations in which vendors must be retained quickly or when there are only a few vendors available to provide the goods and services needed. Since the agency need not negotiate with each qualified vendor, negotiated acquisition contracts are considered to be awarded on a limited-competition basis.

According to the New York City Financial Management System, 302 HRA-related contracts valued at approximately \$618 million were awarded in Fiscal Year 2010.

### Results

The audit concluded that HRA had insufficient controls relating to the awarding of contracts on a non-competitive or limited-competition basis and did not always evaluate contractor performance before awarding such contracts.

For the sampled contracts, HRA obtained the necessary approvals to award the contracts on a non-competitive or limited-competition basis. HRA had the required written justifications, Agency Chief Contracting Officer approvals, and City Chief Procurement Officer authorizations for these contracts. However, HRA had several internal control weaknesses relating to the awarding of these contracts that should be addressed. Specifically, HRA: did not have an effective central tracking system for monitoring contract expirations to ensure that new RFPs were issued in a timely manner and that the use of contract extensions was limited; did not always conduct performance evaluations of vendors prior to contract renewals or extensions; did not publish notices to renew contracts in accordance with PPB Rules; and lacked its own written procurement policies and procedures.

To address these issues, the audit recommended, among other things, that HRA:

- Develop an effective central tracking system to monitor the expiration of contracts.
- Ensure that the process of completing pre-solicitation reviews, issuing RFPs, and awarding contracts is completed in a timely manner.
- Ensure that vendor evaluations are conducted prior to contract renewals or extensions.
- Ensure that its notices of intent to renew contracts are published in a timely manner.
- Finalize and distribute to appropriate staff a comprehensive set of written policies and procedures detailing the contract procurement process.

In their response, HRA officials disputed most of the audit's findings, but generally agreed to implement or continue to implement the audit's recommendations. After carefully reviewing HRA's arguments, the audit found them to be without merit.

### **Audit Follow-up**

HRA reported that it has either implemented or is in the process of implementing all of the audit recommendations.

## INDUSTRIAL DEVELOPMENT AGENCY

Audit Report on the New York City Industrial Development Agency's Project Financing, Evaluation, and Monitoring Process, July 1, 2008, to June 30, 2009

Audit #FN11-054A

Comptroller's Audit Library #8174

Issued: March 19, 2012

Monetary Effect: Potential Revenue: \$16,184,760

### Introduction

This audit determined whether: the New York City Industrial Development Agency (NYCIDA) appropriately evaluated, approved, and monitored project performance; accurately determined and reported the benefit and incentive amounts such as the project employment data and other benefits due to the City; and complied with the provisions of the General Municipal Law (GML) and the reporting requirements established under the Public Authority Accountability Act.

NYCIDA was established in 1974 to promote, retain, and develop an economically sound commerce and industry base to advance job opportunities in the City and its five boroughs. The organization and powers of NYCIDA are governed by the GML. Key provisions of the GML allow NYCIDA to establish its own Uniform Tax Exemption Policy (UTEP) guidelines to make project approval or denial decisions. In addition, NYCIDA has the ability to create payments in lieu of taxes (PILOT) and grant Mortgage Recording Tax (MRT) and Sales Tax exemptions.

NYCIDA is managed by a Board of Directors (Board) consisting of 15 members, including representatives from each borough. The president of the New York City Economic Development Corporation (NYCEDC) also serves as the chairman of NYCIDA Board. The GML also provides the Board with the authority to recapture economic benefits or impose sanctions or penalties on projects that are not in compliance. Imposition of the recapture provisions can require the project owner to return all or part of the value of the tax exemption benefits received. NYCIDA contracts with NYCEDC for staffing and administrative services.

NYCIDA is required to comply with certain reporting requirements, including the submission of the Public Authority Reporting Information System (PARIS) report. Industrial Development Agencies are required to file this performance report with the Office of the State Comptroller within 90 days after the close of their Fiscal Year. In its 2009 PARIS submission, NYCIDA reported a total of 576 projects with total PILOT payments in the amount of \$345.7 million and \$497.3 million in tax exemptions, including State and City Sales Tax and MRT exemptions.

### Results

NYCIDA generally complied with the Public Authority Accountability Act reporting requirements and filed its PARIS report on time. However, the audit review found several deficiencies in NYCIDA's review, evaluation, and monitoring of its sponsored projects. Specifically, contrary to NYCIDA's own internal Project Checklist, NYCIDA did not conduct independent analysis of the applicants' ability to meet all equity and debt requirements associated with the projects. In addition, the audit review found no evidence that NYCIDA verified the accuracy of the data submitted in the project applications. In 36 out of 39 reviewed projects, the information provided was either insufficient or unsupported. As a result, NYCIDA could not be assured that certain proposals were viable and able to achieve

the employment goals established in their project applications, which would have a direct impact on the economic development of the area in the City.

The audit also found that NYCIDA did not follow its own internal procedures to properly monitor project compliance to determine whether companies reported accurate employment data and Sales Tax exemption benefits and whether the projects were operating as intended. As a result, NYCIDA could not be assured that certain significant projects have fulfilled their promises and were entitled to retain their City benefits.

Further, NYCIDA did not initiate the benefits recapture process and ensure that projects were terminated in a timely manner and according to provisions of the project agreements. As a result, the City did not receive the anticipated return on the benefits it invested in the projects and continued to provide benefits to projects in default. Based on a review of NYCIDA's financial records and related project files, the audit estimates that at least \$16,184,760 in unclaimed recapture benefits involving five companies was lost.

The report recommended that NYCIDA should:

- Ensure the project financial data received is sufficient and independently verified before a project is submitted for Board approval.
- Perform an independent analysis of the applicants' ability to meet all equity and debt requirements associated with the project and to ensure projects meet the intended purposes, sustain the operations as proposed, and meet the employment expectations to justify all the benefits received.
- Monitor project compliance report submissions to ensure the projects comply with their job retention and creation requirements as established in the application.
- Conduct adequate reviews of project data to ensure Sales Tax exemptions are appropriately claimed and accurately reported.
- Establish internal controls to avoid unauthorized use of Sale Tax Letters.
- Conduct periodic site visits to verify project operations and compliance status.
- Enforce the recapture provisions of the project agreements to ensure City forgone revenue and employment benefits are not lost, and document its decision-making process and the specific criteria used to decide whether or not to enforce the recapture provisions of project agreements.

In their response, NYCIDA officials disagreed with each of the seven recommendations contained in the audit report.

### **Audit Follow-up**

NYCIDA reported that it partially agreed with and completed six of the seven recommendations and although it disagreed with the first recommendation, it stated that it implemented this recommendation.

## DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

Audit Report on the Project Management for the Emergency Communications Transformation Program by the New York City Department of Information Technology and Telecommunications

Audit # 7A11-104

Comptroller's Audit Library #8175

Issued: March 20, 2012

Monetary Effect: None

### Introduction

This audit determined whether the Department of Information Technology and Telecommunications' (DoITT) overall project management of the Emergency Communications Transformation Program (ECTP) was reasonable, justified, and allowed for project completion on a timely basis.

The ECTP was initiated by the City through DoITT in 2004. The primary objective of the ECTP was to consolidate emergency communications within the City. ECTP is a multi-agency, multi-year program with the goals of modernizing all aspects of the emergency response system with upgraded telecommunications infrastructure and providing for two fully integrated Public Safety Answering Centers (PSACs) that include call-taking and dispatch operations for first responders from the City's Police Department (NYPD) and Fire Department (FDNY), including its Emergency Medical Services (EMS) unit. DoITT contracted with Hewlett-Packard Co. (HP) in 2005 to provide services as a system integrator<sup>4</sup> for PSAC1 and as project manager over other contractors providing services and equipment for PSAC1. A governance structure was established to monitor the multi-City agency ECTP project, and an outside independent Quality Assurance (QA) contractor was retained to monitor HP's performance and to advise on the overall ECTP project.

### Results

DoITT embarked on the ECTP in 2004 with a reasonable and justified premise of establishing two PSACs (PSAC1 and PSAC2) for the purpose of consolidating the City's emergency response services to establish system redundancy as well as to have a backup facility; modernize and strengthen the 911 network; improve data-sharing among City agencies; and enhance coordination and deployment of resources during emergencies. The audit found DoITT's overall project management of the ECTP lacking—due to its initial underestimation of time and the technical constraints involved in implementing the multi-agency mission-critical ECTP—which, therefore, did not allow for project completion on a timely basis.

To address the audit issues, we made three recommendations:

- DoITT, in conjunction with ECTP executive sponsors, should have its current governance strategy expanded, formulated into a plan, reviewed and formally approved by all stakeholders, and conveyed to all pertinent ECTP team members. The expanded areas should include operational coverage for PSAC1 upon full

<sup>4</sup> A systems integrator is a person or company specializing in bringing together component subsystems into a whole and ensuring that those subsystems function together, a practice known as system integration. In the information technology (IT) field, system integrators integrate multiple systems for inputting, processing, interpreting, storing, and categorizing data.

completion and occupancy, and line of authority for operations within PSAC1 should be clearly defined and conveyed to stakeholders.

- DoITT and the Office of Citywide Emergency Communications should increase efforts to fill open positions with appropriately qualified personnel to ensure that the ECTP has sufficient resources required for the ongoing monitoring and management of the ECTP.
- DoITT should improve upon its current strategy to provide Quality Assurance coverage by retaining, on a temporary basis, independent quality assurance experts to monitor the balance of HP's contractual performance for the duration of its contract. In addition, DoITT should consider a Quality Assurance arrangement to monitor Grumman's performance at PSAC2.

DoITT officials agreed with the three recommendations.

### **Audit Follow-up**

DoITT reported that all of the audit recommendations are being implemented.

## **DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATION**

Audit Report on the Hewlett-Packard System Integration Contract Expenditures Associated with the Emergency Communication Transformation Program

Audit # FM11-107A

Comptroller's Audit Library #8187

Issued: May 30, 2012

Monetary Effect: Potential Revenue: \$163 million

### **Introduction**

The Emergency Communications Transformation Program (ECTP) was initiated in 2004 to transform and consolidate the City's 911 Emergency Dispatch System. On April 1, 2005, the Department of Information Technology and Telecommunications (DoITT) contracted with Hewlett-Packard Company (HP) as system integrator for the ECTP. The contract includes, but is not limited to, development of two Public Safety Answering Center (PSAC) facilities and a unified Computer-Aided Dispatch (CAD) system.

The ECTP system integration contract has a not-to-exceed amount of \$380 million over a five-year term with two additional options to extend the contract for an additional year through June 30, 2012. On January 6, 2012, the projected contract expenditures were \$346 million, and as of April 17, 2012, the City expended approximately \$309 million of the \$346 million.

The audit's objectives were to determine whether the expenditures of HP's ECTP system integration contract were reasonable and justified and the scope of services was met.

### **Results**

The audit found that there was no reasonable assurance that the expenditures of the HP ECTP system integration contract were reasonable and justified and that the scope of

services was met. DoITT's questionable selection of HP as the system integrator on the ECTP project in 2005, compounded with HP's poor performance and its inadequate oversight over consultants' performance, resulted in the failure to complete all original component projects (i.e., unified CAD system and PSAC 2) of the system integration contract. The preceding factors, combined with poor contract management by DoITT, resulted in significant cost overruns. The estimated cost overrun of the ECTP system integration and overall project management could be as much as \$362 million.

DoITT was dissatisfied with HP's performance during the first three years of the contract (from 2005 to 2008) yet DoITT did not take any action to recoup any portion of the \$113 million spent during this period. The review of HP's invoices and supporting documentation found that HP did not ensure that: the consultants were qualified for their titles; billings of consultants' hours were appropriate and accurate; the timesheets submitted reflected actual work performed; and the timesheets were approved in a timely manner. The auditors calculated that the total billing errors resulted in overpayments to HP of at least \$2,509,451. However, due to the unreliable billing documents submitted by HP and the lengthy approval process, the audit questions the validity of the entire \$106 million HP billed (as of December 31, 2010) for its time and material services. Therefore, DoITT could potentially seek to recoup \$163 million (\$113 million paid to HP for unsatisfactory performance from April 2005 to April 2008 plus \$50 million of the \$106 million in questionable consultant billings billed for time and material services after 2008).

The audit made 11 recommendations, including:

- Use the findings in the audit report as a starting point to determine how much of the expenditures over original budget can be recouped. Specifically, DoITT should review the documentation supporting the invoices submitted by HP with a view toward recouping as much of the \$113 million paid to HP from April 2005 to April 2008 and where HP's unsatisfactory performance deprived DoITT of receiving the full benefit of the services bargained for in the contract. DoITT should also conduct an in-depth review of HP's invoices and supporting documents to determine how much of the \$106 million—in addition to the \$2,509,451 that was specifically identified in this report—can be recouped because HP incorrectly billed for its time and material services. (Fifty-six million dollars of the \$106 million is included in the \$113 million paid to HP for unsatisfactory performance for the period from April 2005 to April 2008.)
- Review all resumes to ensure that consultants are qualified for the positions they are working in.
- Properly review HP's subsequent invoices, timesheets, and other documentation before approving payments to ensure that payments are appropriate and accurate.
- Limit the mark-up percentage that a contractor can add to the actual cost it pays to its vendors in future contracts.

City officials disagreed almost entirely with the audit's findings and conclusions and disagreed with seven of the 11 recommendations. Furthermore, they maintain that the audit's findings and conclusions are "premised on a fundamental misunderstanding of the scope of HP's work as system integrator on PSAC 1. This misunderstanding is also the basis of the audit's unsupportable conclusion that the system integration work for ECTP 'could be' up to \$362 million over budget."

The Audit Bureau strongly disagrees with the City's position. In the City's response, the City presents several questionable arguments which attempt to refute the report's findings, but

each argument was disproved. In some cases, statements are made that are contradicted by the City's own documents and appear to be factually inaccurate.

The City's disagreement with seven of the recommendations is largely based on its disagreement with the report's findings. Because the Comptroller's Office believes the findings to be correct, the audit reiterates the recommendations, which should be implemented.

### **Audit Follow-up**

DoITT reported that five recommendations have either been implemented or are in the process of being implemented and continues to disagree with the remaining six recommendations. These six recommendations include: researching fair market rates for IT consultants, limiting the mark-up percentage that a contractor can add to the actual cost, limiting the use of time and material service provisions, and inserting a liquidated damages clause into all future DoITT contracts.

## NEW YORK CITY OFFICE OF LABOR RELATIONS

### Audit Report on the Compliance of the Office of Labor Relations with the Medicare Part B Reimbursement Program

Audit # 7111-085

Comptroller's Audit Library #8116

Issued: August 19, 2011

Monetary Effect: Actual Revenue: \$2,892

### Introduction

The audit determined whether the Office of Labor Relations (OLR) had adequate internal controls, practices, and procedures to administer a City program to reimburse Medicare Part B insurance premiums to its retirees and eligible dependents. For Calendar Year 2009, the OLR processed Medicare Part B reimbursements totaling \$190,051,486 for 130,215 New York City retirees and dependents. Additionally, OLR processed \$6,379,312 in Medicare reimbursements (Income-Related Monthly Adjustment Amount [IRMAA]) to 4,973 higher income retirees and their eligible dependents.

### Results

OLR has adequate internal controls, practices, and procedures for calculating reimbursements and avoiding duplicate payments for the Medicare Part B Reimbursement Program. However, there were internal control deficiencies in ascertaining eligibility that led to the reimbursement of improper payments and one questionable payment totaling \$4,049, of which OLR agreed to recoup \$2,892.

The audit makes five recommendations, including that OLR:

- Review the date of death and Medicare Part B coverage status of all retirees, their spouses, and dependents before issuing reimbursement to ensure that all eligibility requirements are fulfilled and the amount of reimbursement is calculated accurately.
- Ensure that retirees, eligible spouses, and dependents submit copies of Medicare cards showing the effective dates of coverage and all required documents for IRMAA reimbursement.
- Consider generating a periodic report to identify any reimbursement checks that have not been cashed.

In its response, OLR agreed with four recommendations. OLR contended that it was partially complying with our recommendation to generate a periodic report to identify any reimbursement checks that have not been cashed and investigate the reasons for any uncashed checks or checks that have been returned.

### Audit Follow-up

This report makes a total of five recommendations, of which OLR reported that it has implemented four recommendations. With regard to the one recommendation OLR did not implement, which was to generate a periodic report to identify uncashed checks, OLR reported that it relies on other means to investigate the reasons for uncashed checks.

## MULTI-AGENCY

### Letter Audit Report on the Public Safety Agencies' Monitoring of Their Employees Who Drive City-owned or Personally-owned Vehicles on City Business

Audit Number 7R12-091AL

Comptroller's Audit Library #8192

Issued: June 25, 2012

Monetary Effect: None

## Introduction

This audit determined whether the Public Safety agencies (Department of Correction, Department of Investigation, Department of Probation, Fire Department, Office of Emergency Management, Police Department) are effectively monitoring their employees who drive City-owned or personally-owned vehicles on City business.

New York City requires that only those employees who exercise reasonable care in operating City- or personally-owned vehicles be allowed to use them to conduct City business. This requirement is outlined in the City of New York's "City Vehicle Driver Handbook" (Regulations). All agency heads through the Agency Transportation Coordinator (ATC) must ensure that all employees assigned a City-owned vehicle either for full-time use or temporary use are authorized to drive. It is also the ATC's responsibility to ensure that these drivers have valid licenses and insurance (if they are driving their personal vehicles). The driver's license should be a New York State License unless the employee is exempt from City residency requirements. If this is the case, then the authorized driver must have a valid license from the state where he/she resides and must have the appropriate classification for the vehicle which he/she is driving on City business. The Regulations further specify that City agencies must establish programs that promote safety along with proper training in the use of motor vehicles.

In following these criteria, City agencies use the New York State Department of Motor Vehicles (DMV) License Event Notification System (LENS). The ATC is responsible for notifying the DMV of all agency-authorized drivers. This enables the DMV's LENS program to notify the ATC of any event that affects the driver's license. This includes: if a license is expiring; points accrued; accidents; driving while impaired; or driving while under the influence. This enables the ATC to ensure that only employees with valid licenses are driving on City business. The City's policy recommends that agencies participate in LENS to monitor the driving behavior of their employees.

## Results

The audit found that all six Public Safety agencies effectively monitor the driving behavior of their authorized drivers. They subscribe to the DMV's LENS program and receive their updates and revoke the privileges of those drivers who have a suspended or revoked license in a timely manner as prescribed by regulations. They also verify that their employees who drive their personal vehicles for City business have insurance. In addition, all six of the Public Safety agencies provided their employees with a required safety awareness program.

In their response, the six Public Service agencies' officials agreed with the report's conclusions.

## MULTI-AGENCY

Letter Report on the Legal Affairs Agencies' Monitoring of Their Employees Who Drive City-owned or Personally-owned Vehicles on City Business

Audit Number 7R12-133AL

Comptroller's Audit Library #8193

Issued: June 25, 2012

Monetary Effect: None

### Introduction

This audit determined if the Legal Affairs agencies (Business Integrity Commission, Civilian Complaint Review Board, Commission on Human Rights, Law Department, Office of Administrative Trials and Hearings) are effectively monitoring their employees who drive City-owned or personally-owned vehicles on City business

New York City requires that only those employees who exercise reasonable care in operating City- or personally-owned vehicles be allowed to use them to conduct City business. This requirement is outlined in the City of New York's "City Vehicle Driver Handbook" (Regulations). All agency heads through the Agency Transportation Coordinator (ATC) must ensure that all employees assigned a City-owned vehicle either for full-time use or temporary use are authorized to drive. It is also the ATC's responsibility to ensure that these drivers have valid licenses and insurance (if they are driving their personal vehicles). The driver's license should be a New York State License unless the employee is exempt from City residency requirements. If this is the case, then the authorized driver must have a valid license from the state where he/she resides and must have the appropriate classification for the vehicle which he/she is driving on City business. The Regulations further specify that City agencies must establish programs that promote safety along with proper training in the use of motor vehicles.

In following these criteria, City agencies use the New York State Department of Motor Vehicles (DMV) License Event Notification System (LENS). The ATC is responsible for notifying DMV of all agency-authorized drivers. This enables the DMV's LENS program to notify the ATC of any event that affects the driver's license. This includes: if a license is expiring; points accrued; accidents; driving while impaired; or driving while under the influence. This enables the ATC to ensure that only employees with valid licenses are driving on City business. The City's policy recommends that agencies participate in LENS to monitor the driving behavior of their employees.

### Results

The audit found that all five Legal Affairs agencies effectively monitor the driving behavior of their authorized drivers. They subscribe to the DMV's LENS program and receive their updates and revoke the privileges of those drivers who have a suspended or revoked license in a timely manner as prescribed by regulations. They also verify that their employees who drive their personal vehicles for City business have insurance. In addition, all five of the Legal Affairs agencies provided their employees with a required safety awareness program.

In their response, the five Legal Affairs agencies' officials agreed with the report's conclusions.

## MULTI-AGENCY

Audit Report on the Collection and Reporting of School Capacity and Utilization Data by the Department of Education and the School Construction Authority

Audit # ME11-064A  
Comptroller's Audit Library #8121  
Issued: September 14, 2011  
Monetary Effect: None

### Introduction

This audit determined the adequacy of Department of Education (DOE) and School Construction Authority (SCA) controls over the collection, analysis, and reporting of school capacity information to ensure the accuracy and reliability of the utilization data reported in the *Enrollment–Capacity–Utilization Report*, also referred to as the Blue Book.

There are two major components in the calculation of the school building utilization rates reported in the Blue Book: the enrollment of students and the capacity of the schools they occupy. The enrollment data is obtained from DOE's Automate the Schools system. The information on the school buildings' capacity is generated through Annual Facilities Surveys (AFSs) that have been conducted by SCA since 2003. Every year, school principals are asked to confirm or revise the room usage and size information indicated on the AFSs. SCA calculates the utilization rate for each school by dividing the enrollment figure by the adjusted capacity figure.

The Blue Book is issued annually and is intended to identify "the maximum physical capacity of all [DOE] buildings to serve students, compared to actual enrollments, which together allow for a standard framework with which to assess the utilization" of DOE's schools. The information provided in the report is intended to allow DOE and SCA "to understand the conditions under which multiple schools share a single building; make informed decisions about enrollment growth or placement of new schools or programs in under-utilized buildings; and plan for major capital projects . . . and other upgrades that expand a building's capacity."

### Results

The audit concluded that controls over the collection and reporting of school capacity data in the Blue Book need to be improved. It identified some deficiencies in the data collection process leading up to the reporting of capacity figures and utilization rates in the Blue Book. Principals have not been adequately informed by DOE and SCA about the importance of their roles in the collection of school capacity data. In addition, SCA needs to improve its monitoring of the principals' reporting of this data.

A comparison of actual school room functions to the ones the principals noted on the AFSs for 23 sampled schools disclosed that the functions of almost one quarter of the sampled rooms were reported incorrectly by the principals, and more than two-fifths of these had implications for the capacity data presented in the Blue Book. A comparison of room sizes as indicated on school building blueprints to the sizes the principals noted on the AFSs for the 23 schools disclosed that the sizes of more than one-third of the sampled rooms were reported incorrectly by the principals, and about one-sixth of these had implications for the capacity data presented in the Blue Book. As a result of these weaknesses, the reliability of the school capacity and utilization information reported in the Blue Book is diminished.

To address these issues, the audit recommends that DOE and SCA:

- Enhance, through training or supplemental communication, principals' awareness of the significance of the information they provide on the AFSs.
- Consider collecting, analyzing, and reporting information about the availability of excess space in each school.
- More effectively use Blue Book data to identify over-utilized schools.

To address these issues, the audit also recommends that SCA:

- Ensure that AFSs are updated to correct any inaccuracies identified during AFS verification visits to the schools.
- Ensure that all school room functions and sizes are checked during AFS verification visits.
- Ensure that it consistently calculates accurately the utilization rates reported in the Blue Book based on the given enrollment and capacity figures.

In their response to the audit report, DOE and SCA officials generally agreed with four recommendations, but disputed the need to implement the other two recommendations.

### **Audit Follow-up**

DOE reported that five recommendations are being implemented, but that it continues to disagree with the finding upon which the remaining recommendation was based. DOE stated that DOE and SCA effectively use the Blue Book to identify over-utilized schools.

## **MULTI-AGENCY**

A Compilation of Audits on Overtime Payments Made to Non-pedagogical Civilian Employees

Report #RS12-062S

Comptroller's Library #8130

Issued: October 6, 2011

Monetary Effect: None

### **Introduction**

The City Comptroller's Office has conducted a series of three audits on the administration and controls of overtime by City agencies. These audits focused on whether the agency in question appropriately approved overtime and paid such overtime to employees in compliance with its own policies and procedures, labor laws, and other City regulations and guidelines and effectively managed and controlled overtime costs. These audits focused on City personnel covered under the Citywide agreement for non-uniform or pedagogical personnel (uniformed personnel being Police, Fire, Correction officers, and certain other employees characterized as being uniformed).

### **Results**

The three audits found a common theme in the management of overtime: the lack of compliance with key provisions of the City's rules, procedures, regulations, and agency

policies governing overtime. As a consequence, these agencies could not adequately determine whether overtime was being effectively utilized to achieve program goals.

The audits noted that the agencies did not generally request waivers from the Office of Labor Relations (OLR) for overtime that exceeds the overtime cap (Interpretive Memorandum #100). Each audit noted many instances where waivers that were required for employees to exceed the overtime cap were not requested by the respective agencies. Thus, excessive overtime spending above the cap became perfunctory instead of a planned strategy to help achieve agency program goals.

Finally, the audits found many instances where employees with 20 years or more of service or who were at least at the minimum retirement age were high-overtime earners.<sup>5</sup> This would affect the City's future pension liability because the employees' highest earnings over a consecutive three-year period are factored, in part, when determining the retirement benefit of an employee upon retirement. However, the audits did not find that employees at or over the minimum age for retirement or with 20 years or more of service were overly represented among the highest overtime earners. Concerns about the risk of potential overtime abuse and its associated additional costs still exist, considering the weaknesses in controls over overtime found in our audits.

The report makes several recommendations, including that agencies should:

- Ensure that procedures set in place to manage and control overtime are implemented, enforced, and appropriately followed by agency management and staff as part of the agency's normal day-to-day business functions. These procedures should be reviewed periodically and updated as required to reflect changes in management's policies;
- Comply with regulations governing employees whose salaries exceed the overtime cap. Specifically, agencies should either obtain appropriate waivers or credit employees with compensatory time rather than paid overtime;
- Create a centralized review process that would allow agencies to assess whether overtime is distributed equitably among employees to avoid potential abuse; and
- Ensure that a budget is created and kept up-to-date and used to collect, analyze, and monitor overtime spending.

### **Report Follow-Up**

Not applicable

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<sup>5</sup> Overtime earnings exceeded an employee's salary (including differentials: longevity payments, etc.) by 20 percent or more.

## REVIEWS OF MANAGERIAL LUMP-SUM PAYMENTS

Monetary Effect: Actual Savings: \$755,844.40

The Bureau of Financial Audit audits lump-sum payments to employees covered by the Management Pay Plan upon their final separation from City employment.

The employees covered by this plan receive a lump-sum payment for both vested and current accrued annual leave, sick leave, and compensatory leave. The payment is calculated in accordance with Personnel Orders 16/74, 78/3, 24/77, 78/9, 88/5, and 99/6. Employees who were in the Managerial or Executive Pay Plan on December 31, 1977, were given vested rights for their previously accrued annual leave, sick leave, and compensatory leave. After January 1, 1978, the plan became the Management Pay Plan.

Upon final separation from service, each employee's agency submits a lump-sum payment claim to the Comptroller for review.

For Fiscal Year 2012, those audits of the managerial lump-sum requests submitted by City agencies resulted in a savings to the City of New York of \$755,844.40:

Total number of claims in Fiscal Year 2012	590
Total amount of agency-prepared lump-sum claims	\$ 15,134,930.66
Total amount of lump-sum claims approved for payment	\$ 14,379,086.26
Claims correctly prepared by the agency	279
Claims reduced during audit	263
Claims increased during audit	48
Claims denied	0
Total dollar value of agency overpayments, before audit	\$ 763,784.58
Total dollar value of agency underpayments, before audit	\$ 7,940.18
<b>Net savings resulting from audit</b>	<b>\$ 755,844.40</b>

## REVIEWS OF HIGH RISK WELFARE FUND PAYMENT VOUCHERS

Monetary Effect:	Actual Savings:	\$121,066*
	Potential Savings:	\$18,805

Comptroller's Directive #8 (*Special Audit Procedures for High Risk Payment Voucher*) sets forth uniform procedures City agencies must follow when processing payment of high risk vouchers. The Bureau of Audit conducts a post review to determine if these payments were accurate.

The Bureau of Audit reviews a sample of payments made by City agencies to various unions covering welfare and annuity benefits for active and retired employees to ensure that the payments are in compliance with provisions contained in more than 600 agreements and conform to the terms and conditions of Office of Labor Relations (OLR) stipulations, Personnel Orders, and Office of Collective Bargaining decisions. Letter reports are only issued to agencies when monetary errors are found during the review.

During Fiscal Year 2012, seven letter reports were issued to agencies: two to OLR, two to the Department of Education, and one each to the Fire Department, Police Department, and Manhattan District Attorney.

	<b><u>Number of Vouchers</u></b>	<b><u>Amount</u></b>
Total Number of Vouchers reviewed:	5,154	\$1,130,293,825
Vouchers – no errors:	4,665	\$ 856,640,646
Vouchers – with errors:	489	\$ 273,653,179
Overpayments:		\$ 68.485
Underpayments:		\$ 4,831

\*Collections during Fiscal Year 2012 totaled \$121,066. Part of the collection amount, \$70,667, is from overpayments identified in previous years. Agencies recouped this amount either by check from the appropriate fund or by deducting the overpayment from subsequent payment vouchers.

## DEPARTMENT OF PARKS AND RECREATION

Audit Report on the Effectiveness of the Department of Parks and Recreation's Parks Inspection Program (Bronx Playgrounds)

Audit #7R12-055A

Comptroller's Audit Library #8166

Issued: March 8, 2012

Monetary Effect: None

### Introduction

This audit determined whether the Department of Parks and Recreation (DPR)'s Park's Inspection Program (PIP) is effectively monitoring the maintenance of the City's public playgrounds in the Bronx.

DPR maintains a municipal park system of more than 29,000 acres, including more than 1,800 parks and over 1,000 playgrounds. One of DPR's principal missions is to keep the parks, playgrounds, and sitting areas of New York City clean and safe.

PIP is administered by the Operations and Management Planning (OMP) division. PIP monitors the quality of maintenance and general conditions of the City's public parks and recreational facilities. According to OMP, all parks and playgrounds are randomly inspected in two-week cycles that cover 205 different sites. Every site in the City is inspected at least once a year; on average, most sites are inspected twice a year. When a park/playground is inspected, the site is deemed "acceptable" or "unacceptable" by the PIP inspectors. At the end of each inspection cycle, OMP officials forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of unacceptable conditions. Subsequent to the initial inspection, PIP inspectors revisit some of the playgrounds with hazardous conditions to verify whether any corrective action has been taken.

### Results

The audit found that the OMP officials inspect the playgrounds as required and forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. PIP inspectors revisit playgrounds with unacceptable features that were deemed hazardous to verify whether any corrective action had been taken. In addition, OMP follows up on playgrounds with hazardous conditions at biweekly meetings with the Borough Chief of Operations. OMP also maintains a database that ages all outstanding hazardous conditions and prepares internal reports reflecting the conditions of the playgrounds prior to inspections. However, the audit identified instances where the Bronx Chief of Operations did not correct hazardous conditions cited by the PIP inspectors in a timely manner. In addition, while inspecting Randall playground on Castle Hill Avenue, the auditors noticed a missing Playground Regulation sign. The sign should state that no adult is allowed inside of the playground without a child under the age of 12.

The audit recommended that DPR management should:

- Continue to monitor and follow up on conditions that are hazardous.
- Ensure that borough officials repair all outstanding items.
- Ensure that all signs are posted appropriately.

In their response, DPR officials agreed with the report's conclusions.

### **Audit Follow-up**

DPR reported that all audit recommendations have either been implemented or are in the process of being implemented.

## **DEPARTMENT OF PARKS AND RECREATION**

Audit Report on the Effectiveness of the Department of Parks and Recreation's Parks Inspection Program (Brooklyn Playgrounds)

Audit #7R12-096A

Comptroller's Audit Library #8167

Issued: March 8, 2012

Monetary Effect: None

### **Introduction**

This audit determined whether the Department of Parks and Recreation (DPR)'s Parks Inspection Program (PIP) is effectively monitoring the maintenance of the City's public playgrounds in Brooklyn.

DPR maintains a municipal park system of more than 29,000 acres, including more than 1,800 parks and over 1,000 playgrounds. One of DPR's principal missions is to keep the parks, playgrounds, and sitting areas of New York City clean and safe.

PIP is administered by the Operations and Management Planning (OMP) division. PIP monitors the quality of maintenance and general conditions of the City's public parks and recreational facilities. According to OMP, all parks and playgrounds are randomly inspected in two-week cycles that cover 205 different sites. Every site in the City is inspected at least once a year; on average, most sites are inspected twice a year. When a park/playground is inspected, the site is deemed "acceptable" or "unacceptable" by the PIP inspectors. At the end of each inspection cycle, OMP officials forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. Subsequent to the initial inspection, PIP inspectors revisit some of the playgrounds with hazardous conditions to verify whether any corrective action has been taken.

### **Results**

The audit found that the OMP officials inspect the playgrounds as required and forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. PIP inspectors revisit playgrounds with unacceptable features that were deemed hazardous to verify whether any corrective action had been taken. In addition, OMP follows up on playgrounds with hazardous conditions at biweekly meetings with the Borough Chief of Operations. OMP also maintains a database that ages all outstanding hazardous conditions and prepares internal reports reflecting the conditions of the playgrounds prior to inspections.

However, the audit identified several instances where the Brooklyn Chief of Operations did not correct reportable conditions cited by the PIP inspectors in a timely manner.

The audit recommended that DPR management should:

- Continue to monitor and follow up on conditions that are hazardous.
- Ensure that borough officials repair all outstanding items.

In their response, DPR officials agreed with the report's conclusions.

### **Audit Follow-up**

DPR reported that all audit recommendations have either been implemented or are in the process of being implemented.

## **DEPARTMENT OF PARKS AND RECREATION**

Audit Report on the Effectiveness of the Department of Parks and Recreation's Parks Inspection Program (Queens Playgrounds)

Audit #7R12-097A

Comptroller's Audit Library #8168

Issued: March 8, 2012

Monetary Effect: None

### **Introduction**

This audit determined whether the Department of Parks and Recreation (DPR)'s Parks Inspection Program (PIP) is effectively monitoring the maintenance of the City's public playgrounds in Queens.

DPR maintains a municipal park system of more than 29,000 acres, including more than 1,800 parks and over 1,000 playgrounds. One of DPR's principal missions is to keep the parks, playgrounds, and sitting areas of New York City clean and safe.

PIP is administered by the Operations and Management Planning (OMP) division. PIP monitors the quality of maintenance and general conditions of the City's public parks and recreational facilities. According to OMP, all parks and playgrounds are randomly inspected in two-week cycles that cover 205 different sites. Every site in the City is inspected at least once a year; on average, most sites are inspected twice a year. When a park/playground is inspected, the site is deemed "acceptable" or "unacceptable" by the PIP inspectors. At the end of each inspection cycle, OMP officials forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. Subsequent to the initial inspection, PIP inspectors revisit some of the playgrounds with hazardous conditions to verify whether any corrective action has been taken.

### **Results**

The audit found that OMP officials inspect the playgrounds as required and forward the results of the inspections to DPR officials and borough officials including the Borough

Commissioner and Chief of Operations for review and correction of the unacceptable conditions. PIP inspectors revisit playgrounds with unacceptable features that were deemed hazardous to verify whether any corrective action had been taken. In addition, OMP follows up on playgrounds with hazardous conditions at biweekly meetings with the Borough Chief of Operations. OMP also maintains a database that ages all outstanding hazardous conditions and prepares internal reports reflecting the conditions of the playgrounds prior to inspections. However, the audit identified several instances where the Queens Chief of Operations did not correct reportable conditions cited by the PIP inspectors in a timely manner.

The audit recommended that DPR management should:

- Continue to monitor and follow up on conditions that are hazardous.
- Ensure that borough officials repair all outstanding items.

In their response, DPR officials agreed with the report's conclusions.

### **Audit Follow-up**

DPR reported that all of the recommendations have either been implemented or are in the process of being implemented.

## **DEPARTMENT OF PARKS AND RECREATION**

Audit Report on the Effectiveness of the Department of Parks and Recreation's Parks Inspection Program (Manhattan Playgrounds)

Audit #7R12-098A

Comptroller's Audit Library #8169

Issued: March 8, 2012

Monetary Effect: None

### **Introduction**

This audit determined whether the Department of Parks and Recreation (DPR)'s Parks Inspection Program (PIP) is effectively monitoring the maintenance of the City's public playgrounds in Manhattan.

DPR maintains a municipal park system of more than 29,000 acres, including more than 1,800 parks and over 1,000 playgrounds. One of DPR's principal missions is to keep the parks, playgrounds, and sitting areas of New York City clean and safe.

PIP is administered by the Operations and Management Planning (OMP) division. PIP monitors the quality of maintenance and general conditions of the City's public parks and recreational facilities. According to OMP, all parks and playgrounds are randomly inspected in two-week cycles that cover 205 different sites. Every site in the City is inspected at least once a year; on average, most sites are inspected twice a year. When a park/playground is inspected, the site is deemed "acceptable" or "unacceptable" by the PIP inspectors. At the end of each inspection cycle, OMP officials forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. Subsequent to the initial inspection,

PIP inspectors revisit some of the playgrounds with hazardous conditions to verify whether any corrective action has been taken.

## **Results**

The audit found that the OMP officials inspect the playgrounds as required and forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. PIP inspectors revisit playgrounds with unacceptable features that were deemed hazardous to verify whether any corrective action had been taken. In addition, OMP follows up on playgrounds with hazardous conditions at biweekly meetings with the Borough Chief of Operations. OMP also maintains a database that ages all outstanding hazardous conditions and prepares internal reports reflecting the conditions of the playgrounds prior to inspections. However, the audit identified instances where the Manhattan Chief of Operations did not correct reportable conditions cited by the PIP inspectors in a timely manner.

While inspecting Columbus Park, auditors found that adults were in the playground on several occasions without being accompanied by a child under 12. According to Parks Regulated rules, adults are allowed in playground areas only when accompanied by a child under the age of 12. Parks employees do not appear to have made any effort to enforce this rule.

The audit recommended that DPR management should:

- Continue to monitor and follow up on conditions that are hazardous.
- Ensure that borough officials repair all outstanding items.
- Ensure that all signs are posted appropriately.

In their response, DPR officials agreed with the report's conclusions.

## **Audit Follow-up**

DPR reported that all of the recommendations have either been implemented or are in the process of being implemented.

## **DEPARTMENT OF PARKS AND RECREATION**

Audit Report on the Effectiveness of the Department of Parks and Recreation's Parks Inspection Program (Staten Island Playgrounds)

Audit #7R12-099A

Comptroller's Audit Library #8170

Issued: March 8, 2012

Monetary Effect: None

## **Introduction**

This audit determined whether the Department of Parks and Recreation (DPR)'s Parks Inspection Program (PIP) is effectively monitoring the maintenance of the City's public playgrounds in Staten Island.

The New York City Parks and Recreation Department (DPR) maintains a municipal park system of more than 29,000 acres, including more than 1,800 parks and over 1,000 playgrounds. One of DPR's principal missions is to keep the parks, playgrounds, and sitting areas of New York City clean and safe.

The Parks Inspection Program (PIP) is administered by the Operations and Management Planning (OMP) division. PIP monitors the quality of maintenance and general conditions of the City's public parks and recreational facilities. According to OMP, all parks and playgrounds are randomly inspected in two-week cycles that cover 205 different sites. Every site in the City is inspected at least once a year; on average, most sites are inspected twice a year. When a park/playground is inspected, the site is deemed "acceptable" or "unacceptable" by the PIP inspectors. At the end of each inspection cycle, OMP officials forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. Subsequent to the initial inspection, PIP inspectors revisit some of the playgrounds with hazardous conditions to verify whether any corrective action has been taken.

### **Results**

The audit found that OMP officials inspect the playgrounds as required and forward the results of the inspections to DPR officials and borough officials including the Borough Commissioner and Chief of Operations for review and correction of the unacceptable conditions. PIP inspectors revisit playgrounds with unacceptable features that were deemed hazardous to verify whether any corrective action had been taken. In addition, OMP follows up on playgrounds with hazardous conditions at biweekly meetings with the Borough Chief of Operations. OMP also maintains a database that ages all outstanding hazardous conditions and prepares internal reports reflecting the conditions of the playgrounds prior to inspections.

The audit recommended that DPR management should:

- Continue to monitor and follow up on conditions that are hazardous.

In their response, DPR officials agreed with the report's conclusion.

### **Audit Follow-up**

DPR reported that the recommendation has been implemented.

## DEPARTMENT OF PARKS AND RECREATION

### Audit Report on the Department of Parks and Recreation's Controls over the Awarding of Concessions

Audit #FK10-129A

Comptroller's Audit Library #8147

Issued: December 5, 2011

Monetary Effect: Potential Revenue: \$8,775,888

### Introduction

This audit determined whether the Department of Parks and Recreation (Parks) complied with the Franchise and Concession Review Committee (FCRC) and other relevant rules and regulations and assessed Parks' controls over awarding concessions.

Parks is responsible for managing over 29,000 acres of City parkland. As the custodian of this land, Parks is also responsible for soliciting and awarding concessions to operate various recreational, dining, parking lot, and retail facilities. These include golf courses, tennis courts, restaurants, and food carts. The concession solicitation and award process is overseen by the Mayor's Office of Contract Services (MOCS) and governed by the FCRC rules, which are codified in Title 12 of the Rules of the City of New York. These rules allow concessions to be granted using competitive, semi-competitive, and non-competitive methods. Concessions solicited through competitive methods must be awarded to the highest rated, responsive, and responsible bidders and proposers.

Parks oversees approximately 500 concessions throughout the five boroughs. These concessions generate approximately 91 percent of the City's total concession revenue. Typically, concessionaires pay Parks minimum stated fees or percentages of gross receipts. Concession revenues account for more than half of Parks' revenues which are used to support Parks' programs and services. In Fiscal Years 2008, 2009, and 2010, Parks reported concession revenues of \$52,585,844, \$46,079, 926, and \$39,830,380, respectively.

This audit covered the period July 1, 2008, through June 30, 2010.

### Results

Parks needs to improve management of its concession solicitation and award process to ensure that: contracts are executed in a timely manner, enabling concessions to continuously operate; viable bids and proposals are accepted; and solicitations are competitive. With improved planning and management of the solicitation and award process, Parks could have collected up to \$8.8 million in additional concession revenue (\$6.9 million for continuous operations and \$1.9 million for rejected bids).

Furthermore, the audit review found that Parks failed to maintain critical documents or to document key decisions that ensure the integrity of concession awards for the competitive sealed bid and proposal processes. Specifically, Parks did not maintain documentation to support that it awarded concessions to the highest rated, responsive bidders and proposers; did not maintain documentation to support that officials responsible for recommending concession awards were free from bias and potential or actual conflicts of interest; and lacked adequate key controls that would allow Parks and other City agencies to make proper responsibility determinations. As a result, the audit is not able to ascertain whether Parks properly awarded concessions.

Additionally, Parks improperly granted numerous sole source concessions to not-for-profits. Our review noted that Parks entered concession contracts with various not-for-profit organizations without FCRC review and approval. Consequently, these sole source awards, contracts, and associated revenues lack oversight, transparency, and accountability. Parks also lacked written policies and procedures and adequate controls over concession files. As a result, Parks' employees may not have performed their jobs properly or consistently, and proprietary and other sensitive information may have been compromised.

To address these issues, the audit makes 22 recommendations, including that Parks should:

- Track the solicitation and award process to ensure that it progresses in a timely manner.
- Make and retain approved written determinations to reject all bids or proposals that detail why an award is not in the City's best interest.
- Examine why it receives a small number of responses to solicitations and initiate appropriate corrective action to increase competition for future solicitations.
- Maintain and retain in concession files all documentation supporting and evidencing bid and proposal ratings.
- Maintain and retain in concession files all documentation evidencing that bids and proposals were received within submission deadlines.
- Ensure that Committee members sign Evaluator Affidavits when completing proposal rating sheets.
- Complete Vendor Information Exchange System (VENDEX) or other comprehensive performance evaluations.
- Comply with FCRC rules when granting sole source concessions to not-for-profits.
- Institute written policies and procedures that adequately and specifically address the duties and procedures to be followed by key employees responsible for the solicitation, receipt, safeguarding, opening, and evaluation of bids and proposals, and the award and registration of contracts.
- Appropriately restrict access to and establish accountability for custody of concession files.

Parks disagreed with most aspects the report's findings and recommendations. However, Parks acknowledged that the report was correct on some very important points, including that a significant portion of its concession portfolio "should have been awarded in a more time effective manner." In addition, Parks agreed to implement a number of our recommendations, including those relating to the advertisement of solicitations, corrective actions to be taken to increase competition for concession contracts, and efforts to ensure that selection committee members assigned to evaluate vendors' concession proposals are free from any potential conflicts of interest.

### **Audit Follow-up**

Parks reported that 18 recommendations were implemented, two recommendations were partially implemented, and one recommendation is in the process of being implemented. Parks deemed the remaining recommendation to charge concessionaires operating under expired contracts or Temporary Use Agreements fees that are commensurate with anticipated new contract terms to be not applicable.

## **NEW YORK COUNTY PUBLIC ADMINISTRATOR'S OFFICE**

Audit Report on the Financial and Operating Practices of the New York County Public Administrator's Office

Audit #FN12-076A

Comptroller's Audit Library #8196

Issued: June 29, 2012

Monetary Effect: None

### **Introduction**

The objectives of this audit were to determine whether the New York County Public Administrator (NYCPA) properly executed its fiduciary responsibilities including safeguarding of estate assets, accurately reporting all revenue and expenses, and managing all estate activities in accordance with Article 11 of the New York State Surrogate's Court Procedures Act (SCPA) and other applicable State and City regulations.

Public Administrators (PAs) are responsible for administering the estates of individuals in the county who die intestate (without a will) or when no other appropriate individual is willing or qualified to administer the estate. The general functions of the PA Offices are governed by the SCPA. In addition, PAs are required to comply with New York City Comptroller's Directive #28, which establishes reporting requirements for PAs. The NYCPA handles estates of such decedents in New York County.

Some of the functions of the PA's Offices are funded by the City through budget appropriations. The June 30, 2011, City Comptroller's Comprehensive Annual Financial Report reported for NYCPA \$845,388 in revenues collected on behalf of the City and \$1,126,469 in appropriations received from the City consisting of \$518,887 for Personal Service expenditures and \$607,582 for Other Than Personal Service expenditures.

This audit covered the period July 1, 2010, through June 30, 2011.

### **Results**

The NYCPA generally adhered to the administrative requirements of the SCPA and the Administrative Board Guidelines for managing the estates. However, the audit found instances of non-compliance relating to certain practices. Specifically, the NYCPA:

- Did not issue all required 1099-MISC forms to its vendors, resulting in underreporting \$1,133,196 to the Internal Revenue Service (IRS).
- Charged the PA administrative and legal fees to closed informal estates in excess of the amount required.
- Did not ensure that an annual independent Certified Public Account (CPA) audit was performed as required.
- Did not update written standard operating procedures for the proper management of estate accounts.
- Did not independently review its bank reconciliation statements.

To address these issues, the audit makes eight recommendations, including that NYCPA should:

- Issue IRS 1099-MISC forms to vendors paid with estate funds.

- Ensure that IRS 1099-MISC forms are issued to all individuals with 1099-reportable income (payments made to individuals who provide a service relating to NYCPA operations, including services provided on behalf of the estates).
- Properly calculate the PA administrative and legal fees in accordance with the Report and Guidelines of the Administrative Board for the Offices of the Public Administrators pursuant to Article 11, §1128.
- Have an independent CPA conduct annual audits that comply with SCPA requirements.
- Select an independent CPA firm in accordance with Comptroller's Directive #5, "Audits of Agency Programs and Operations," which provides guidance on this topic.
- Update all written policies and procedures that adequately and specifically address the duties and procedures to be followed by key employees responsible for the handling of the decedents' estates from receiving the report of death to closing out the estates.
- Require the preparer to sign and date the bank reconciliation.
- Ensure that all monthly reconciliations are reviewed and signed off by a supervisor.

In their response, NYCPA officials partially disagreed with the auditors' interpretation of some of the issues, but stated that they would take steps to address the report's recommendations. Specifically, NYCPA officials continued to maintain that "[t]he NYCPA, when acting as administrator of an estate, is not a person 'engaged in a trade or business' under IRC § 6041 and the IRS' instructions for Form 1099-MISC." However, they stated, "[t]he NYCPA will consider the auditor's recommendation(s) regarding 1099-MISC reporting requirements."

NYCPA also stated, "[t]he auditors' interpretation of the Guidelines adopted by the Administrative Board effective October 3, 2002 is incorrect." Contrary to NYCPA's interpretation, the 2002 Guidelines very clearly state that a 6 percent limitation is applied to any estate. Therefore, NYCPA should have used this standard as a basis for its fees. Instead, NYCPA chose to institute its own schedule which caused small estates to be overcharged. However, NYCPA officials agreed that the new guidelines adopted by the Administrative Board, effective May 1, 2012, require that legal fees charged to small estates be calculated as a flat 6 percent of gross assets and stated they have complied with the new guidelines in all informatory accountings filed since May 1, 2012.

Despite the areas of disagreement, NYCPA agreed to take steps to address all eight recommendations.

### **Audit Follow-up**

NYCPA reported that seven recommendations have been implemented and the remaining recommendation is in the process of being implemented. NYCPA is currently working on revising and updating all of its written policies and procedures.

## **QUEENS COUNTY PUBLIC ADMINISTRATOR'S OFFICE**

Audit Report on the Financial and Operating Practices of the Queens County Public Administrator's Office

Audit #FN12-075A

Comptroller's Audit Library #8191

Issued: June 18, 2012

Monetary Effect: None

### **Introduction**

This audit determined whether the Queens County Public Administrator's Office (QCPA) properly executed its fiduciary responsibilities and managed the estate in accordance with Article 11 of the Surrogate Court Procedures Act (SCPA) and other applicable State and City laws, rules, and regulations.

There are five Public Administrators (PAs) in New York City, each of whom serves one of the City's five counties and reports to the county Surrogate's Court. PAs are responsible for administering the estates of individuals in the county who die intestate (without a will) or when no other appropriate individual is willing or qualified to administer the estate.

SCPA requires that the PAs: deposit all commissions and costs received in the City treasury; make all books, records, and documents available to the City Comptroller for examination; file monthly account information on estates that have been closed or finally settled; and have an annual audit of the office performed by a Certified Public Accountant (CPA), the cost of which is to be funded by the City.

PAs are required to submit a final accounting of all estate transactions to the Surrogate's Court of the county when an estate with assets having gross value of more than \$500 has closed or is in the process of being closed. A final accounting report documents all income and an expense associated with an estate and provides a record of the estate's financial transactions to aid the Surrogate's Court in its oversight of the PAs' offices. If additional assets have been received after an estate is closed and final accountings have been submitted to the Surrogate's Court, the PAs reopen an estate in order to process the additional assets.

The QCPA is responsible for administering the estates of individuals in Queens County. As the estate administrator, the QCPA makes funeral arrangements, collects debts, pays creditors, manages the decedents' assets, searches for possible heirs, and files tax returns on behalf of the decedents. As of June 30, 2011, the QCPA maintained 2,389 open estates with assets valued at more than \$93.5 million. The June 30, 2011, City Comptroller's Comprehensive Annual Financial Report reported for QCPA \$1,562,998 in revenues collected on behalf of the City and \$425,439 in appropriations received from the City consisting of \$417,654 for Personal Service expenditures and \$7,785 for Other Than Personal Service expenditures.

This audit covered the period July 1, 2010, through June 30, 2011.

### **Results**

The QCPA generally adheres to the administrative requirements of the SCPA, Administrative Board Guidelines, and its own internal guidelines and procedures for managing the estates. The QCPA generally:

- Maintains a central record of all the estates it manages. In addition, each estate valued at more than \$500 is separately accounted for as required by the SCPA.
- Maintains accurate records of receipts and disbursements including supporting documentation such as invoices, bills from creditors, and proof of claims.
- Ensures bank deposits in excess of the FDIC insurance limit were properly covered by the appropriate bank collateral.
- Files the required monthly and semi-annual reports with the Surrogate's Court, State Comptroller's Office, and City Comptroller's Office.

Furthermore, the audit found that QCPA ensured that an independent CPA audit was conducted annually. According to the June 30, 2011, independent CPA report, the auditors concluded that "In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Queens County Public Administrator as of June 30, 2011, and the changes in its assets for the year then ended."

Additionally, the audit noted that QCPA implemented all recommendations as cited in our prior audit report, and we make no additional recommendations.

## RETIREMENT SYSTEMS

### Audit Report on the New York City Teachers' Retirement System's Controls over the Identification of Deceased Individuals Collecting Pension Payments

Audit # FM11-111A

Comptroller's Audit Library #8119

Issued: September 7, 2011

Monetary Effect: None

#### Introduction

This audit determined whether the New York City Teachers' Retirement System (TRS) had the controls in place to detect and prevent the illegal collection of pension payments after the death of a pensioner or beneficiary.

To identify deceased individuals collecting pensions, TRS utilizes a monthly death match report comparing Federal Social Security Administration (SSA) and TRS records. The report would identify an individual who is actively receiving a pension payment but is reported deceased on the SSA death report. TRS itself does not produce any death match reports; it uses a death match report generated by a third-party vendor. The third party creates death match reports by comparing the SSA death records against an individual's date of death as recorded in the Unified Pension System (UPS). The report lists individuals who have been reported as deceased during that month and are also receiving pension payments. These reports are created once a month. The report also identifies an individual who is actively receiving a pension payment but is reported dead on the SSA death report.

As of November 2010, TRS uses the third-party report in conjunction with the City Human Resources and Management System (CHRMS) HR-11 death match report. The HR-11 report, preprogrammed by the New York City Office of Payroll Administration (OPA), utilizes a cumulative database to identify and reduce instances of payments to deceased recipients and to compare dates of death recorded within the Pension Payroll Management System (PPMS) to a database of deceased individuals. A match is generated when a pensioner or beneficiary listed as active (not deceased) in PPMS is reported as deceased in the database. The database of deceased individuals is updated on a monthly basis with a file provided by SSA.

#### Results

The audit determined that TRS maintains adequate controls over the identification of deceased individuals collecting pension payments. A review of the reports found that TRS took timely and appropriate action on the 200 sampled individuals who were identified as deceased. However, the HR-11 reports lack evidence of supervisory approval and identification of the staff responsible for the initial examination. Moreover, the PPMS CHRMS system only produces reports on a real-time basis and cannot be recreated or generated to obtain past information. Consequently, TRS needs to create an archive of previous reports for future investigations. Finally, TRS outsources the production of certain death match reports, which is no longer necessary due to the HR-11 report. Outsourcing the death match reports is an unnecessary risk because it requires the dissemination of personally identifiable information to a third party. Although there is no indication that these records were misused, TRS cannot be assured that the controls over this information are adequate.

The audit recommended that the TRS should:

- Ensure that work performed by staff is documented and supervisory reviews are evidenced by sign-off, attesting to compliance with policies and procedures.
- Coordinate with Financial Services Agency (FISA) to determine the feasibility of developing a back-up plan to store the HR-11 reports.
- Consider using the HR-11 and Death Match Discrepancy Report in place of obtaining the third party vendor reports.

TRS officials generally agreed with the audit's findings and recommendations.

### **Audit Follow-up**

TRS reported that two of the three recommendations have been implemented. TRS reported that it has modified its computer system to include the revised Death Match policies and procedures, an audit trail, and electronic managerial supervisory review. In addition, TRS reported that it has developed a folder on its server to store historical HR-11 reports. However, TRS stated that it will continue to utilize the third-party vendor (Comserv) reports when TRS encounters problems with the HR-11 reports.

## **RETIREMENT SYSTEMS**

Audit Report on the New York City Board of Education Retirement System's Controls over the Identification of Deceased Individuals Collecting Pension Payments

Audit # FM11-112A

Comptroller's Audit Library #8120

Issued: September 7, 2011

Monetary Effect: None

### **Introduction**

This audit determined whether the Board of Education Retirement System (BERS) had the controls in place to detect and prevent the illegal collection of pension payments after the death of a pensioner or beneficiary.

To identify deceased individuals collecting pensions, BERS utilizes a monthly death match report comparing Federal Social Security Administration (SSA) and New York City Pension Payroll Management System (PPMS) records. The report would identify an individual who is actively receiving a pension payment but is reported deceased on the SSA death report. BERS itself does not produce any death match reports, so prior to October 2010, BERS would access the New York City Financial Information Service Agency's (FISA) death match discrepancy report from the Report Management and Distribution System (RMDS). The death report lists individuals who have been reported as deceased during that month and are also receiving pension payments. The Death Match Discrepancy Report is not cumulative. The Death Match Discrepancy Report can only provide monthly information by SSA and PPMS.

As of October 2010, BERS replaced the RMDS death match discrepancy report with the City Human Resources and Management System (CHRMS) death match report. Since then, BERS has been using the HR-11 report generated through the CHRMS. The HR-11 report,

preprogrammed by the New York City Office of Payroll Administration (OPA), utilizes a cumulative database to identify and reduce instances of payments to deceased recipients and to compare dates of death recorded within PPMS to a database of deceased individuals. A match is generated when a pensioner or beneficiary listed as active (not deceased) in PPMS is reported as deceased in the database. The database of deceased individuals is updated on a monthly basis with a file provided by SSA.

## **Results**

The audit determined that BERS's management's method of monitoring and overseeing the identification of deceased individuals collecting pensions after their date of death was deficient. BERS did not update its controls over identification of deceased individuals collecting pensions after their date of death in a timely manner. Specifically, BERS delayed using the HR-11 report, which became available in April 2010, and correcting deficiencies in the Death Match Discrepancy Report until October 2010.

A review of the reports found that BERS took appropriate action on those individuals who were identified as deceased and adequately handled the suspension of pension payments once notified of an individual's date of death. However, the HR-11 and Death Match Discrepancy reports lack evidence of supervisory approval and identification of the staff responsible for the initial examination. Moreover, the PPMS CHRMS system only produces reports on a real-time basis and cannot be recreated or generated to obtain past information. Consequently, BERS needs to create an archive of previous reports for future investigations.

The audit recommended that BERS should:

- Ensure that work performed by staff is documented and supervisory reviews are evidenced by sign-off, attesting to compliance with policies and procedures.
- Coordinate with the FISA to determine the feasibility of developing a back-up plan to store the HR-11 reports.

In its response, BERS strongly disagreed with the finding regarding its delayed implementation of the HR-11 report and one of the two recommendations regarding coordinating efforts with FISA to develop a back-up plan to store the HR-11 reports. However, BERS did agree to add a supervisory sign-off requirement to its procedures.

## **Audit Follow-up**

BERS reported that it has implemented one of the two recommendations by adding a supervisory sign-off to its procedures. However, BERS will not implement the remaining recommendation because it claims the HR-11 report is cumulative and BERS does not require that prior reports be stored.

## RETIREMENT SYSTEMS

### Audit Report on the New York City Employees' Retirement System's Controls over the Identification of Deceased Individuals Collecting Pension Payments

Audit # FM11-114AL

Comptroller's Audit Library #8146

Issued: October 28, 2011

Monetary Effect: None

#### Introduction

This audit determined whether the New York City Employees' Retirement System (NYCERS) had the controls in place to detect and prevent the illegal collection of pension payments after the death of a pensioner or beneficiary.

NYCERS generates its own death match report by utilizing weekly updates from the National Technical Information Service (NTIS), an agency of the U.S. Department of Commerce. The weekly file contains new deaths, changes, and deletions to the Social Security Administration's (SSA) Death Master File extract tape. NYCERS compares the data obtained from the NTIS against NYCERS's pension payroll to create its own death match report—the Social Security Projects & Overpayments (SSPO). The SSPO report identifies the individual's name, social security number, date of birth, date of death, and address.

Upon the receipt of the SSPO report, the Pension Survivor Benefit Unit will verify if an individual's death has been previously reported to NYCERS. If the death has not been previously reported, NYCERS will suspend monthly pension payments until the deceased status is confirmed for the individual. Pension payroll-related tasks are performed through the New York City Pension Payroll Management System (PPMS).

#### Results

The audit found that NYCERS maintains adequate controls over the identification of deceased individuals collecting pension payments. A review of the reports found that NYCERS took timely and appropriate action on the 100 individuals we sampled who were identified as deceased. However, NYCERS could enhance its controls and potentially save \$8,500 (the fee for weekly updates from NTIS) by utilizing the HR-11 and Death Match Discrepancy Reports, which are available at no cost.

The audit recommended that NYCERS should evaluate and consider the benefits of augmenting or replacing its current system with the City-generated reports.

NYCERS officials generally agreed with the audit's findings and recommendations, but felt that the cost of the weekly NTIS updates was justified due to the benefit derived from them.

#### Audit Follow-up

NYCERS reported that it will continue to utilize the weekly NTIS reports and does not see a need to change its procedure.

## DEPARTMENT OF SANITATION

### Audit Report on the Department of Sanitation's Automatic Vehicle Location Application

Audit # ME11-093A

Comptroller's Audit Library #8142

Issued: November 9, 2011

Monetary Effect: Potential Savings: \$851,926

### Introduction

This audit determined whether funds spent on the Department of Sanitation's (DSNY) Automatic Vehicle Location (AVL) application were adequately supported and whether the application functioned as intended.

On January 9, 2006, the Department of Information Technology and Telecommunications (DoITT) entered into a five-year, \$500 million contract with Northrop Grumman Information Technology, Inc. (Northrop Grumman) to design, construct, manage, and maintain a New York City Mobile Wireless Network for certain City agencies. Through various task and change orders, the contract was modified on April 20, 2007, to include DSNY's initial deployment of an AVL application, which is a computer-based system that uses a Global Positioning System (GPS) to identify vehicle locations on an electronic map.

Northrop Grumman installed AVL devices (each containing a GPS receiver, wireless modem, and processor) along with associated peripherals, including antennas and sensors, in 60 of DSNY's vehicles (collection trucks and supervisor passenger cars) primarily located in Queens East District 8 (QE8). Over the course of the contract, Northrop Grumman also delivered 26 mobile data terminals (tablets) to be mounted on docking stations in supervisor passenger cars. In addition to the 60 vehicles equipped with AVL devices, in December 2010, DoITT provided (from its own stock and free of charge) six AVL devices that were installed in salt spreaders in Queens West District 6. To assist in its AVL application, DSNY received project management and quality assurance services from Gartner, Inc. (Gartner) via a task order to an existing contract DSNY had with this vendor. In total, \$3,694,613 was spent in capital funds on the AVL application at DSNY—\$3,203,770 was spent by DSNY and \$490,843 by DoITT.

The scope of the audit was January 2006 through June 2011.

### Results

The audit found that DSNY did not maintain adequate documentation to support some of its AVL application expenditures. DSNY made questionable payments totaling \$851,926. DSNY made a questionable payment of \$499,534 to Gartner for project management and quality assurance services. The supporting documentation for this payment raises questions about the appropriateness of the amount paid. In addition, the timesheets associated with many of Gartner's invoices were not approved by officials from DSNY in a timely manner. These issues illustrate the need for DSNY to strengthen its controls over payments to consultants. Furthermore, another questionable payment of \$352,392 was made to Northrop Grumman for operating manuals and training materials.

Based on tests and a survey conducted by the audit, the application, when functioning, provides field supervisors with a tool that allows them to do their job more easily and efficiently. For example, the map screen feature helps the supervisors locate their crews' vehicles, monitor their crews' work, and coordinate refuse collection and snow removal efforts. However, a number of issues limit the AVL application's usability on a day-to-day

basis. These issues include some inaccurate vehicle-position information on the map screens and the tablets that display the map screens sometimes not working properly or at all. Finally, DSNY lacked an adequate inventory system for its AVL devices and tablets.

The audit made 14 recommendations, including that DSNY:

- Review and take all necessary action concerning the questionable payment of \$499,534 to Gartner for project management and quality assurance services and the questionable payment of \$352,392 to Northrop Grumman for operating manuals and training materials.
- Improve its controls over payments made to consultants to ensure, among other things, that timesheets for consultants' work are approved in a timely manner.
- Address the identified technical problems with the AVL devices and tablets.
- Develop written AVL inventory procedures. In addition to the need to conduct annual inventory counts and to maintain a perpetual inventory system, the procedures should require that inventory records contain adequate asset identification information.

In their response, DSNY officials generally agreed in principle with 10 of the audit's recommendations, disagreed with one, and did not address the remaining three recommendations.

#### **Audit Follow-up**

DSNY reported that 10 recommendations have been implemented, three recommendations are in process, and the remaining recommendation is no longer applicable. DSNY stated that the remaining recommendation is no longer applicable because AVL applications were removed from all vehicles as of April 2012.

## NEW YORK CITY TRANSIT

### Follow-up Audit Report on Vendor Contracts with New York City Transit to Provide Access-A-Ride Services

Audit # 7S11-129F

Comptroller's Audit Library #8163

Issued: February 3, 2012

Monetary Effect: None

### Introduction

This follow-up audit determined whether New York City Transit (NYCT) implemented the six recommendations made in the previous audit, *Audit Report on Vendor Contracts with New York City Transit to Provide Access-A-Ride Services, (ME09-078A)* issued July 28, 2009.

NYCT operates Access-A-Ride (AAR), the City's paratransit system. NYCT AAR provides door-to-door transportation for people with disabilities who are unable to use public bus or subway service. AAR provides millions of trips a year for eligible customers in New York City. Service is available 24 hours a day, seven days a week (including holidays), throughout the five boroughs.

While NYCT's Paratransit Division administers the Access-A-Ride program, private carriers under contract with NYCT provide the service. NYCT currently contracts with 14 private companies.

Access-A-Ride customers can phone up to two days in advance to schedule a trip. Once scheduled, the customer must be at his/her pick-up location and be prepared to wait up to 30 minutes after the scheduled pick-up time. Access-A-Ride vehicles arriving during the 30-minute window are considered to be on time. If customers are not at the pick-up location, drivers must wait five minutes after the scheduled pick-up time before leaving. In these situations, the driver calls the dispatcher, who in turn tries to locate the customer by calling the customer. If the dispatcher is unable to locate the customer, the driver may leave after five minutes. Customers who are at the scheduled pick-up location may call NYCT if the vehicle has not arrived within 30 minutes of the scheduled pick-up time. A NYCT customer information agent (agent) gives the customer the vehicle's estimated arrival time or locates another Access-A-Ride vehicle to pick up the customer. If no Access-A-Ride vehicle is available within a reasonable time, the agent can authorize the customer to call a taxi or a car service.

According to NYCT, the cost of operating Access-A-Ride for Calendar Year 2010 was \$462.3 million. During the period 2008 to 2010, total trips completed increased from 5.4 million to 6.7 million.

### Results

The current follow-up audit found that NYCT has implemented all six of the recommendations made in the previous audit. Specifically, the audit found that NYCT prepared written guidelines detailing the process used to review route data, and its reconciliation reviews cover a cross-section of vendors and alternates between vendors. Further, NYCT's summary tracking sheets included a column identifying total trips reviewed and no-shows. In addition, route reconciliation records identify and reclassify no-show discrepancies, and NYCT sends letters to the appropriate carrier from a contract manager informing the carrier of the necessary changes. Finally, the audit found that contract

managers discussed negative trends based on complaint analysis and detail their discussions with vendors on performance issues.

In their response, NYCT officials agreed with the report's conclusions.

**METROPOLITAN TRANSPORTATION AUTHORITY/NEW YORK CITY TRANSIT****Subway Service Diversions for Maintenance and Capital Projects**

Audit # 2010-S-34

Comptroller's Audit Library #8115

Issued: July 29, 2011

Monetary Effect: Potential Savings \$10.5 million

**Introduction**

The audit objectives were to determine (1) whether subway service diversions are effectively managed by the Metropolitan Transportation Authority (MTA) – New York City Transit (Transit) and (2) whether the riding public is adequately informed of service diversions. The audit scope period was from January 1, 2009, through January 4, 2011. This audit was a joint collaboration between the New York State Comptroller's Office and the New York City Comptroller's Office.

Transit is responsible for completing capital projects and maintaining subway tracks to ensure that trains run safely. To do this work, it is sometimes necessary to temporarily close down either all or a portion of a subway line (called a diversion). When possible, Transit diverts subway service to another subway line or uses shuttle buses to take the public from one subway station to another.

Transit is responsible for planning and implementing subway service diversions. This includes shutting off power for the affected subway tracks, determining how long the tracks need to be out of service, ensuring workers get to the tracks in a timely manner, restoring power and train service when the work is done, providing alternate service, and alerting the riding public about the diversion. For the period January 1, 2009, to July 14, 2010, there were 3,332 service diversions.

**Results**

Transit has a number of policies and procedures for managing and controlling subway diversions. However, the audit also found that more needs to be done. In particular, diversion costs were not adequately monitored, daily work on diversions often started late and ended early, and the public was not adequately informed about diversions. These conditions add substantially to project cost, further inconvenience riders, and cause economic hardship to affected businesses. Most notably, the audit found that:

- Transit does not always prepare adequate supporting documentation to evidence that it is monitoring diversion costs on an ongoing basis. As a result, it could not justify why diversion costs exceed budgets. The audit noted that four contracts had related diversion costs budgeted at a combined \$56.5 million. However, as of January 4, 2011, the diversion costs for these contracts were estimated to cost \$83.1 million and, therefore, were already \$26.6 million over budget.
- Work on service diversions often starts late and ends early. The audit examined General Order Worksheets for 29 diversions and noted that work started late for 28 and ended early for 21. The unproductive time associated with this ranged from 10 to 27 percent of scheduled time for each diversion. Assuming that the lower range of 10 percent unproductive time was associated with all of the 3,332 diversions underway between January 1, 2009, and July 14, 2010, and assuming this inefficiency was eliminated, the audit estimates that \$10.5 million of unproductive cost would have been avoided.

- Newspaper ads had been created for only two of 50 diversions that we sampled, and neither of these pertained to high ridership areas. Also, contrary to federal regulations, we did not see any signs posted in a language other than English when auditors visited 39 subway stations with diversion projects underway.

To address the above weaknesses, the audit made five recommendations:

- Monitor actual expenditures for service diversions and document the justification and supporting analysis for any spending over budgeted amounts.
- Ensure that daily scheduled start and end times for service diversions are adhered to by assigned staff and commence subway service as soon as possible after diversions are completed.
- Implement a methodology for using current ridership data and other appropriate factors to determine bus deployment for transporting riders during a subway diversion.
- Adhere to federal law and Transit procedures related to communicating with the public regarding diversions.
- Re-evaluate the budget amount for alerting the riding public about planned service changes due to diversions.

In its written response, Transit agreed with all recommendations except one, stating that its procedures comply with federal law.

## DEPARTMENT OF TRANSPORTATION

### Audit Report on the Department of Transportation's Remediation of Bridge Defects

Audit #7E11-128A

Comptroller's Audit Library #8189

Issued: June 5, 2012

Potential Monetary Effect: None

### Introduction

The audit determined whether the Department of Transportation (DOT) is carrying out repairs of safety and structural defects on bridges in a timely manner. DOT is required to perform corrective or protective actions for safety and structural defects (i.e., "flags") on the 782 bridges it maintains. Flags are usually identified during the course of inspections carried out by DOT inspectors or inspectors from the New York State Department of Transportation. According to the New York State Department of Transportation Engineering Instruction E110-016 (Inspection Flagging Procedure for Bridges), there are three classifications for these flags: red, yellow, or safety. A red flag is "a structural flag that is used to report the failure or potential failure of a primary structural component." A yellow flag is "a structural flag that is used to report a potentially hazardous structural condition which, if left unattended could become a clear and present danger before the next scheduled biennial inspection." A safety flag is "used to report a condition presenting a clear and present danger to vehicular or pedestrian traffic, but poses no danger of structural failure or collapse." Red and safety flags may also be designated for prompt interim action, which means that a condition must be addressed within 24 hours of notification to the DOT's Flag Engineering unit. Red flags are to be remediated within six weeks after notification, although action may be deferred if appropriate certifications are made by a professional engineer. Yellow flags and safety flags do not have a specific timeframe for remediation, according to the Engineering Instruction.

Information about flag conditions is recorded in the DOT's Bridge Inventory Management System (BIMS) database. BIMS data indicates that there were five red flags with prompt interim action conditions, 107 safety flags with prompt interim action conditions (a total of 112 flags with prompt interim action conditions), and 117 red flags without prompt interim action conditions routed in 2009 and 2010. The audit consisted of a review of all of these 229 flags.

### Results

DOT appropriately handled all but one of the 112 prompt interim action conditions, but has not remediated 71 of the 122 red flags (58 percent) in a timely manner. This problem was brought about in part because of delays in routing flags to the appropriate staff who actually carried out the remedial work or deferring remediation work multiple times. In addition, while there are no designated timeframes for remediating yellow and safety flags, five of the red flags examined were initially identified as yellow flags that deteriorated over time to the point where the conditions had to be flagged as red. Additionally, DOT has not fully complied with required State Transportation Department procedures for the reporting of flag remediation. Moreover, DOT lacks sufficient written procedures of its own. Finally, problems with DOT's BIMS database impede its ability to effectively monitor and report on the condition and status of flag repairs.

This report makes a total of 17 recommendations, including that DOT:

- Remediate red flag conditions in a timely manner—by either the end of the six-week period as specified in the New York State Department of Transportation Engineering Instruction EI10-016 or the end of the deferral timeframe as certified by DOT.
- Assess and subsequently prepare guidelines for routing flag conditions to the appropriate workforce within a reasonable time period.
- Limit the practice of routinely deferring the remediation of red flag conditions and reconsider the practice of deferring red flag remediation more than once.
- Provide written justification in those cases where the remediation of a red flag must be deferred.
- Enhance coordination between flag engineering staff and the workforce that will carry out the remediation work.
- Carry out the remediation of yellow and safety flags in a reasonable timeframe.
- Develop a system for tracking and monitoring correspondence and certifications to the State Transportation Department and submit all required certifications and correspondence within required timeframes.

In its response, DOT stated, “We disagree with the Report's recommendations related to flag remediation timeframes and deferral periods. Several of these recommendations seem to eliminate engineering judgment for the actions taken in response to flags and suggest adopting rigid remediation procedures . . . DOT further alleged that the “auditors added their own arbitrary standard in which PIA and red flags may be deferred only once (Footnote 4 of the Report) and then measured NYCDOT's performance against this self-created standard.” The DOT also responded that, “State procedures and good practice mandate that the prioritization of flag repairs be based on safety, and not solely on a clock.”

DOT agreed with eight recommendations, disagreed with six recommendations, and contended that three recommendations were already implemented.

### **Audit Follow-up**

DOT reported that 12 recommendations have been implemented, but disagreed with and will not implement the remaining five recommendations.

## DEPARTMENT OF TRANSPORTATION

Audit Report on the Department of Transportation's Performance Indicators as Reported in the Mayor's Management Report

Audit # MJ11-065A

Comptroller's Audit Library #8164

Issued: February 6, 2012

Monetary Effect: None

### Introduction

This audit determined whether the Department of Transportation (DOT) maintained adequate controls to ensure that the performance indicator statistics it reports in the Mayor's Management Report (MMR) are accurate and reliable. This audit focused on three critical indicators: (1) average time to respond to traffic signal defect and make safe (hours) (traffic signal indicator); (2) average time to repair street lights (days) (street light indicator); and (3) average time to close a pothole work order where repair was done (days) (pothole indicator).

The MMR serves as a public report card on City services affecting the lives of New Yorkers. It primarily covers the operations of City agencies reporting directly to the Mayor. DOT is responsible for bridge and roadway conditions, parking and traffic operations, sidewalks, and other matters that affect the safety of drivers, cyclists, and pedestrians throughout the City. As reported in the MMR, DOT's key public service areas include: ensuring the safety of the traveling public; improving mobility throughout the City; rehabilitating and maintaining the City's bridges, streets, sidewalks, and highways; and expanding walking and cycling options and ferry service. To report on DOT's progress in achieving its critical objectives, the MMR for Fiscal Years 2009 and 2010 included 51 performance indicators, 23 of which were identified as critical indicators.

### Results

The audit concluded that if all procedures and controls for the databases associated with the three tested critical performance indicators, as explained by DOT officials, are consistently applied and followed, the data reflected therein are sufficiently reliable and accurate. In addition, the audit provided assurance that: (1) the data DOT used to calculate the values of the subject indicators were complete; (2) the corresponding calculation formulas were consistent with the subject indicator definitions published in the MMR; and (3) the indicator values that DOT recorded in the Mayor's Office of Operations performance data collection and reporting system, the Performance Management Application (PMA), corresponded to those that appeared in the preliminary and final MMR versions for Fiscal Years 2009 and 2010.

However, any assurance these results provided was reduced because of control weaknesses disclosed in DOT's manual processes for calculating the indicator values. Specifically, DOT: (1) made errors in calculating the tested indicators and (2) lacked adequate checks (i.e., independent verification) of indicator values prior to them being entered into the Mayor's Office of Operations PMA system. These weaknesses limited the audit's assurance about the reliability and accuracy of the tested performance indicators ultimately reported in the MMR.

To address the above weaknesses, the audit made three recommendations, including that DOT should develop procedures to verify reported performance measure statistics. Such procedures should require that the performance statistics be independently verified by either a

second person within each division or another party designated by DOT prior to being recorded in the PMA.

### **Audit Follow-up**

DOT reported that all audit recommendations have been implemented.



**SECTION II**  
**NON-GOVERNMENT AUDITS**



## CLAIMS

During Fiscal Year 2012, six reports were issued on claims filed against the City. In these reports, we questioned \$25,568,952 of the \$29,762,360 claimed against the City and have accepted \$4,193,408. As a result, the City has a potential cost avoidance of \$15,568,952, as shown below:

Total Claim Amount	\$29,762,360
Less: Analyses Accepted Amount	\$ 4,193,408
Potential Cost Avoidance	\$25,568,952*

\*Note: As stated, these cost-avoidance figures are only “potential.” They are based on results of analyses, and these are only the first step in the claims process. As claims are further processed and as they are concluded via settlement or lawsuits, the actual figures will be different because of other factors that need to be considered at other steps of the claims process.

A list of the six claims follows.

REPORT NUMBER	CLAIMANT	DATE ISSUED	CLAIM AMOUNT	ACCEPTED AMOUNT	POTENTIAL COST AVOIDANCE
SR12-056S	Top Temporaries, Inc.	9/26/11	*	*	*
SR12-059S	New Baby Hope, Inc.	11/15/11	*	*	*
SR12-060S	Newmark Knight Frank Inc.	11/23/11	*	*	*
SR12-088S	Community Service Society of New York	1/17/12	*	*	*
SR12-087S	Professional Sports Publication	3/2/12	*	*	*
SR12-058S	Frontier-Kemper/Durr/Perini Joint Venture	5/14/12	*	*	*
	<b>FISCAL YEAR 2012 TOTALS</b>		<b>\$29,762,360</b>	<b>\$4,193,408</b>	<b>\$25,568,952</b>

## FRANCHISE, CONCESSION, AND LEASE AUDITS

Franchise, concession, and lease agreements between various City agencies and private organizations result in revenues to the City, based on formulas defined in the agreements. City agencies that enter into such agreements include the Department of Citywide Administrative Services (DCAS) and the Department of Parks and Recreation (Parks). Our audits evaluate the payments made by such entities as sports franchises and hotels. As shown below, Fiscal Year 2012 audits resulted in collecting actual revenues totaling \$484,148 and potential revenues totaling \$126,335. Additional revenue can be collected if all audit recommendations are followed.

<u>Audit Number</u>	<u>Audit Library No.</u>	<u>Agency/Title</u>	<u>Date Issued</u>	<u>Actual Revenue To Date</u>	<u>Remaining Potential Revenue</u>
FM11-133F	8132	DPR- Follow-up Audit Report on Food Craft, Inc. Worlds Fair Marina Restaurant	10/11/11	0	0
FM11-134F	8133	DPR – Follow-up Audit Report on Central Park Tennis Center, Inc.	10/11/11	\$6,412	\$67,071
FM11-135F	8134	DPR – Follow-up Audit Report on South Beach Restaurant Corporation	10/11/11	0	0
FM11-136F	8131	DPR – Follow-up Audit Report on Lakeside Restaurant Corporation	10/11/11	0	\$59,264
FM11-137F	8162	DPR - Follow-up Audit Report on Central Park Boathouse, LLC	2/1/12	0	0
FM11-138F	8180	DPR – Follow-up Audit Report on Fitmar Management, LLC	4/19/12	\$477,736	0
FM12-141SL	8199	DPR – Catango	9/22/11	0	0
MH11-115A	8124	DCAS – Dirksen & Talleyrand, Inc./River Cafe	9/27/11	0	0
	<b>TOTAL</b>			<b>\$484,148</b>	<b>\$126,335</b>

## DEPARTMENT OF PARKS AND RECREATION

Follow-up Audit Report on the Compliance of Food Craft, Inc. (Worlds Fair Marina Restaurant and Banquet) with Its License Agreement and Payment of License Fees Due the City

Audit #FM11-133F

Comptroller's Audit Library #8132

Issued: October 11, 2011

Monetary Effect: None

### Introduction

This follow-up audit determined whether 12 recommendations made in a previous audit entitled *Audit Report on the Compliance of Food Craft, Inc., (World Fair Marina Restaurant and Banquet) With Its License Agreement and Payment of License Fees Due the City (Audit No. FL09-067A, issued September 3, 2009)* were implemented.

### Results

This follow-up audit determined that of the 12 recommendations originally made (six made to Food Craft and six made to the Department of Parks and Recreation), 10 were implemented and two were not applicable. As a result, Food Craft has now corrected the internal control weaknesses cited in the previous report. It currently uses a point-of-sale system to collect, record, and report revenue over banquet and restaurant sales. Food Craft has completed all the capital improvements to the licensed premises as stipulated in its license agreement. However, another issue was noted-- that Food Craft failed to charge New York State sales tax on the banquet service portion of the bill for 11 of the 27 events held in May 2011.

To address the new issue, we recommend that Food Craft should:

- Submit the \$771 New York State sales tax due on the 11 events where the additional service charges were not taxed.
- Determine whether additional taxes are due on the service charge portion for other banquet contracts.

In its response, Food Craft indicated that it agreed that sales tax was not collected on the service charge portion of the 11 banquet contracts and that a correction was made to the system to ensure that sales tax is now collected. It also indicated that the sales tax was paid on the entire month's sales even though sales tax was not collected on the service charge portion of the banquet contracts. Parks officials agreed with the audit findings and recommendations.

### Audit Follow-up

Parks reported that both audit recommendations have been implemented.

## DEPARTMENT OF PARKS AND RECREATION

Follow-up Audit Report on the Compliance of Central Park Tennis Center, Inc. with Its License Agreement and Payment of License Fees Due the City

Audit #FM11-134F

Comptroller's Audit Library #8133

Issued: October 11, 2011

Monetary Effect: Actual Revenue \$ 6,412

Potential Revenue: \$67,071

### Introduction

This follow-up audit determined whether 14 recommendations made in a previous audit entitled *Audit Report on the Compliance of Central Park Tennis Center, Inc., With Its License Agreement and Payment of License Fees Due the City* (Audit No.FP08-096A, issued March 10, 2009) were implemented.

### Results

This follow-up audit determined that of the 14 recommendations originally made (10 recommendations made to Central Park Tennis Center, Inc., (CPT) and four recommendations made to the Department of Parks and Recreation), 11 were implemented and three were partially implemented. As a result, CPT has now corrected the internal control weaknesses cited in the previous report and currently maintains the required insurance and pays for its utility usage. However, Parks did not bill and CPT therefore has not paid \$67,071 of the \$110,347 in additional license fees and late charges for underreporting gross receipts and did not pay for all of its past utility usage.

To address the outstanding issues from the previous audit that still exist, the audit recommends that CPT should:

- Pay the remaining balance of \$67,071 in additional license fees and late charges for underreporting gross receipts as identified in the original audit, and
- Pay for prior utility usage from the beginning of the original contract in 2002 to April 2007.

In addition, we recommend that Parks should:

- Require CPT to pay the remaining balance of \$67,071 in additional license fees and late charges for underreporting gross receipts which was identified in the original audit, and
- Require CPT to pay for its prior utility usage from the beginning of the original contract in 2002 to April 2007.

Neither CPT nor Park officials submitted a written response.

### Audit Follow-up

Parks reported that CPT has paid \$6,412 for its prior utility usage from the beginning of the original contract in 2002 to April 2007. Parks, however, disagrees with the recommendation for CPT to pay \$67,071 in additional license fees and late charges.

**DEPARTMENT OF PARKS AND RECREATION**

Follow-up Audit Report on the Compliance of South Beach Restaurant Corporation with Its License Agreement

Audit #FM11-135F

Comptroller's Audit Library #8134

Issued: October 11, 2011

Monetary Effect: None

**Introduction**

This follow-up audit determined whether the four recommendations made in a previous audit entitled *Audit Report on the Compliance of South Beach Restaurant Corporation with Its License Agreement* (Audit No. FM09-091A, issued March 18, 2010) were implemented.

**Results**

The current follow-up audit disclosed that South Beach Restaurant Corporation (SBR&C) implemented one recommendation and partially implemented the other recommendation. SBR&C has improved its internal controls over guest check revenue reporting. The restaurant's Point of Sales System (POS) system produces Manager Activity Reports that now account for any check number not included in the Sales Journal Report. SBR&C has also improved its internal controls over preferred vendor revenue reporting, but still does not maintain contracts for all of its preferred vendors. The audit found that Parks implemented both recommendations made in the prior report.

To address the issue from the previous audit that still exists, the audit recommends that SBR&C officials maintain on file a contract for every preferred vendor with which it does business.

In its response, SBR&C agreed with the audit's findings and recommendations and described the steps it has taken to implement the report's recommendation. Parks officials agreed with the audit findings and recommendation.

**Audit Follow-up**

SBR&C reported that the recommendation has been implemented.

## DEPARTMENT OF PARKS AND RECREATION

Follow-up Audit Report on the Compliance of Lakeside Restaurant Corporation with Its License Agreement

Audit #FM11-136F

Comptroller's Audit Library #8131

Issued: October 11, 2011

Monetary Effect: Potential Revenue: \$59,264

### Introduction

This follow-up audit determined whether the 17 recommendations made in a previous audit, *Audit Report on the Compliance of Lakeside Restaurant Corporation with Its License Agreement* (Audit No. FM09-130A, issued January 29, 2010), were implemented.

### Results

This follow-up audit determined that of the 17 recommendations originally made, five were implemented, one was partially implemented, six were not implemented, three we were unable to determine if implemented, and two were no longer applicable. As a result, Lakeside Restaurant Corporation (Lakeside) has now improved its internal controls over reporting and recording of revenue. However, Lakeside still does not issue contracts for special events, did not amend its prior years' sales tax returns, does not always maintain the facility in a sanitary condition, and does not pay its license fees on time. As of July 1, 2011, Lakeside owes \$59,264 in license fees. In addition, it appears Lakeside has not ceased employing "off-the-books" employees.

To address the outstanding issues from the previous audit that still exist, the audit recommends that Lakeside should:

- Remit the \$59,264 in license fees and late charges;
- Enter into written agreements with all operators and vendors that use Lakeside's facilities;
- Amend its New York State sales tax filings to include the banquet gratuities as taxable sales and pay the additional sales tax plus interest and penalties for all the periods (including prior operating years) that banquet gratuities were not fully distributed to the wait staff;
- Maintain the facility in a sanitary condition;
- Pay its minimum annual fees and applicable percentage fees on time;
- Submit annual income and expense statements to Parks within 30 days after the end of each operating year; and
- Report all current employees on its payroll records.

The audit recommends that Parks should issue a Notice-to-Cure to Lakeside requiring that it pay \$59,264 in license fees and late charges assessed and ensure that Lakeside complies with all of the recommendations in this report.

In its response, Lakeside stated it has complied with, or is in the process of complying with, the recommendations set forth by the Comptroller's Office. Parks officials agreed with the audit's finding and recommendations.

## **Audit Follow-up**

Parks reported that the contract with Lakeside expired on April 30, 2012.

## **DEPARTMENT OF PARKS AND RECREATION**

Follow-up Audit Report on the License Fees Due from Central Park Boathouse, LLC, and Compliance with Certain Provisions of Its License Agreement

Audit # FM11-137F

Comptroller's Audit Library #8162

Issued: February 1, 2012

Monetary Effect: None

## **Introduction**

This follow-up audit determined whether 36 recommendations made in a previous audit entitled *Audit Report on the License Fees Due from Central Park Boathouse, LLC, and Compliance with Certain Provisions of Its License Agreement* (Audit No. FP05-128A, issued March 28, 2007) were implemented.

## **Results**

The follow-up audit determined that of the 36 recommendations originally made, 17 were implemented, 10 were not implemented, eight were no longer applicable, and one was partially implemented. As a result, Central Park Boathouse LLC (Boathouse) has complied and paid for underreported catering, film-shoot, and bicycle-rental sales, for unreported gift-card sales, and for the value of employee meals and complimentary meals. In addition, the Boathouse has improved on its internal controls over catering, film-shoot, and gondola-ride sales, which were cited in the previous report. However, the Boathouse still does not include the payments when received for catering events and gift cards within its gross receipt reports. Therefore, the Boathouse continues not to report gross receipts to Parks in accordance with the license agreement. Moreover, the Boathouse has not corrected the internal control weaknesses over bicycle-rental sales, does not operate a Park Activity and Resource Center, and does not have sufficient safeguards over password access to its computerized point-of-sale system.

To address the outstanding issues from the previous audit that still exist, the audit recommends that the Boathouse should:

- Include all payments when they are received in the monthly gross-receipts reports;
- Install a register that is linked to the point-of-sales system to ensure that bicycle-rental sales are accurately recorded and reported;
- Operate a Park Activity and Resource Center as required by the license agreement; and
- Implement policies and procedures to ensure that all employee passwords are periodically changed and inactive user accounts are timely deleted to prevent unauthorized access to the point-of-sales system.

Also, Parks should:

- Require the Boathouse to report gift certificate receipts and banquet deposits at the time of sale and until it does, require the Boathouse to submit a monthly list of outstanding gift cards and deposits to ensure that the Boathouse accurately reports receipts.
- Ensure that the Boathouse implements the recommendations outlined above and complies with all the provisions in the license agreement.

Boathouse officials disagreed with certain aspects of the report's findings and did not address the recommendations. Conversely, Parks' officials agreed with the report's findings and recommendations and stated that they will work with Boathouse officials to comply with the follow-up report's recommendations.

### **Audit Follow-up**

The Boathouse reported that it has implemented two recommendations including operating a park activity and resource center and setting up a timetable for changing employees' point-of-sales passwords and deleting passwords for inactive users from the system. However, the Boathouse continues to disagree with the first two recommendations regarding gross receipts and point-of-sales system.

Parks reported that it has implemented the recommendations addressed to it.

## **DEPARTMENT OF PARKS AND RECREATION**

Follow-up Audit Report on the Compliance of Fitmar Management, LLC with Its License Agreement

Audit # FM11-138F

Comptroller's Audit Library #8180

Issued: April 19, 2012

Monetary Effect: Actual Revenue: \$477,736

### **Introduction**

This follow-up audit determined whether the 22 recommendations made in the previous audit, *Audit Report on the Compliance of Fitmar Management, LLC with Its License Agreement* (Audit No. FM08-104A, issued September 4, 2009), were implemented.

### **Results**

The current follow-up audit disclosed that of the 22 recommendations originally made, two were implemented, one was partially implemented, 18 were not implemented, and one recommendation the audit was unable to determine if Fitmar Management, LLC (Fitmar) complied with. Fitmar paid \$22,803 to Parks as recommended in the last audit and, as of May 2011, Fitmar had a computerized point-of-sale (POS) system to record sales at only two of its four revenue points. Additionally, Fitmar intentionally continues to circumvent its internal controls by using cash registers that are not linked to the POS system.

Moreover, Fitmar continues to: 1) underreport its gross receipts to Parks (specifically, Fitmar underreported at least \$123,369 in gross receipts for operating year 2011), 2) inaccurately record gross receipts in its general ledger, 3) not pre-number all of its contracts, 4) not have contracts for all special events, and 5) not have a sub-license agreement for the karate studio and real estate management company to operate within the facility. In addition, since the prior audit, Fitmar officials have incorporated yet another company using the Paerdegat Athletic Club address and have done so without requesting a properly authorized sub-license agreement from Parks. Furthermore, Fitmar currently owes the City \$177,736 in unpaid license fees and continues to fall far short of expending the required minimum amounts for capital improvements, and does not maintain the premises in a safe and sanitary condition.

In addition, Parks has not fully exercised its responsibility to ensure that Fitmar complied with all the terms and conditions of the agreement. Accordingly, Parks needs to revisit the position and consider the matters discussed herein.

Based on the findings of this audit, Fitmar has a total disregard for adhering to the terms of its license agreement and continues to be in serious breach. Therefore, the audit recommends that Parks issue a "Notice to Cure" to Fitmar requiring that it immediately remit the \$177,736 in unpaid license fees and late charges due the City and terminate the agreement.

In their response, Fitmar officials agreed with most of the report's findings and stated, "[o]ur goal is to do a much better job following your recommendations in the future and be 100% compliant with the terms [of] our license agreement with [the] NYC Department of Parks & Recreation and to be in full compliance for future audits by your department."

Parks stated in its response that it "has informed Fitmar of the Department's intent to re-solicit this concession." In addition, "Parks will insist that Fitmar repay the \$177,736 in outstanding fees, as endorsed by the Report."

### **Audit Follow-up**

Parks reported that it has decided not to terminate Fitmar's license agreement, but has negotiated a management restructuring of Fitmar, which Parks believes will improve Fitmar's internal controls. Moreover, Fitmar has repaid the \$177,736 in unpaid license fees and late charges. Fitmar has also fully funded a \$300,000 escrow account in order to help ensure it meet its capital requirements.

## DEPARTMENT OF PARKS AND RECREATION

The Compliance of the Catango Corporation with its License Agreement with the City

Audit # FM12-141SL

Comptroller's Library #8199

Issued: September 22, 2011

Monetary Effect: None

### Introduction

This letter report was issued to the Department of Parks and Recreation (DPR) to advise them of serious long-term internal control weaknesses that have remained unresolved concerning the compliance of the Catango Corporation (Catango) with its license agreement with the City.

On April 12, 1996, the City of New York, through DPR, entered into a 20-year license agreement covering the period July 1, 1995, through June 30, 2015, with Catango to operate, manage, and maintain the stables located at Van Cortlandt Park in the Bronx. Catango provides such services as boarding of horses, arena horse riding, public riding instruction, and trail rides. The license agreement requires that Catango perform capital improvements with a value of at least \$1.065 million and pay the City the greater of an annual minimum fee ranging from \$1,000 in years 1 through 5 to \$20,000 in years 18 through 20, or a percentage of its gross receipts. In addition, Catango pays a minimum fee of \$1,500 based on gross receipts for a polo/handicapped riding area.

In June 1997, DPR issued an audit report on Catango's operations. DPR found that Catango had not maintained an acceptable revenue control system to enable it to accurately record and report its gross income, had not filed sales tax returns nor paid sales taxes on the boarding revenue since it began operating in Riverdale pursuant to a DPR permit in January 1994, and had not complied with various license agreement requirements.

In 1998, the Comptroller's Office did an audit and found significant weaknesses in the internal controls over the financial operations of this concession. The audit made 14 recommendations suggesting ways to resolve these weaknesses, which DPR agreed to implement.

### Results

In DPR's most recent audit (ST-10-006 July 7, 2011), it was noted that the concessionaire failed to charge and collect \$733,428 of gross receipts and, as a consequence, Catango owes the City approximately \$107,000 for operations over the audit period July 1, 2007, to June 30, 2009. Despite these issues, DPR allowed the concessionaire to retain these funds to complete capital improvement work on the licensed property. The audit also pointed out one of the most egregious weaknesses in controls was the lack of a Point-Of-Sale (POS) system to record transactions, and that the concession did not issue sequentially numbered contracts and invoices for horse boarding.

The audit advised DPR to take action to correct these issues by recommending that it:

- Make unannounced and undisclosed observations of the concession when in operation, including purchasing services and products through its sales system;
- Ensure that the concessionaire returns the \$107,000 audit assessment to DPR for return to the General Fund budget. At the very least, DPR must ensure that the

concessionaire has spent the \$107,000 on the agreed upon capital improvement work; and

- Revisit the recommendations in the audit to ascertain whether the concessionaire has actually addressed them. If it has not, issue a Notice-To-Cure for Catango to do so or consider terminating the license agreement with Catango.

### **Audit Follow-Up**

DPR reported that it plans to implement two recommendations, but does not agree that Catango should deposit the \$107,000 in the General Fund.

## DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES

Audit Report on the Department of Citywide Administrative Services' Monitoring of Lease Agreements with Dircksen & Talleyrand, Inc. for the Land Use Associated with the River Café

Audit # MH11-115A  
Comptroller's Audit Library #8124  
Issued: September 27, 2011  
Monetary Effect: None

### Introduction

This audit determined whether the Department of Citywide Administrative Services (DCAS) effectively monitors the key provisions of its lease agreements with Dircksen & Talleyrand, Inc. (Lessee) for the use of land associated with the River Café.

DCAS, as part of its role to oversee the City's commercial real estate portfolio, including leases of City-owned property for private use, is monitoring the four agreements associated with the River Café. During Calendar Year 2010, DCAS collected \$104,106 from the Lessee regarding the four agreements.

The scope period of this audit was July 2007 through December 2010.

### Results

Overall, the audit found that DCAS is adequately monitoring the key provisions of the lease agreements. The audit found that the payments under all four agreements are current and up to date, and DCAS is adequately monitoring the inspections and repairs needed at the River Café site. However, the audit found minor calculation errors and a failure by DCAS to collect a portion of a security deposit.

The audit made three recommendations. DCAS should:

- Continue to ensure that periodic inspections of the River Café site are conducted and ensure that all necessary repairs are performed on a timely basis.
- Determine how much money was overpaid by Dircksen & Talleyrand and credit it for the appropriate amount.
- Collect the additional \$575 that is due for the security deposit for the long-term lease agreement.

DCAS officials stated that they agreed with and have implemented all three of the audit's recommendations.

### Audit Follow-up

DCAS reported that all of the audit recommendations have been implemented.

## WELFARE FUNDS

Analysis of the Financial and Operating Practices of Union-administered Benefit Funds with Fiscal Years Ending in Calendar Year 2009

Audit #FM11-091S

Comptroller's Audit Library #8165

Issued: March 6, 2012

Monetary Effect: None

### Introduction

Union-administered benefit funds were established under collective bargaining agreements between the unions and the City of New York. They provide City employees, retirees, and dependents with a variety of supplemental health benefits not provided under City-administered health insurance plans. Certain other benefits are also provided at the discretion of the individual funds (e.g., annuity accounts, life insurance, disability, and legal benefits). This report contains a comparative analysis of 85 welfare, retiree, and annuity funds whose fiscal years ended in Calendar Year 2009. These funds received approximately \$1.1 billion in total City contributions for the fiscal year.

### Results

This report comprises data received in response to Directive #12. As in previous reports, there were differences in the amounts spent by the funds for administrative purposes. In addition, several funds maintained high reserves while expending lower-than-average amounts for benefits—a possible indication that excessive reserves were accumulated at the expense of members' benefits. Further, some funds did not comply with various parts of Comptroller's Directive #12 requirements and of fund agreements with the City.

The report contained 11 recommendations to address the above weaknesses, including that:

- Trustees of funds with high administrative expenses and low benefits should reduce administrative expenses to improve their levels of benefits to members.
- Trustees of funds with low reserve levels should ensure that their funds maintain sufficient reserves to guard against insolvency.

### Report Follow-Up

Not applicable



**SECTION III**  
**GOVERNMENT NON-GAGAS**  
**LETTER REPORTS**



**DEPARTMENT OF EDUCATION**

Letter Report on the Awarding of Future Technology Associates, LLC, Contract in 2005

Report #FP11-117AL

Comptroller's Library #8127

Issued: July 29, 2011

Monetary Effect: None

This letter report was issued to advise the Department of Education (DOE) of control weaknesses to take into consideration in the future when issuing non-competitively bid contracts. The audit's objective was to determine whether DOE complied with applicable procurement rules and regulations when soliciting and awarding Future Technology Associates' (FTA) initial contract in 2005. In the auditors' opinion, DOE incorrectly awarded this contract to FTA in that DOE based its decision on what appears to be misleading and inaccurate information.

Specifically, DOE's Division of Financial Operations (DFO) submitted a request to the Chancellor's Committee on Contracts (CoC) to award a sole source contract to FTA. In our opinion, this request appears to have contained inaccurate and misleading statements from FTA. A review of the New York State's (NYS's) back-drop award to FTA determined that it was based upon misleading information contained in FTA's 2004 application that was submitted to the NYS Office of General Services (OGS) Procurement Services Group. The report identified the following inaccuracies:

- FTA misrepresented its experience on the application by stating that it was in business for two years. FTA did not exist until June 2004, when it filed an amendment to its articles of incorporation.
- FTA's application to become a back-drop contractor contained three project abstracts that identified FTA and its employees as having two years of experience performing consulting systems integration work for DOE. In fact, all the projects FTA listed on its application were projects that DOE had contracted with Tier Technologies (Tier).
- FTA's application to NYS stated that it had three employees in New York City in 2004. However, according to VENDEX, FTA began doing business in the City in November 2005.

Had DFO properly researched this vendor, it would have determined that, regardless of FTA having a back-drop contract, at the time FTA was being considered for a sole source contract, it was a newly formed entity with no prior business record by which it could be judged. This should have precluded FTA from being awarded such a contract. In addition, FTA continued to submit inaccurate information in 2006, stating that the business was formed on March 1, 2004, not the actual date of June 1, 2004. Additional inaccuracies include FTA stating that its president had not worked for the City within the previous five years, when, in fact, he had.

The report also found that the amount of projected savings that was reported to CoC was inflated. The potential savings was deemed to be approximately 28 percent over the hourly rates Tier was charging at that time. A comparison showed an actual savings of only 20 percent. Further, DOE was required to pay Tier \$731,250 for the release of its employees, which the report believes was inappropriate and contrary to standard business practice as this expense should have been borne by their future employer, FTA.

The report recommended that a new control be implemented such that before a contract is sent to the Chancellor's Office for final approval, the CoC should review the terms of the actual contract to be awarded and attest that there have not been any material changes to the terms initially submitted for their approval.

### Recommendation Status By Audit

Agency	Audit Number	Total # of Recommendations	# of Recommendations Implemented/In Process	# of Recommendations Not Implemented*
Borough President - Brooklyn (Topographical Bureau)	MD11-140A	2	1	1
Borough President - Manhattan (Minor Sales)	FM12-054A	3	3	
Borough President - Queens (Minor Sales)	FM12-074A	1	1	
Campaign Finance Board (OTPS)	FL11-069A	10	7	3
Citywide Administrative Services, Dept. of (Use of Purchasing Cards)	MD11-105A	7	7	
Citywide Administrative Services, Dept. of (Dirksen & Talleyrand)	MH11-115A	3	3	
Consumer Affairs (Consumer Complaints)	MG11-127A	4	4	
Design Commission (Design Review Process)	MD11-089A	5		5
Design & Construction, Dept. of (Job Order Contracting)	7E11-120A	12	5	7
District Attorney - Kings County (Computer Equipment)	MJ11-122A	4	4	
District Attorney - Queens (Computer Equipment)	ME11-125A	1	1	
District Attorney - Richmond County (Computer Equipment)	MG11-131A	4	4	
Economic Development Corporation (Coney Island Development Corp.)	FM11-070A	5	1	4
Economic Development Corporation (Public Purpose Funds)	FN11-077A	4	2	2
Education, Dept. of (ARIS)	7I11-118A	9	9	
Education, Dept. of (Direct Student Services)	FK10-147A	10	5	5
Education, Dept. of (Physical Education Regulations)	MD11-083A	7	6	1
Education, Dept. of (Champion Learning Center)	MD11-106A	13	13	
Education, Dept. of (Absent Teacher Reserve Pool)	MD11-108A	2	2	
Education, Dept. of (Food Distribution Vendor Contracts)	ME10-144A	14	8	6
Education, Dept. of (Universal Pre-K Programs)	MH11-059A	10	7	3
Elections, Board of (Procurement Practices)	MJ11-066A	2	2	
Environmental Protection, Dept. of (Local Law 129)	MJ11-124A	9	9	
Equal Employment Practices Commission (Charter Mandate Follow-up)	MJ11-123F	3	3	
Finance, Dept. of (CAMA)	7A11-126	8	3	5

### Recommendation Status By Audit

Agency	Audit Number	Total # of Recommendations	# of Recommendations Implemented/In Process	# of Recommendations Not Implemented*
Finance, Dept. of (Outstanding Parking Summonses - Diplomats & Consuls)	FM11-109AL	2	2	
Finance, Dept. of (Cell Tower Revenue)	FM11-132A	4	2	2
Finance, Dept. of (Valuation of Class 2 Properties)	FN11-130A	6	3	3
Finance, Dept. of (Hotel Occupancy Tax)	FP11-084A	16	12	4
Finance, Dept. of (SCRIE Program)	MG11-053A	7	7	
Fire Department (AVL System)	FM11-094A	6	5	1
Fire Department (MMR Report)	MH10-139A	5	4	1
Health & Mental Hygiene, Dept. of (Animal Care & Control Follow-up)	7F11-086F	10	9	1
Health & Mental Hygiene, Dept. of (Overtime Costs)	MG11-067A	5	5	
Health & Mental Hygiene, Dept. of (Oversight of State Funds)	MG11-139A	3	2	1
Homeless Services, Dept. of (Aguila Inc)	FK10-130A	19	12	7
Homeless Services, Dept. of (Overtime Costs)	MJ11-071A	5	5	
Housing Authority (Construction Management Build Program)	7E11-119A	7	5	2
Housing Preservation & Development (Relocation Shelter Program)	FM11-081A	2	2	
Housing Preservation & Development (8A Section 17)	FM12-083A	2	2	
Housing Preservation & Development (Performance Indicators - MMR)	MH11-075A	6	6	
Human Resources Administration (Non-competitive and Limited Competitive Contracts)	ME11-088A	7	7	
Industrial Development Agency (Project Financing and Monitoring)	FN11-054A	7	7	
Information Technology & Telecommunication (Emergency Communications Transformation Program)	7A11-104	3	3	
Information Technology & Telecommunication (Hewlett-Packard System)	FM11-107A	11	5	6
Labor Relations, Office of (Medicare Part B Reimbursement Program)	7I11-085	5	4	1
Multi-Agency - DOE and SCH (School Capacity and Utilization Data)	ME11-064A	6	5	1
Parks & Recreation, Dept. of (Bronx Playgrounds)	7R12-055A	3	3	
Parks & Recreation, Dept. of (Brooklyn Playgrounds)	7R12-096A	2	2	
Parks & Recreation, Dept. of (Queens Playgrounds)	7R12-097A	2	2	

### Recommendation Status By Audit

Agency	Audit Number	Total # of Recommendations	# of Recommendations Implemented/In Process	# of Recommendations Not Implemented*
Parks & Recreation, Dept. of (Manhattan Playgrounds)	7R12-098A	3	3	
Parks & Recreation, Dept. of (Staten Island Playgrounds)	7R12-099A	1	1	
Parks & Recreation, Dept. of (Controls over Awarding Concessions)	FK10-129A	22	19	3
Parks & Recreation, Dept. of (Food Craft Follow-up)	FM11-133F	2	2	
Parks & Recreation, Dept. of (Central Park Tennis Follow-up)	FM11-134F	4	2	2
Parks & Recreation, Dept. of (South Beach Restaurant Follow-up)	FM11-135F	1	1	
Parks & Recreation, Dept. of (Lakeside Restaurant Follow-up)	FM11-136F	9		9
Parks & Recreation, Dept. of (Central Park Boathouse Follow-up)	FM11-137F	6	4	2
Parks & Recreation, Dept. of (Fitmar Management Follow-up)	FM11-138F	1		1
Parks & Recreation, Dept. of (Catango Corporation)	FM12-141SL	3	2	1
Public Administrator, New York County (Financial and Operating Practices)	FN12-076A	8	8	
Retirement: BERS	FM11-112A	2	1	1
Retirement: NYCERS	FM11-114AL	1		1
Retirement: TRS	FM11-111A	3	2	1
Sanitation, Dept. of (AVL Application)	ME11-093A	14	13	1
Transportation, Dept. of (Remediation of Bridge Defects)	7E11-128A	17	12	5
Transportation, Dept. of (Performance Indicators - MMR)	MJ11-065A	3	3	
<b>Total</b>	<b>67</b>	<b>403</b>	<b>304</b>	<b>99</b>

\*If not fully or in the process of being implemented, the recommendations are considered not implemented.

\*\*These recommendations are no longer applicable.



## Recommendation Status By Agency

Agency	Total # of Recommendations	# of Recommendations Implemented/In Process	# of Recommendations Not Implemented	% of Recommendations Not Implemented*
Borough President - Brooklyn	2	1	1	50.00%
Borough President - Manhattan	3	3		0.00%
Borough President - Queens	1	1		0.00%
Campaign Finance Board	10	7	3	30.00%
Citywide Administrative Services, Dept. of	10	10		0.00%
Concession: Central Park Boathouse	4	2	2	50.00%
Concession: Central Park Tennis Center	2	1	1	50.00%
Concession: Food Craft Inc.	2	2		0.00%
Concession: South Beach Restaurant	1	1		0.00%
Consumer Affairs	4	4		0.00%
Design Commission	5		5	100.00%
Design & Construction, Dept. of	12	5	7	58.33%
District Attorney - Kings County	4	4		0.00%
District Attorney - Queens	1	1		0.00%
District Attorney - Richmond County	4	4		0.00%
Economic Development Corporation	9	6	4	44.44%
Education, Dept. of	68	52	16	23.53%
Elections, Board of	2	2		0.00%
Environmental Protection, Dept. of	9	9		0.00%
Equal Employment Practices Commission	3	3		0.00%

## Recommendation Status By Agency

Agency	Total # of Recommendations	# of Recommendations Implemented/In Process	# of Recommendations Not Implemented	% of Recommendations Not Implemented*
Finance, Dept. of	43	29	14	32.56%
Fire Department	11	9	2	18.18%
Health & Mental Hygiene, Dept. of	18	16	2	11.11%
Homeless Services, Dept. of	24	17	6	25.00%
Housing Authority	7	5	2	28.57%
Housing Preservation & Development	10	10		0.00%
Human Resources Administration	7	7		0.00%
Industrial Development Agency	7	4	3	42.86%
Information Technology & Telecommunication	14	8	6	42.86%
Labor Relations, Office of	5	4	1	20.00%
Parks & Recreation, Dept. of	50	35	15	30.00%
Public Administrator, New York County	8	8		0.00%
Retirement: BERS	2	1	1	50.00%
Retirement: NYCERS	1		1	100.00%
Retirement: TRS	3	2	1	33.33%
Sanitation, Dept. of	14	13	1	7.14%
School Construction Authority	3	3		0.00%
Transportation, Dept. of	20	15	5	25.00%
<b>Total</b>	<b>403</b>	<b>304</b>	<b>99</b>	<b>25.00%</b>

\*If not fully or in the process of being implemented, the recommendations are considered not implemented.

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