



# City of New York

## OFFICE OF THE COMPTROLLER

Scott M. Stringer  
COMPTROLLER



### **AUDIT BUREAU**

**Marjorie Landa**

Deputy Comptroller for Audit

Report to the Mayor and City Council  
on City Comptroller Audit Operations  
Fiscal Year 2014

February 27, 2015

<http://comptroller.nyc.gov>

**Scott M. Stringer**  
**Comptroller**

Deputy Comptroller for Audit  
Marjorie Landa

Assistant Comptroller, Management Audit  
Edward Carey, Jr.

Assistant Comptroller, Financial Audit  
Alma Fana

Director, Special Reports  
Faige Hornung

Special Projects Team  
Shakawat Ali  
Nancy Crerar  
Ashley Jobson  
Iris Hinds  
Michael Leinwand

Report Editors  
Hanna Rubin  
Kristen Ellis

## TABLE OF CONTENTS

	<b>Page</b>
Summary of Audit Results .....	i
Index to Government Agency Audits and Special Reports .....	iii
Index to Non-Government Agency Audits .....	vii
Economic Impact of Audits of Government and Non-Government Agencies.....	ix
Section I: Government Agencies.....	1
Section II: Non-Government Agencies .....	63
Section III: Charts: Recommendation Status by Audit.....	75
Recommendation Status by Agency.....	77
Section IV: Index of Government Agency Audits and Special Reports, Fiscal Years 2004-2014 .....	79
Section V: Index of Non-Government Agency Audits, Fiscal Years 2004-2014 .....	105
Section VI: Index of Government Special Letter Reports .....	111



## SUMMARY OF AUDIT RESULTS

Actual and potential cost avoidance, savings, and revenues identified in Fiscal Year 2014 totaled \$68.4 million. These are estimates of what could be achieved if all the audit and special report recommendations were implemented. Of this \$68.4 million:

- Actual savings and revenues identified in Fiscal Year 2014 totaled \$2.5 million;
- \$46.2 million represents potential cost savings or revenues from a variety of management and financial audit findings; and
- \$19.7 million represents potential cost avoidance resulting from analyses of claims filed against the City.

The Comptroller's Audit Bureau issued 43 audits and special reports in Fiscal Year 2014. Reviews of managerial lump-sum payments and welfare-fund payments were also performed.

This report is divided into two sections. One section covers audits and special reports of City agencies and public authorities. The second section covers audits and special reports of 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.

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.



**INDEX OF GOVERNMENT FY 2014 AGENCY AUDITS AND SPECIAL REPORTS**

(All Audits Unless Otherwise Indicated)

<b>DEPARTMENT FOR THE AGING</b> .....	<b>3</b>
Letter Audit Report on the Department for the Aging's Monitoring of Its Employees Who Use an E-ZPass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business.....	3
Audit Report on the Department for the Aging's Monitoring of Senior Centers.....	4
<b>DEPARTMENT OF BUILDINGS</b> .....	<b>6</b>
Audit Report on the Issuance and Processing of Notices of Violation by the Department of Buildings .....	6
<b>ADMINISTRATION FOR CHILDREN'S SERVICES</b> .....	<b>8</b>
Letter Report on the Administration for Children's Services' Monitoring of Its Employees Who Use an E-ZPass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business.....	8
Final Letter Report on the New York City Administration for Children's Services' Monitoring of the Community Partnership Program .....	9
<b>CITY UNIVERSITY OF NEW YORK</b> .....	<b>10</b>
Audit Report on the Operating Practices of the City University of New York's Adult Literacy/GED Program .....	10
<b>NEW YORK CITY COMPTROLLER'S OFFICE</b> .....	<b>12</b>
Cost Allocation Plan Fiscal Year 2013.....	12
<b>DEPARTMENT OF CONSUMER AFFAIRS</b> .....	<b>13</b>
Letter Report on the New York City Department of Consumer Affairs' Compliance with Local Law 36 .....	13
<b>DEPARTMENT OF CORRECTION</b> .....	<b>15</b>
Letter Report on the Department of Correction's Monitoring of Its Employees Who Use E-ZPass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business .....	15
<b>DEPARTMENT OF CULTURAL AFFAIRS</b> .....	<b>17</b>
Letter Report on the Department of Cultural Affairs' Compliance with Local Law 36.....	17

<b>ECONOMIC DEVELOPMENT CORPORATION</b> .....	<b>19</b>
Audit Report on the New York City Economic Development Corporation’s Contracts Related to Environmental and Other Engineering Services .....	19
<b>DEPARTMENT OF EDUCATION</b> .....	<b>21</b>
Audit Report on the Department of Education’s Special Education Student Information System.....	21
Letter Report on the Controls over Payments for Carter Cases by the New York City Department of Education’s Bureau of Non-Public Schools Payables .	23
Letter Report on the New York City Department of Education’s Payments to Navigant Consulting, Inc.....	24
Audit Report on the Department of Education’s Awarding of Milk Distribution Contracts .....	25
Audit Report on the Department of Education’s Custodial Supplies Management Contract with Strategic Distribution, Inc. ....	27
<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b> .....	<b>29</b>
Audit Report on the Reliability and Accuracy of the Automated Meter Reading Data Administered by the Department of Environmental Protection.....	29
<b>DEPARTMENT OF FINANCE</b> .....	<b>31</b>
Letter Report on the New York City Department Of Finance’s Compliance with Local Law 36 .....	31
Audit Report on the Department of Finance’s Tax Classification of Vacant Lots	33
<b>FINANCIAL INFORMATION SERVICES AGENCY</b> .....	<b>35</b>
Letter Report on the New York City Financial Information Services Agency’s Compliance with Local Law 36 .....	35
<b>DEPARTMENT OF HOMELESS SERVICES</b> .....	<b>37</b>
Follow-up Audit Report on the Department of Homeless Services’ (DHS) Controls Over Billing and Payments Made to Aguila, Inc. ....	37
<b>DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT</b> .....	<b>39</b>
Audit Report on the New York City Department of Housing Preservation and Development’s Disbursement of Family Self-Sufficiency Program Funds .....	39
<b>HUMAN RESOURCES ADMINISTRATION</b> .....	<b>41</b>
Letter Audit Report on the Human Resources Administration’s Monitoring of Its Employees Who Drive City-Owned or Personally-Owned Vehicles on City Business .....	41



<b>DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS.....</b>	<b>42</b>
Letter Report on the New York City Department of Information Technology and Telecommunications' Compliance with Local Law 36.....	42
Audit Letter Report on the Expenditures Submitted by Accenture LLP for Its Access NYC Program Contract with the New York City Department of Information Technology and Telecommunications .....	44
<b>LAW DEPARTMENT .....</b>	<b>46</b>
Letter Report on the New York City Law Department's Compliance with Local Law 36.....	46
<b>MULTI-AGENCY .....</b>	<b>48</b>
A Compilation Letter Report on the Multi Agencies' Monitoring of Their Employees Who Drive City-Owned or Personally-Owned Vehicles on City Business.....	48
Letter Audit Report on the Human Services Agencies' Monitoring of Their Employees Who Drive City Owned or Personally Owned Vehicles on City Business.....	50
Audit Report on the Financial and Operating Practices of the New York City Water and Sewer System and the Determination of Water Rates.....	51
Reviews of Managerial Lump-Sum Payments.....	53
Reviews of High Risk Welfare Fund Payment Vouchers.....	54
<b>DEPARTMENT OF PARKS AND RECREATION.....</b>	<b>55</b>
Audit Report on the Health and Safety Conditions of Department of Parks and Recreation's Public Swimming Pools .....	55
<b>DEPARTMENT OF SMALL BUSINESS SERVICES .....</b>	<b>57</b>
Letter Report on the New York City Small Business Service's Compliance with Local Law 36 .....	57
<b>NEW YORK CITY TRANSIT.....</b>	<b>59</b>
Follow-up Audit Report on New York City Transit's Efforts to Inspect, Repair, and Maintain Elevators and Escalators .....	59
<b>DEPARTMENT OF TRANSPORTATION .....</b>	<b>60</b>
Letter Report on the Department of Transportation's Controls over the Processing of Notices of Violations by the Highway Inspection Quality Assurance Unit .....	60
<b>DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT.....</b>	<b>61</b>
Letter Report on the New York City Department of Youth and Community Development's Compliance with Local Law 36.....	61



**INDEX OF NON-GOVERNMENT FY 2014 AGENCY AUDITS**

<b><u>TYPE</u></b>	<b><u>PAGE</u></b>
<b>CLAIMS.....</b>	<b>65</b>
<b>FRANCHISE, CONCESSION, AND LEASE AUDITS.....</b>	<b>66</b>
<b>AUDIT REPORT OF THE HOWARD HUGHES CORPORATION'S COMPLIANCE WITH ITS CITY LEASES FOR THE SOUTH STREET SEAPORT MARKETPLACE AND THEATRE</b>	
Economic Development Corporation Lease Agreement.....	67
<b>AUDIT REPORT ON THE COMPLIANCE OF VERIZON NEW YORK, INC. WITH ITS CABLE FRANCHISE AGREEMENT</b>	
Department of Information Technology and Telecommunications Franchise Agreement.....	69
<b>AUDIT REPORT ON THE COMPLIANCE OF STATUE CRUISES, LLC WITH ITS LICENSE AGREEMENT</b>	
Department of Parks and Recreation License Agreement.....	71
<b>AUDIT REPORT ON CEMUSA NY LLC'S PAYMENT OF FRANCHISE FEES IN COMPLIANCE WITH ITS COORDINATED STREET FURNITURE FRANCHISE AGREEMENT</b>	
Department of Transportation Franchise Agreement.....	73



**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 2014**

<b><u>REPORT TYPE</u></b>	<b><u>FISCAL YEAR 2014 NUMBER OF REPORTS</u></b>	<b><u>FISCAL YEAR 2014 ACTUAL SAVINGS/ REVENUE</u></b>	<b><u>FISCAL YEAR 2014 POTENTIAL SAVINGS/ REVENUE(1)</u></b>	<b><u>FISCAL YEAR 2014 POTENTIAL COST AVOIDANCE (2)</u></b>	<b><u>TOTAL</u></b>
<b>Government Agencies</b>					
Audits and Special Reports	34		\$44,213,276	\$0	\$44,213,276
Managerial Lump Sum Reviews		\$933,351	\$0	\$0	\$933,351
High Risk Voucher Reviews	1	\$23,602	\$286,961	\$0	\$310,563
<b>Total Government Agencies</b>	<b>35</b>	<b>\$956,953</b>	<b>\$44,500,237</b>	<b>\$0</b>	<b>\$45,457,190</b>
<b>Non-Government Agencies</b>	<b>8</b>	<b>\$1,565,303</b>	<b>\$1,667,902</b>	<b>\$19,742,182</b>	<b>\$22,975,387</b>
<b>Grand Total Government and Non-Government Agencies</b>	<b>43</b>	<b>\$2,522,256</b>	<b>\$46,168,139</b>	<b>\$19,742,182</b>	<b>\$68,432,577</b>

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

(2) The potential cost avoidance amounts are questionable costs used by the Bureau of Law and Adjustment when negotiating settlements with claimants.



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





## DEPARTMENT FOR THE AGING

Letter Audit Report on the Department for the Aging's Monitoring of Its Employees Who Use an E-ZPass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business

Audit #7R14-060AL

Comptroller's Audit Library #8304

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the Department for the Aging (DFTA) is effectively monitoring its employees' use of City issued E-ZPasses and parking permits while driving City-owned or personally-owned vehicles on City business in accordance with applicable rules and regulations.

New York City requires that only those employees who exercise reasonable care in operating City-owned 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" (Handbook). Through their Agency Transportation Coordinator (ATC), agency heads must ensure that all employees assigned a City-owned vehicle either for full-time use or temporary use have been authorized to drive.

In addition, E-ZPasses should be issued only to authorized drivers who are responsible drivers. All E-ZPass usage must be reported to and monitored by the ATC. Drivers are allowed to use a City-sponsored E-ZPass only when conducting official City business and in connection with the approved use of a City government vehicle or an authorized personal vehicle. After using an E-ZPass on City business, the driver must fill out a vehicle trip log detailing what the vehicle was used for and why it needed to be used so that accurate agency vehicle trip log books can be maintained. E-ZPasses are issued by the Metropolitan Transportation Authority/Bridges and Tunnels (MTA). The MTA sends detailed summary reports on travel to the designated agency E-ZPass representative for review.

Drivers must be aware of their agency's in-house procedures regarding the use of parking permits, including areas where City government vehicles are permitted to park. Parking permits must be properly displayed to ensure visibility through the windshield. Permits may only be used for official City business in connection with the assigned City government vehicle or an authorized personal vehicle and only as described by the parking permit and any other accompanying instructions.

### Results

The audit found that DFTA monitored the use of E-ZPasses and parking permits by its authorized drivers in accordance with applicable rules and regulations.

### Agency's Response

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

## DEPARTMENT FOR THE AGING

Audit Report on the Department for the Aging's Monitoring of Senior Centers

Audit # FM13-056A

Comptroller's Audit Library #8280

Issued: August 2, 2013

Monetary Effect: None

### Introduction

The audit's objective was to determine whether the New York City Department for the Aging (DFTA) properly monitors senior centers to ensure that sponsors are maintaining safe and clean conditions in accordance with contract terms and DFTA procedures.

DFTA plans, administers, and coordinates the provision of services that help many of the City's 1.4 million senior citizens participate in their communities and maintain their independence. DFTA receives federal, state, and city funds to provide services for senior citizens. DFTA provides these services directly as well as through contracts with community-based organizations throughout the five boroughs. The services include hot meals and activities at senior centers, home care, home-delivered meals, case management, and transportation. According to DFTA's website, there were 258 DFTA-affiliated senior centers located throughout the five boroughs as of August 6, 2012.

### Results

Based on the conditions observed during the inspection of 63 senior centers and a review of DFTA and Department of Health and Mental Hygiene (DOHMH) inspection reports, the auditors believe DFTA's monitoring of senior centers could be enhanced to better ensure that senior centers are being maintained in a safe and clean condition. Specifically, 43 of the 63 centers visited had issues of non-compliance with DFTA standards including obstructed exits, inadequate lighting in hallways and stairways, and sanitary concerns in the bathrooms and kitchen areas. Eighteen of these 43 centers had recurring issues over multiple years, and six of these 18 had issues in more than one area.

DFTA is required to monitor the sanitary and safety conditions of affiliated senior citizen centers on a regular basis. To meet this objective, DFTA has established an annual cycle of inspection procedures to evaluate each center's compliance with programmatic and nutritional criteria. These procedures include on-site inspections, follow-up inspections if necessary, and review of DOHMH inspection reports. Such a level of monitoring, if properly implemented, would seem sufficient to ensure a safe and sanitary senior citizen center environment. However, the results of unannounced visits to 63 centers, supplemented by auditors' review of DFTA's annual monitoring reports and DOHMH inspection reports for these same centers, disclosed that certain compliance issues repeatedly occur at many of these centers.

The audit made the following five recommendations to DFTA. The agency should:

- Inspect the centers cited in the report to ensure that the problems have been corrected and have not recurred.
- Enhance its monitoring and oversight of senior centers by revising its inspection procedures to ensure that:
  - Supervisor approval is documented in the inspection files when conditions identified during an inspection are resolved upon submission of reliable documentation.

- Prior to contract negotiation, DFTA should conduct an inspection identifying all conditions that need to be corrected. A punch-list of conditions should be discussed and given to center sponsors at the completion of the inspection with an established timeframe for corrective action. Prior to lease signing, a thorough follow-up inspection should be conducted to ensure that all conditions have been corrected.
- Establish a system that tracks recurring problems at each center. Recurring problems need to be corrected before renewing contracts. Serious safety and sanitary conditions should be corrected before signing the contract.
- Ensure that centers contact the responsible City agency (Department of Buildings, Fire Department, or New York City Housing Authority) to obtain the required Place-of-Assembly permits and required fire inspections.
- Revise its procedures to ensure that inspectors review and document whether specific violations cited on DOHMH inspection reports were corrected.

In its response, DFTA officials agreed with the report's findings and conclusions and are implementing a plan for corrective action.

### **Audit Follow-up**

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

## DEPARTMENT OF BUILDINGS

Audit Report on the Issuance and Processing of Notices of Violation by the Department of Buildings

Audit # MG12-132A

Comptroller's Audit Library #8288

Issued: October 28, 2013

Monetary Effect: None

### Introduction

This audit determined whether the Department of Buildings (DOB) has adequate controls in place to ensure that Notices of Violations (NOVs) are properly processed and has made adequate efforts to reduce the number of NOV dismissals based on deficiencies in its issuance process.

DOB conducts inspections in response to complaints and requests for inspections that come from the public, community boards, or City agencies. If it is determined upon inspection that a property does not comply with applicable laws, a NOV is issued citing the reasons for the violation. An NOV can be issued directly to the property owner or by nailing it in a conspicuous and visible location. NOVs are processed by DOB's Administrative Enforcement Unit prior to entry into the Environmental Control Board's (ECB) computer system. During Fiscal Years 2011 and 2012, ECB reported \$87 million and \$106 million, respectively, in revenue received from the issuance of fines, of which more than \$25 million and \$34 million, respectively, was attributed to fines issued by DOB.

### Results

DOB has adequate controls over the processing of NOVs. However, its recordkeeping needs to be improved. DOB has no procedures to annually reconcile issued NOVs against voided NOVs, thereby hindering its ability to account for all NOVs. This has led to inadequate and inconsistent recordkeeping as key steps in the tracking of NOVs are not documented and are left to the discretion of the various units and inspectors. As a result, DOB is unable to ensure that all NOVs are accounted for.

Regarding its efforts to reduce the number of NOV dismissals based on deficiencies in its issuance process, DOB has implemented a number of controls, which audit tests revealed are operational and utilized on an ongoing basis. However, the audit was unable to assess the degree to which these controls were effective in reducing dismissals based on issuance deficiencies. This was due to the fact that there was not a significant decrease in the number of dismissals. Even in those instances where there was a reduction, there may have been other variables that contributed to the reduction. As such, although auditors noted that DOB has made efforts to reduce the number of NOV dismissals based on deficiencies in its issuance process, the audit cannot render an opinion as to the adequacy of those efforts.

In addition, DOB does not enforce its policy pertaining to supervisory inspection reviews, which is an integral part of internal controls whereby management can ensure that goals and objectives are achieved and that personnel understand their responsibilities and obtain feedback about their performance.

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

- Require that supervisors perform a periodic reconciliation of NOVs to ensure that all NOVs—those that have been issued as well as those that remain unissued—are accounted for.

- Require its inspectors to issue NOVs in sequential order and to fully utilize one NOV booklet before going on to the next booklet.
- Ensure that the supervisors conduct the required number of Training Inspections and Quality Assurance Review Inspections in accordance with its guidelines.
- Modify its procedures to require supervisors to sign the voided NOVs as an indication they have been reviewed and to require supervisors to perform spot checks of voided NOVs to ensure that replacements are issued, when warranted.

DOB officials agreed to implement all four recommendations.

### **Audit Follow-up**

DOB reported that all of the audit recommendations have been implemented. In addition, DOB reported that it has implemented a new Standard Operating Procedure (SOP) which requires all supervisors to review completed NOV log sheets.

## ADMINISTRATION FOR CHILDREN'S SERVICES

Letter Report on the Administration for Children's Services' Monitoring of Its Employees Who Use an E-ZPass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business

Audit #7R14-123AL

Comptroller's Audit Library #8305

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the Administration for Children's Services (ACS) sufficiently monitors its employees' use of City issued E-ZPasses and parking permits while driving City-owned or personally-owned vehicles on City business in accordance with applicable rules and regulations.

New York City requires that only those employees who exercise reasonable care in operating City-owned 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" (Handbook). Through their Agency Transportation Coordinator (ATC), agency heads must ensure that all employees assigned a City-owned vehicle either for full-time use or temporary use have been authorized to drive.

In addition, E-ZPasses should be issued only to authorized drivers who are responsible drivers. All E-ZPass usage must be reported to and monitored by the ATC. Drivers are allowed to use a City-sponsored E-ZPass only when conducting official City business and in connection with the approved use of a City government vehicle or an authorized personal vehicle. After using an E-ZPass on City business, the driver must fill out a vehicle trip log detailing what the vehicle was used for and why it needed to be used so that accurate agency vehicle trip log books can be maintained. E-ZPasses are issued by the Metropolitan Transportation Authority/Bridges and Tunnels (MTA). The MTA sends detailed summary reports on travel to the designated agency E-ZPass representative for review.

Drivers must be aware of their agency's in-house procedures regarding the use of parking permits, including areas where City government vehicles are permitted to park. Parking permits must be properly displayed to ensure visibility through the windshield. Permits may only be used for official City business in connection with the assigned City government vehicle or an authorized personal vehicle and only as described by the parking permit and any other accompanying instructions.

### Results

The audit found that ACS monitored the use of E-ZPasses and parking permits by its authorized drivers in accordance with applicable rules and regulations.

### Agency Response

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

## ADMINISTRATION FOR CHILDREN'S SERVICES

Final Letter Report on the New York City Administration for Children's Services' Monitoring of the Community Partnership Program

Audit # SR13-071AL

Comptroller's Audit Library #8278

Issued: July 23, 2013

Monetary Effect: None

### Introduction

This audit determined whether the Administration for Children's Services' (ACS) Office of Community Partnership (OCP) is adequately monitoring the Community Partnership Programs (CPPs) to ensure that they are meeting their goals and objectives and determined whether the expenditures were reasonable and appropriate.

The OCP oversees 11 CPPs, which are partnerships of families, constituents, grassroots organizations, community-based organizations, faith-based organizations, ACS contract providers, local schools, concerned residents, community leaders, and others who are collaborating to explore, develop, and implement community-based child welfare strategies. The CPPs are located in 11 different communities, which include Jamaica, East New York, and Soundview.

ACS contracted and funded 11 CPPs for a total budget of \$1,650,000 for Fiscal Year 2012. Each CPP received a budget of \$150,000 per year. OCP assigns each CPP a facilitator to monitor, provide support, make recommendations, and act as a liaison with ACS. Each CPP hires a coordinator who is responsible for the day-to-day operations of the CPP.

### Results

The audit found that ACS adequately monitored the CPPs to ensure that they are meeting their goals and objectives. However, ACS gives CPPs wide latitude in how to report the activities associated with CPPs' goals and objectives. As a result, although goals and objectives are consistent for all CPPs, reported activities may not be consistent from one CPP to another. This makes it difficult to compare the results of each CPP.

The audit also found that CPP expenses were reasonable and appropriate. The review of the Fiscal Year 2012 expenditures for our two sampled CPPs, totaling \$300,000, found a few minor errors, including transposition and mathematical errors, which were discussed with ACS during the audit.

The audit recommended that ACS:

- Develop reporting standards for activities under each task/deliverable.
- Disseminate the new reporting standards to all 11 CPPs.
- Ensure that the CPPs are complying with the new reporting standards.

In their response, ACS officials agreed to implement the audit's recommendations.

### Audit Follow-up

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



## CITY UNIVERSITY OF NEW YORK

### Audit Report on the Operating Practices of the City University of New York's Adult Literacy/GED Program

Audit # ME13-083A  
Comptroller's Audit Library #8291  
Issued: November 22, 2013  
Monetary Effect: None

#### Introduction

This audit determined the adequacy of the operating practices of the City University of New York's (CUNY) Adult Literacy/General Educational Development (GED) Program. The primary scope of the audit was Fiscal Year 2012. CUNY provides higher education to more than 272,000 degree-seeking students and over 218,000 adult and continuing education students. CUNY consists of 24 institutions: 11 senior colleges, seven community colleges, the Macaulay Honors College at CUNY, and five graduate and professional schools. Courses are taught by approximately 7,000 full-time faculty and nearly 12,000 part-time faculty.

The CUNY Adult Literacy/GED Program, which is implemented by the Divisions of Adult and Continuing Education at 14 CUNY colleges, offers classes to help New York City adults learn to speak, read, and write English with greater facility and to prepare for high school credentialing through the GED exam. The program, which provides instruction for over 7,000 students a year, is coordinated centrally by the Office of Academic Affairs.

For Fiscal Year 2012, funds totaling \$757 million were appropriated to be used by CUNY for operating expenses. The CUNY Adult Literacy/GED Program has been funded since 1984 through combined New York State Education Department (NYSED) and New York City resources. For Fiscal Year 2012, the Adult Literacy/GED Program had expenditures of approximately \$7 million. These expenditures were supported by approximately \$4.2 million (60 percent) in Workforce Investment Act (WIA) Title II (Adult Education and Literacy) funds received through NYSED and approximately \$2.8 million (40 percent) in funds received from the New York City Mayor's Office.

#### Results

The audit concluded that the operating practices of CUNY's Adult Literacy/GED Program were generally adequate. Specifically, CUNY had the required written assessment policies and procedures that identify the student assessment tests to be used, when the tests are to be administered, and how the test scores are to be reported. Furthermore, CUNY used the Adult Student Information System & Technical Support (ASISTS) database, an electronic record system, to document information on individual students.

However, the audit identified some weaknesses relating to the administration of the Adult Literacy/GED Program. Specifically, CUNY inadequately tracked and measured student outcomes; lacked evidence that its program instructors met the educational background and training requirements; and lacked a user's manual for the ASISTS database.

To address these issues, the audit made six recommendations. Among other things, the audit recommended that CUNY:

- Systematically track and measure overall student performance on GED exams.
- Systematically track and measure students' post-exit outcomes.



- Ensure that the colleges maintain complete files for all of the students in the program.
- Ensure that instructor files are maintained and that they contain evidence that the instructors are qualified to teach in the program and have received the required annual training.
- Ensure that a user's manual is developed and distributed to all program staff who use the ASISTS database.
- Ensure that the colleges regularly evaluate instructor performance.

In their response, CUNY officials agreed to implement the audit's recommendations.

### **Audit Follow-up**

CUNY reported that five recommendations have been implemented and that the remaining recommendation had not yet been implemented.

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

Cost Allocation Plan Fiscal Year 2013

Report: #SR14-086S

Comptroller's Audit Library # N/A

Issued: February 18, 2014

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 staff time spent providing services to various City agencies during Fiscal Year 2013.

### **Results**

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

## DEPARTMENT OF CONSUMER AFFAIRS

Letter Report on the New York City Department of Consumer Affairs' Compliance with Local Law 36

Audit #7R14-097AL

Comptroller's Audit Library #8307

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the New York City Department of Consumer Affairs (DCA) is in compliance with Local Law 36, which governs waste prevention, reuse, and recycling by City agencies. The objective of this audit is to determine if DCA is complying with local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources, and manage waste in a cost-effective manner. In addition, in the course of the audit, we noted efforts made by DCA to follow additional recycling rules established by the Department of Sanitation for the City of New York (DSNY) pursuant to Local Law 36. The audit of DCA is one in a series of audits the Office is conducting on compliance with Local Law 36.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over arching “policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy.” The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse, and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency and, where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012, and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY “summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan.”

In addition, Local Law 36 requires the Commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the Department's annual recycling report.

### Results

The audit found that DCA generally complies with Local Law 36 and in particular that DCA has policies and procedures in place for handling certain waste and recyclable materials. However, the audit found that DCA did not submit its waste prevention, reuse and recycling plan to DSNY until the fall of 2013, after this audit had commenced, notwithstanding Local Law 36's requirement that such a plan be submitted to DSNY no later than July 1, 2011. Further, the audit found that DCA did not submit the required annual reports to its Commissioner or to DSNY. At the same

time, the audit found that DCA was in compliance with certain Local Law 36 requirements such as recycling designated materials.

In addition to these findings, auditors observed that DCA has made additional efforts to address waste prevention, reuse, and safe handling of hazardous waste beyond the requirements of Local Law 36. Specifically, DCA has enacted a policy to reduce personal printers and encourages staff to print using central printers in an effort to reduce waste and paper usage. DCA also follows the City's rules for handling electronic waste and utilizes the citywide contract with Veolia ES Technical Solutions for hazardous waste removal. These measures were taken in accordance with DSNY's additional guidelines enacted pursuant to Local Law 36.

The audit recommended that DCA submit the required annual reports to its Commissioner and DSNY by July 1st of each year as required by Local Law 36.

The agency stated: "We are pleased to report that DCA does have in place a Waste Prevention, Reuse and Recycling plan and will provide an annual report to the DSNY commissioner in advance of July 1, 2014."

### **Audit Follow-up**

DCA reported that it has implemented the audit recommendation and is in full compliance with Local Law 36.

## DEPARTMENT OF CORRECTION

Letter Report on the Department of Correction's Monitoring of Its Employees Who Use E-ZPass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business

Audit Number: 7R14-059AL  
Comptroller's Audit Library #8285  
Issued: October 2, 2013  
Monetary Effect: Possible

### Introduction

This audit determined whether the Department of Correction (DOC), a "public safety agency," is effectively monitoring its employees who use E-ZPasses and parking permits while driving City-owned or personally-owned vehicles on City business in accordance with applicable rules and regulations.

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" (Handbook). Through their Agency Transportation Coordinator (ATC), agency heads 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 Handbook specifies that City agencies must establish programs that promote safety along with proper training in the use of motor vehicles.

E-ZPasses should be issued only to authorized drivers who are allowed to use a City-sponsored E-ZPass only when conducting official City business and in connection with the approved use of a City government vehicle. Subsequently, the driver must fill out a vehicle trip log detailing what the vehicle was used for and why it needed to be used, so that accurate agency vehicle trip log books can be maintained. The MTA sends detailed summary reports on travel to the designated agency E-ZPass representative for review.

Drivers must be aware of their agency's in-house procedures regarding the use of parking permits, including areas where City government vehicles are permitted to park. Parking permits must be properly displayed to ensure visibility through the windshield. Permits may only be used for official City business in connection with the assigned City government vehicle and only as described by the parking permit and any other accompanying instructions.

### Results

The audit found that DOC does not effectively monitor the use of E-Z Passes by its authorized drivers in accordance with applicable rules and regulations.

When the auditors requested a sample of log sheets to be tested, they were informed in an email dated April 24, 2013, "we are unable to locate in our archives, nearly all of the 2011 trip sheets samples that had been selected by the City Comptroller for review." Additional inquiries were made to determine the whereabouts of the entire calendar year 2011 detailed logs. In addition, auditors were informed by the DOC representative that DOC could account for the parties responsible for using their E-ZPass transponders and their activities.

In addition, the audit found that several DOC employees/officials appeared to have excessively used their E-ZPass for non-business use.

During the reimbursement period of January 2011 through December 2011, the audit found that 53 employees had reimbursed DOC for approximately \$8,000 in non-business usage (personal).

The audit made five recommendations that DOC should:

- Maintain log books detailing E-ZPass usage as required by the regulations.
- Reinforce the policies and procedures detailing E-ZPass usage.
- Limit the personal use of E-ZPass transponders by monitoring usage more closely.
- Monitor and limit the personal use of City vehicles and consider recouping the costs of excessive use of City vehicles for non-business purposes.
- Perform physical inspections (inventory) of its E-ZPasses (unannounced and announced).

DOC agreed with four of the five recommendations, but it did not address the fourth recommendation. DOC stipulated that the vehicles and E-Z Pass usage are needed for business reasons. We agree that business purposes are a legitimate reason to be issued and use an EZ-Pass. However, our finding in the audit concerned excessive personal usage of the EZ-Pass.

### **Audit Follow-up**

DOC reported that four recommendations have been implemented and the remaining recommendation to monitor and limit personal use of City vehicles and consider recouping the costs of excessive use of City vehicles for non-business purposes has been partially implemented.

## DEPARTMENT OF CULTURAL AFFAIRS

Letter Report on the Department of Cultural Affairs' Compliance with Local Law 36

Audit #7R14-094AL

Comptroller's Audit Library #8312

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the New York City Department of Cultural Affairs (DCLA) is in compliance with Local Law 36, which governs waste prevention, reuse, and recycling by City agencies. The objective of this audit is to determine if DCLA is complying with local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources, and manage waste in a cost-effective manner. In addition, in the course of the audit, we noted efforts made by DCLA to follow additional recycling rules established by the Department of Sanitation for the City of New York (DSNY) pursuant to Local Law 36. The audit of DCLA is one in a series of audits the Office is conducting on compliance with Local Law 36.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over arching “policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy.” The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency and, where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012, and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY “summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan.”

In addition, Local Law 36 requires the commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the Department's annual recycling report.

### Results

The audit found that DCLA generally complies with Local Law 36. Pursuant to Local Law 36, DCLA was supposed to have submitted a waste prevention, reuse and recycling plan no later than July 1, 2011 and we found that such a plan was submitted by the deadline. The audit also found that DCLA was in compliance with certain Local Law 36 requirements such as recycling designated materials. However, the audit found no evidence that DCLA submitted its annual 2012 and 2013 required reports to its Commissioner or to DSNY as required.

In addition to these findings, auditors observed that DCLA has made additional efforts to address waste prevention, reuse, and safe handling of hazardous waste beyond the requirements of Local Law 36. DCLA has made its recycle program information available online. DCLA has also established a sustainability or “green team” with a working group and executive committee to support its coordinator. Further, DCLA runs an educational program called Materials for the Arts (MFTA) where many different types of unused recyclable materials are collected and used for educational purposes. Through this program, DCLA has been able to integrate education and waste reduction efforts in addition to demonstrating best practices.

The audit recommended that DCLA submit the required annual report to its Executive Director and DSNY by July 1st of each year as required by Local Law 36

The agency stated that it “is in agreement and will take necessary steps to address this each year.”

### **Audit Follow-up**

DCLA reported that the audit recommendation is being implemented.



## ECONOMIC DEVELOPMENT CORPORATION

Audit Report on the New York City Economic Development Corporation's Contracts Related to Environmental and Other Engineering Services

Audit # FN13-104A

Comptroller's Library #8298

Issued: March 26, 2014

Monetary Effect: None

### Introduction

The audit determined whether the New York City Economic Development Corporation (EDC) has adequate oversight over its contracts related to environmental and other engineering services, made proper payments based on contract requirements, and complied with its procurement rules and regulations.

EDC is a not-for-profit corporation and its primary activities consist of rendering a variety of services and administering economic development programs on behalf of the City. One of EDC's primary responsibilities is to use the City's assets to drive growth, create jobs, and improve quality of life. In order to carry out this responsibility, EDC solicits and awards numerous contracts in connection with project development of commercial space and new open spaces, improving access to the waterfront, enhancing pedestrian connectivity, and creating waterfront amenities for public use and enjoyment in the city.

In guiding development projects through the necessary public approvals, including facilitating access to City programs and incentives, EDC performs financial analyses, coordinates planning and feasibility studies, and issues Environmental Impact Statements prepared by engineering consultants. Based on EDC's records from July 2007 to April 2013, EDC awarded nine environmental and other engineering consultant contracts totaling \$18,821,628, in connection with its development projects. As of June 5, 2013, EDC had made payments of \$8,595,731 on these contracts.

### Results

The audit found that EDC generally complied with applicable procurement rules and regulations governing its contracts. However, the audit found weaknesses in EDC's process for awarding contracts and for making payments. Specifically, EDC did not adequately track proposal submissions or document the date and reason for rejecting the proposals upon submission. It also did not ensure that evaluator affidavits requiring disclosure of potential conflicts of interest were completed prior to the evaluators' ranking proposals. Moreover, EDC did not document any follow-up conducted in instances where evaluators were identified as potentially having a conflict of interest. Furthermore, EDC did not ensure that resumes of consultants and sub-consultants working on projects were properly submitted, reviewed, and approved. As a result, there was insufficient information to allow the auditors to determine that all of the consultants were qualified and approved to work on the projects and that the related payments were appropriate and justified. EDC also did not properly review the consultants' timesheets before payments were made. Lastly, EDC did not ensure that contractors who were awarded contracts obtained Department of Investigation clearances prior to contracts being executed and that the contractors maintained sufficient insurance as required by their contracts.

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

- Ensure that all evaluators' affidavits regarding potential conflicts of interest are signed and on file before ranking each proposal.

- Follow up where evaluators disclose in their affidavits potential conflicts of interest and document the justification for any decision allowing or disqualifying the evaluators from the proposal review process.
- Ensure prospective vendors submit all required resumes as part of their proposals.
- Ensure contractors submit resumes when certain staff who work on the project need to be replaced and update the fee schedules accordingly.
- Ensure contractors only bill for staff listed on the fee schedules.
- Ensure that contractors maintain insurance coverage as required in the contracts.
- Ensure that all requests to change the mandated insurance requirements be in writing.

### **Audit Follow-up**

EDC reported that it partially agreed with and implemented three recommendations. EDC disagreed with the remaining eight recommendations, stating that it had adequate policies and procedures in place.

## DEPARTMENT OF EDUCATION

### Audit Report on the Department of Education's Special Education Student Information System

Audit # 7A12-114

Comptroller's Audit Library #8277

Issued: July 22, 2013

Monetary Effect: None

### Introduction

This audit determined whether the Special Education Student Information System (SEGIS) meets the overall goals to ensure efficient and reliable information to meet court-mandated State and Federal reporting requirements, exists in a secure environment, and provides effective and available access to its users.

In 2008, the New York City Department of Education (DOE) contracted with Maximus, Inc., to implement a Special Education Student Information System to handle the administrative requirements associated with the Special Education Program. The system requires a dynamic workflow process—from the time in which students are referred to Special Education for services, assessment, conferencing, recommendations, placement, and provisions—through to service delivery phases and to meet court-mandated State and Federal reporting requirements. DOE's Office of Special Education Initiatives is responsible for establishing policies and procedures for students with disabilities in both public and non-public school settings. The contract, which started September 1, 2008, has reached the end of its initial five-year term, expiring on November 1, 2013. The total cost of the SEGIS contract is approximately \$55 million.

### Results

The audit determined that SEGIS is not meeting its overall goal, which is to provide its users with an efficient and reliable system that meets court-mandated State and Federal reporting requirements. Moreover, DOE did not take necessary steps to ensure that the SEGIS system and its data are protected and secured. The audit also revealed that users are not satisfied with SEGIS. The review also identified problems concerning data integrity and system availability as well as timely resolution of technical problems associated with pre-identified bugs and basic user functions in SEGIS.

To address these issues, the audit made 17 recommendations:

- Immediately perform an on-site review of Maximus's operations to ensure that Maximus's policies and procedures comply with DOE directives and contract requirements.
- Review its internet service performance and track its stability, along with network usage, at various schools to improve upon the SEGIS operating environment.
- Actively solicit feedback from SEGIS users to identify issues for immediate resolution.
- Establish a special team composed of technical and operational specialists to conduct an extensive review and identification of all data and synchronization deficiencies and immediately correct these issues.
- Make certain that every reported content or format discrepancy be thoroughly investigated and resolved.
- Address technical issues involving other systems, which interact with SEGIS. All interface issues should be investigated, remediated (if required), tested, and tracked for assurance of data accuracy.

- Develop/enhance its SESIS training program to assist users in printing from SESIS.
- Track and investigate each SESIS printing issue for resolution.
- Encourage users to communicate with the Help Desk whenever they encounter a SESIS printing problem to promote efficient use of the system.
- Establish a policy to ensure all new users are trained before they are allowed access to SESIS or any application to avoid misuse of the system and to promote usage efficiency.
- Make improvements to its training program to improve system usability.
- Improve training communications to the user community by developing a plan to improve on training announcements to SESIS users.
- Make a sustained effort in promoting awareness of its SESIS Help Desk facility to its users.
- Establish and promote a feedback facility for SESIS users in providing DOE with a measure of its Help Desk effectiveness.
- Track and monitor all SESIS issues to detect patterns that would assist DOE in detecting inefficiencies or points of potential problems.
- Establish and promote a facility for SESIS users to submit comments or recommendations to DOE on enhancements, improvements, or general issues related to SESIS.
- Develop a comprehensive strategy plan to address needed improvements in SESIS training, usage, and support as well as an action plan to remedy the deficiencies currently reported by SESIS users.

DOE officials generally disagreed with the audit recommendations.

### **Audit Follow-up**

DOE reported that it is implementing 16 of the 17 audit recommendations. DOE stated that it has transitioned oversight of SESIS from Maximus to its IT operations and Office of Special Education. DOE also stated that it has enhanced its SESIS training program and SESIS Helpdesk support.

## DEPARTMENT OF EDUCATION

Letter Report on the Controls over Payments for Carter Cases by the New York City Department of Education's Bureau of Non-Public Schools Payables

Audit # FM13-087AL

Comptroller's Audit Library #8300

Issued: May 30, 2014

Monetary Effect: None

### Introduction

The objective of this audit was to determine whether the Bureau of Non-Public Schools Payables (NPSP) has adequate controls over payments resulting from legal proceedings against the Department of Education (DOE) following the Supreme Court's decision in *Florence County School District Four v. Carter* (Carter Cases).

Under the Individuals with Disabilities Education Act (IDEA), DOE is required to identify and evaluate students with disabilities and to meet with their parents to recommend appropriate programs and services through an Individualized Education Plan.

The IDEA establishes a mechanism for parents to challenge DOE's evaluation of their children by providing them with the opportunity to request an impartial hearing through which they can challenge DOE's recommended educational plan for their children. In addition, pursuant to *Florence County School District Four v. Carter*, when a parent or guardian disagrees with DOE's recommended educational plan, they may elect to place the student in a non-public school and seek reimbursement for their costs or direct payment to the school by commencing legal proceedings against DOE.

DOE may elect to proceed with a hearing or settle the case. Where cases are resolved with a decision or agreement that DOE will pay costs associated with non-public education of special needs children, NPSP is responsible for issuing settlement, appeal, and enhanced rate Special Education Teacher Support Services (SETSS) payments. In FY 2012, NPSP issued \$115,680,280 in payments for settlements, appeals, and enhanced rate SETSS.

### Results

NPSP has adequate controls over payments it makes resulting from Carter Cases. The audit reviewed 119 payments issued in FY 2012 made on behalf of 50 sampled students, totaling \$1,675,953. All 119 payments were made in accordance with the related stipulations. NPSP ensured that all required documents were submitted by the parents or the private schools before issuing payments. In cases where vendors billed incorrectly, NPSP recalculated the invoice and only paid for authorized expenditures. The audit found no duplicate payments in the sample. Finally, in the review of sampled payments for enhanced rate SETSS, NPSP did not make payments for hours where one provider's service hours overlapped with another provider's hours for the same student.

DOE officials chose not to formally respond in writing to the report because there were no adverse findings.

## DEPARTMENT OF EDUCATION

Letter Report on the New York City Department of Education's Payments to Navigant Consulting, Inc.

Audit # FM13-131AL  
Comptroller's Audit Library # 8292  
Issued: December 2, 2013  
Monetary Effect: None

### Introduction

The objectives of this audit were to determine whether Navigant appropriately billed the Department of Education (DOE) for the services provided and performed its responsibilities as required by the Stipulation. The scope period of this audit was January 1, 2011 to June 30, 2013. Between January 2011 and June 2013, Navigant issued 11 quarterly reports. In addition, Navigant submitted 29 invoices totaling approximately \$4.3 million to DOE for the services it rendered between January 2011 and May 2013.

Pursuant to the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and New York State law, DOE is required to maintain a due process hearing system whereby parents are able to challenge the actions of DOE in providing special education services to their children with disabilities. On December 12, 2003, a group of parents filed a lawsuit against DOE, claiming that the favorable orders and settlements they received from the court were not being enforced in a timely manner.

On December 11, 2007, DOE, Advocates for Children of New York, and the legal counsel for the Lead Plaintiffs (parents) entered into a Stipulation and Agreement of Settlement (Stipulation) that required an independent auditor to calculate the percentage of orders that were implemented in a timely manner and generate reports showing the results. On March 26, 2008, the court appointed Daylight Forensic and Advisory, LLC (Daylight) as independent auditor. Subsequently, on May 14, 2010, Daylight was acquired by Navigant Consulting, Inc. (Navigant). On June 24, 2010, a court order was issued assigning Daylight's responsibilities to Navigant with no objections from either party.

### Results

The review found that Navigant appropriately billed DOE for the services provided and performed its responsibilities as required by the Stipulation. Navigant provided DOE with monthly invoices and timesheets containing descriptions of tasks performed and rates billed. For services rendered between January 2011 and May 2013, the audit determined that the total fees and hours billed were accurate. In addition, the hourly rates corresponded with those listed on Navigant's engagement letter. Furthermore, Navigant issued all quarterly reports as required. Finally, DOE reviewed the monthly invoices and timesheets and appropriately addressed any unusually high billable hours or discrepancies with Navigant.

In its response, DOE officials stated "... the New York City Department of Education wishes only to thank the Comptroller's team for its conduct of the audit and willingness to ground itself in an understanding of the nature of the Department's relationship with Navigant Consulting, Inc."

## DEPARTMENT OF EDUCATION

### Audit Report on the Department of Education's Awarding of Milk Distribution Contracts

Audit # ME12-093A

Comptroller's Audit Library #8296

Issued: February 26, 2014

Monetary Effect: None

### Introduction

This audit determined the adequacy of the Department of Education's (DOE) controls over the awarding of milk distribution contracts. DOE provides education to over one million pre-kindergarten to 12th grade students in more than 1,700 New York City public schools. These schools serve over 850,000 meals per day to their students. The awarding of milk distribution contracts is initiated through a competitive sealed Request for Bids (RFB) process.

In May 2008, DOE solicited bids for five-year contracts to supply and deliver milk to schools. DOE awarded milk distribution contracts totaling \$134,139,354 to three vendors covering eight aggregate classes (geographical zones) in the City. Beyer Farms, Inc. (Beyer) was awarded a contract amount of \$111,207,157 for Brooklyn zones 1 and 2, Queens zones 1 and 2, and the Bronx zones 1 and 2. Elmhurst Dairy, Inc. (Elmhurst) was awarded a contract amount of \$17,647,481 for Manhattan, and Bartlett Dairy, Inc. (Bartlett) was awarded a contract amount of \$5,284,716 for Staten Island. These distribution contracts became effective on November 1, 2008 and were set to expire on August 31, 2013.

In October 2008, Beyer and Elmhurst requested and obtained approval from DOE to subcontract to Bartlett the delivery of milk in Queens zones 1 and 2, the Bronx zones 1 and 2, and Manhattan. DOE's approval of the subcontracting was based on the understanding that Beyer and Elmhurst, as the principal contractors, were responsible for all contractual terms, conditions, and requirements. On December 11, 2012, Beyer declared bankruptcy and closed its operations. Beyer notified DOE that it could no longer perform milk distribution services under its contract. DOE was able to award contracts to two vendors—one with Bartlett totaling \$8,795,575 and a second with Elmhurst totaling \$5,810,930—to continue the distribution of milk to the schools without interruption.

### Results

DOE's controls over the awarding of milk distribution contracts were adequate as they related to many aspects of the contract award process. In reviewing DOE's controls over the awarding of milk distribution contracts, the audit found that: DOE's controls over the receipt of the bids were adequate; the contract files generally contained, with some exceptions, the required documentation in support of DOE's awarding of the contracts; the RFB and contract award processes were followed in the proper sequence; and DOE selected the lowest bidder for each geographical zone based on accurate bid tabulations.

However, DOE did not adequately review the financial capacity of the vendors that were awarded milk contracts. In addition, DOE lacked adequate procedures for detecting the warning signs of possible collusion. As a result of those deficiencies, the risks that a financially unsound vendor could be awarded a major contract or that collusion could occur and go undetected are increased. To ensure that the contracts are awarded to the lowest responsive and responsible bidder, DOE needs to strengthen its controls in these areas.

The audit made nine recommendations, including that DOE:



- Develop and implement adequate written procedures that are sufficiently detailed to govern the review of the financial capacity of the lowest bidders for milk distribution contracts.
- Ensure that the contract files contain adequate evidence of the review of the financial capacity of the lowest bidders.
- Develop and implement adequate written procedures that are sufficiently detailed to detect the warning signs of possible collusion.
- Identify any warning signs of possible collusion, review them, and then explain and support its conclusions relative to their significance.

Although DOE officials disputed most of the audit's findings, they generally agreed with the audit's nine recommendations.

### **Audit Follow-up**

DOE reported that six recommendations have been implemented but did not fully address the remaining three recommendations: to develop and implement adequate written procedures to govern the review of the financial capacity of the lowest bidders for milk distribution contracts; to ensure that the most current financial statements submitted by the lowest bidders on milk distribution contracts are certified by an independent Certified Public Accountant; and to develop and implement adequate written procedures to detect the warning signs of possible collusion.



## DEPARTMENT OF EDUCATION

Audit Report on the Department of Education's Custodial Supplies Management Contract with Strategic Distribution, Inc.

Audit # MG13-079A

Comptroller's Audit Library #8301

Issued: June 25, 2014

Monetary Effect: Unable to determine

### Introduction

This audit determined the adequacy of the Department of Education's (DOE) controls over the awarding and monitoring of its custodial supply management contract with Strategic Distribution, Inc. (SDI) and whether the contract award and monitoring followed DOE's Procurement Policy and Procedures (PPP) guidelines.

On July 1, 2010, DOE entered into a five-year contract with SDI for the purpose of furnishing and providing on-site delivery of custodial supplies to the approximately 1,200 public schools throughout New York City under the jurisdiction of DOE. The contract was valued at \$88.1 million with an option to extend another six months for an additional \$8.7 million.

### Results

DOE did not have adequate controls over its award of the custodial supply management contract to SDI. The evidence provided by DOE was insufficient to establish that it conducted a fully competitive contract award process or performed an adequate price analysis before it awarded the contract to SDI. As a result, the City may be paying more than necessary for the purchase of custodial supplies.

In addition, DOE failed to adequately monitor its contract with SDI in accordance with PPP guidelines and the terms of the contract. As a result, DOE could not provide information about whether certain basic goals and objectives of the contract had been met, including whether goods had been purchased at reasonable prices and supplies had been promptly delivered. Additionally, there was no formal tracking system to ensure that custodian complaints pertaining to the purchase of supplies were addressed in a timely manner. DOE's failure to properly monitor the contract on an ongoing basis may have resulted in the payment of higher costs and supply shortages.

To address these issues, the audit made the following seven recommendations:

- DOE should retain all pertinent documents related to the bidding process in accordance with its rules and policies.
- Where there are a limited number of bidders, DOE should conduct additional steps, such as a comparable market analysis, to ensure that the prices quoted in the bids are reasonable prior to deciding to award the contract.
- DOE should adequately monitor its contract with SDI in accordance with the terms of its contract. Specifically, DOE should (a) review all management reports and semi-annual contract reports within the required timelines; (b) require the production of sales data from SDI; (c) conduct reconciliation of data contained within the data and the reports; and (d) discuss discrepancies and deficiencies with SDI in a timely manner.
- DOE should track and compare market prices to the current contract prices and, when applicable, request a reduction in prices.

- DOE should develop a mechanism for obtaining and analyzing purchasing trends and price data relative to custodial supplies.
- DOE should develop and implement a formal complaint tracking system that would provide custodians with a vehicle for expressing their concerns and observations and that would provide DOE the ability to track complaints and determine trends and patterns that need to be addressed, such as mark-up costs inconsistent with the contract.
- DOE should explore methods that can be used to establish better communication with its custodians about the purchase of custodial supplies, including the use of surveys, forums, and complaint forms.

DOE officials generally agreed to implement the seven recommendations but claimed, without providing any additional evidence that they were already in compliance with three of the recommendations.

### **Audit Follow-up**

DOE reported that all of the audit recommendations have either been implemented or are in the process of being implemented. DOE reported that it is in the process of identifying a candidate for the Deputy Director of Materials Management position, who will be responsible for implementing some of the audit recommendations, such as reviewing all management reports and semi-annual contract reports, and developing a mechanism for obtaining and analyzing purchasing trends and price data relative to custodial supplies. DOE is also in the process of developing an “Incident Reporting System” to track complaints.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Audit Report on the Reliability and Accuracy of the Automated Meter Reading Data Administered by the Department of Environmental Protection

Audit # 7A13-060

Comptroller's Audit Library #8286

Issued: October 4, 2013

Monetary Effect: None

### Introduction

The objective of the audit is to determine whether the Automated Meter Reading (AMR) data transmission is accurate and secure.

The Department of Environmental Protection (DEP) protects the environmental health, welfare, and natural resources of the city. DEP manages the City's water supply, which provides more than one billion gallons of high quality drinking water daily to more than half the population of New York State, and maintains the City's water distribution network, fire hydrants, and storm and sanitary sewage collection systems. DEP also bills and collects on approximately 836,000 water and sewer accounts and manages citywide water conservation programs.

DEP contracted with Aclara Systems from July 7, 2008 to July 12, 2013 to implement the Citywide Advanced Metering Infrastructure Program for the AMR in the amount of \$68,327,500. Under the terms of its contract, Aclara Systems provides the design, installation, and modification of the Aclara software. In addition, the contract includes the purchase of AMR Meter Transmission Units (MTU) and Data Collection Units (DCU) equipment. DEP's mission for AMR installation was to eliminate estimated billing, improve billing accuracy, and provide customers with tools to manage their water usage online. The contract was extended to July 14, 2014.

### Results

The audit found that data transmission from the AMR device to the AMR database is accurate and secure. However, the audit found several water meter issues that could affect billing. The audit noted that the installation of the AMR, originally scheduled to be completed by September 2012, has not been completed. Approximately 33,463 water meters (about 4 percent) still do not have AMR installed and those customers are on estimated billing. In addition, 19,315 of the 33,463 water meters had failed attempts to install AMR due to vacant property or large old meters incompatible with the AMR system. The remaining meters are AMR ready but have not been installed. The audit also noted 17,094 of the 818,176 installed meters are currently on estimated billing due to reading issues or no communication with AMR.

Water meters tend to deteriorate with age; therefore, many older meters do not record water usage or submit inaccurate readings. As a result, incorrect information is being transmitted for billing. DEP has replaced most of the small meters that pre-dated 1998 due to incompatibility with AMR. However, the audit found that DEP does not have an aging report for meters to identify meters that may need to be replaced, although its database has the elements available for such a report.

Finally, the audit determined that DEP does not have a disaster recovery plan for the DCUs in case of an unexpected event.

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

- Create a standardized timeline for completion of the installation of AMR on all water meters.

- Ensure AMR issues are resolved in an adequate timeframe.
- Replace outdated water meters as soon as practical to enable AMR installation.
- Ensure that information for new meters and AMR installed are immediately entered and updated into DEP's database for billing.
- Develop an aging report to assist in making cost benefit decisions regarding replacement of older meters.
- Ensure DEP staff updates the status of Referral Tracking System cases after work is performed.
- Ensure AMR cases are resolved in a reasonable timeframe.
- Develop a disaster recovery plan for DCUs.
- Immediately repair DCUs currently not functioning.

DEP officials agreed with all the audit recommendations.

### **Audit Follow-up**

DEP reported that eight recommendations have either been implemented or are in the process of being implemented and the remaining recommendation to develop a disaster recovery plan for DCUs has not been implemented.

## DEPARTMENT OF FINANCE

Letter Report on the New York City Department Of Finance's Compliance with Local Law 36

Audit #7R14-098AL

Comptroller's Audit Library #8309

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the New York City Department of Finance (DOF) is in compliance with Local Law 36, which governs waste prevention, reuse, and recycling by City agencies. The objective of this audit is to determine if DOF is complying with local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources, and manage waste in a cost-effective manner. In addition, in the course of the audit, auditors noted efforts made by DOF to follow additional recycling rules established by the Department of Sanitation for the City of New York (DSNY) pursuant to Local Law 36. The audit of DOF is one in a series of audits the Office is conducting on compliance with Local Law 36.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over arching “policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy.” The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse, and recycling plan and submit the plan to the DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency, and where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012 and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY “summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan.”

In addition, Local Law 36 requires the Commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the Department's annual recycling report.

### Results

The audit found that DOF generally complies with Local Law 36. DOF source-separates its recyclable materials; has designated a lead recycling/sustainability coordinator and assistant coordinators, and has established an agency waste prevention, reuse, and recycling plan. However, the audit found no evidence that DOF submitted its 2012 annual report to its Commissioner or to DSNY as required.

In addition to these findings, auditors observed that DOF has made additional efforts to address waste prevention, reuse, and safe handling of hazardous waste. DOF's printers are double-sided

by default and the cleaning products purchased for use in the office are green and environmentally friendly. DOF also participates in a City-wide contract for hazardous waste pickups by an independent contractor and also participates in City-wide training for the safe handling of hazardous materials. These measures were taken in accordance with DSNY's additional guidelines.

The audit recommended that DOF assess its plan each year and submit annual updates to its Commissioner and to DSNY.

The agency stated, "We agree that we should assess and submit our plan each year to our Commissioner and to DSNY before the deadline."

### **Audit Follow-up**

DOF reported that it has implemented the audit recommendation.

## DEPARTMENT OF FINANCE

### Audit Report on the Department of Finance's Tax Classification of Vacant Lots

Audit # FM13-120A

Comptroller's Audit Library # 8297

Issued: March 13, 2014

Monetary Effect: Potential Revenue: \$1,730,794

### Introduction

This audit determined whether the Department of Finance (DOF) properly classifies and assesses residential vacant lots for tax purposes.

DOF is responsible for annually assessing the value of more than one million properties located throughout the City and reflecting the results of the valuation in DOF's assessment roll. DOF applies tax rates to the assessed value of each property to calculate the amount of property taxes due and then bills and collects taxes that are assessed. DOF's Property Division is responsible for producing a fair, accurate, and legal assessment roll each year. DOF assessors are responsible for valuing properties in their assigned areas. Assessors assure that properties are assigned the correct tax class and building class, that physical characteristics of the property are recorded accurately, and that properties are recorded in accordance with assessment roll guidelines.

According to DOF's compilation of the 2012/2013 final assessment roll for all properties in the City, there were 21,189 vacant lots with a taxable assessed value of \$137 million in Tax Class 1 (residential properties) and 6,305 vacant lots with a taxable assessed value of \$1.4 billion in Tax Class 4 (commercial properties). Vacant lots are classified by DOF as either Tax Class 1B (a subset of Tax Class 1 properties) or Tax Class 4. According to the Department of City Planning, approximately 6 percent of the City's land is classified as vacant.

### Results

Although DOF properly classified the tax class and building class in a majority of vacant lots reviewed, DOF needs to enhance its procedures to ensure that all vacant lots are properly classified on future assessment rolls and that appropriate taxes are being paid. According to New York City Administrative Code §11-207, assessors are required to personally examine each taxable property once every three years. However, DOF informed the auditors that the physical inspection process for all properties is "permit-driven," that is, that assessors are likely to inspect properties, including vacant lots, more often when a Department of Building (DOB) permit is filed for a property to undergo a major alteration.

DOF inspection methods resulted in the accurate assessment of most properties identified as vacant lots. However, auditors nonetheless found that 308 properties listed as vacant and Tax Class 1 appear to have been misclassified and that as a result, DOF did not properly assess these properties for tax purposes. Specifically, the audit found that 281 of the 308 properties had both an incorrect tax classification and an incorrect building classification. Had these properties been properly classified, the audit estimates that DOF could have billed the owners as much as \$1,730,794 in additional real estate taxes. The remaining 27 properties were correctly classified as Tax Class 1 but appear to have had an incorrect vacant lot building classification which could have affected the market value of each property. However, the amount of additional taxes due cannot be determined until DOF determines the new market values of these properties, to the extent there are any.

Based on the audit findings, the audit makes the following four recommendations to DOF:

- Inspect the properties identified in this report and confirm whether they are misclassified and make the necessary adjustments to the assessment rolls for those misclassified properties.
- Conduct periodic reviews (including virtual inspections) of the properties that have the vacant lot classification to determine whether the classification change needs to be considered.
- Consider modifying the annual Notice of Property Value sent to property owners requesting that they notify DOF if any permanent improvements or changes were made to the property.
- Coordinate with DOB to ensure that those 27 lots that had a permitted activity and were listed as vacant land had the proper permits issued to modify their properties.

The Commissioner of DOF agreed with all of the audit recommendations except for the recommendation that DOF modify its annual Notice of Property Value. DOF's Commissioner said, "All of the lots questioned by the Comptroller are being inspected, and needed corrections will be reflected on the tentative assessment roll to be released in January 2014." The Commissioner also said that of the 308 vacant lots, 253 will be reclassified, 18 have not yet been inspected, and the remaining 37 lots will stay as Class 1 vacant land.

DOF's Commissioner further stated that DOF "does not agree that if the lots had been classified as the Comptroller recommends that an additional \$1.7 million would be billed in real estate taxes. . . . Since at least 37 lots and the lots currently classified as unlicensed parking lots may return to Class 1 if DOF eliminates the building class, the Comptroller's figure is overstated.... Nonetheless, we agree with the auditors that all property should be accurately described and classified."

### **Audit Follow-up**

DOF reported that it is implementing the two recommendations that DOF agreed with and will not implement the remaining recommendation to modify the annual Notice of Property Value sent to property owners.



## FINANCIAL INFORMATION SERVICES AGENCY

Letter Report on the New York City Financial Information Services Agency's Compliance with Local Law 36

Audit Number: 7R14-091AL  
Comptroller's Audit Library #8299  
Issued: May 23, 2014  
Monetary Effect: None

### Introduction

This audit determined whether the Financial Information Services Agency's (FISA) is in compliance with Local Law 36, which governs waste prevention, reuse, and recycling by City agencies. The objective of this audit was to determine if FISA complied with local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources, and manage waste in a cost-effective manner. In addition, in the course of the audit, additional efforts made by FISA to follow recycling rules established by the Department of Sanitation (DSNY) pursuant to Local Law 36 were noted.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over-arching "policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy." The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse, and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency, and where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012 and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY "summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan."

In addition, Local Law 36 requires the commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the department's annual recycling report.

### Results

The audit found that that FISA generally complies with Local Law 36. FISA's original recycling plan was written in 1991. Pursuant to Local Law 36, FISA was supposed to have submitted a waste prevention, reuse, and recycling plan by no later than July 1, 2011. However, the audit found that FISA did not submit such a plan until the fall of 2013 (after this audit commenced). The audit also found that FISA did not submit the required annual reports to its executive director or to DSNY. At the same time, the audit found that FISA was in compliance with certain Local Law 36 requirements such as recycling designated materials.

The audit also found that that FISA made some additional efforts to address waste prevention, reuse, and safe handling of hazardous waste beyond the requirements of Local Law 36. Specifically, FISA made a concerted effort to reduce the amount of paper products it printed by mandating that reports be printed double sided. FISA also made a policy decision to produce most of its reports online. Finally, the audit found that FISA followed the City's rules for handling electronic waste and had a contract for hazardous waste removal with Veolia ES Technical Solutions.

The audit recommended that FISA prepare its waste prevention, reuse, and recycling plan in a timely manner and submit the required reports to its executive director and DSNY by July 1st of each year as required by Local Law 36.

### **Audit Follow-up**

FISA reported that the audit recommendation has been implemented.

## DEPARTMENT OF HOMELESS SERVICES

Follow-up Audit Report on the Department of Homeless Services' (DHS) Controls Over Billing and Payments Made to Aguila, Inc.

Audit # 7S13-102F

Comptroller's Audit Library #8289

Issued: October 30, 2013

Monetary Effect: None

### Introduction

This follow-up audit assessed the implementation status of 19 recommendations made in the prior audit, *Audit Report on the Department of Homeless Services' Controls Over Billing and Payments Made to Aguila, Inc.* (Audit No. FK10-130A), issued November 4, 2011, which found that DHS did not adequately monitor Aguila's fiscal and operational performance.

DHS provides temporary emergency shelter and social services to individuals and families who have no other housing options available. In Fiscal Year 2013, DHS used 81 providers to house an average of 47,084 homeless people each night at 239 sites throughout the City. Aguila, Inc. is one of these providers, with more than 40 sites in Manhattan and the Bronx. Over the last two years since the prior audit, payments for Aguila-operated shelters grew \$10.8 million (23 percent) from \$46.3 million in Fiscal Year 2011 to \$57.1 million in Fiscal Year 2013.

### Results

This audit found that DHS has made some improvements in addressing weaknesses in its oversight of Aguila, Inc. that were identified in the prior audit. Of the 19 recommendations originally made, one recommendation was implemented, 10 recommendations were partially implemented, and eight recommendations were not implemented.

To address the issues that still exist from the prior audit, the audit made 11 recommendations in this follow-up audit, including that DHS should:

- Enter into written contracts with Aguila for all of its directly-operated facilities.
- Stop placing clients in facilities with hazardous and unsanitary conditions until the problems are corrected and obtain VENDEX questionnaires for vendors as required.

In addition, other issues were identified in this audit, including: inadequacies with DHS's shelter inspection process, monitoring of client attendance, reconciling care days with payments, and monitoring of contracted services, as well as oversight of Aguila facilities related to City fines and charges.

To address these new issues, the audit made seven additional recommendations, including that DHS should:

- Vary inspectors of shelter facilities.
- Enforce deadlines on attendance rosters.
- Spot-check attendance rosters and bills.
- Ensure that Aguila has written contracts and subcontracts for its suppliers with performance standards.
- Ensure that Aguila facilities pay outstanding City fines and water and sewer charges.

DHS agreed with seven of the 18 new recommendations, disagreed with five recommendations, and failed to address the remaining six recommendations.

**Audit Follow-up**

DHS reported that 12 recommendations are being implemented and that while it disagrees with the remaining six recommendations, DHS has restructured its shelter placement, invoicing, and billing functions to eliminate potential conflicts and provide more transparency.

**DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

Audit Report on the New York City Department of Housing Preservation and Development's Disbursement of Family Self-Sufficiency Program Funds

Audit #FM13-058A

Comptroller's Audit Library #8287

Issued: October 22, 2013

Monetary Effect: Potential Savings: \$475,648

**Introduction**

The audit determined whether the Department of Housing Preservation and Development (HPD) processes disbursements in accordance with Family Self-Sufficiency (FSS) program guidelines. The scope of the audit included all disbursements to FSS program participants between June 30, 2009 and September 30, 2012.

The FSS program is funded by the federal government through the Department of Housing and Urban Development (HUD). It is designed to assist families in obtaining employment that will allow them to become economically independent and reduce their reliance on Section 8 subsidies received through HPD. By increasing earned income and paying a higher portion of rent, a participant reduces reliance on Section 8 payments. However, the amount of Section 8 payments, also known as Housing Assistance Payments (HAP), requisitioned for the participant does not change. The HAP funds not used by HPD, due to the increased earnings of the participant, are deposited into an interest-bearing subaccount on behalf of the participant.

After five years of participation in the program, the participant can receive the funds in the subaccount, or "graduate," provided that the participant certifies that he/she has not received welfare cash assistance in the last 12 months and achieved the goal(s) set for the participant at the beginning of the program. Participants can also receive funds in the subaccount before they graduate if the money is used toward the completion of an "interim" goal, such as tuition payments for the participant's education, transportation to get the participant to work, or credit repair to improve the participant's employment or housing prospects.

For the period June 30, 2009 through September 30, 2012, HPD made 339 payments totaling \$1,727,820.

**Results**

The review of 60 participant files found that HPD does not consistently adhere to FSS guidelines for participant disbursements, resulting in questionable payments to 25 participants totaling up to \$140,915. In addition, HPD processed disbursements for participants who were deemed ineligible and does not always utilize available resources to ensure that disbursements are made in accordance with program guidelines. As a result, two participants may have defrauded HPD of \$334,733 by not reporting their ownership of multifamily dwellings during their receipt of FSS payments and Section 8 subsidies. This matter was referred to the Department of Investigation.

The audit recommended that HPD should:

- Obtain detailed supporting documentation from participants, if available, before awarding interim disbursements. If supporting documentation is not available from the participant before awarding interim disbursements, HPD should ensure the participant subsequently provides all necessary documents.
- Perform initial escrow calculations for FSS program participants as specified by HUD within 120 days of the contract start date.

- Utilize its access to the New York State Welfare Management System to ensure that participants who are scheduled to receive graduation disbursements have not received cash assistance in the last 12 months of their contract.

In its response, HPD strongly disagreed with the majority of the findings, but agreed to implement the report's recommendations.

### **Audit Follow-up**

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

## **HUMAN RESOURCES ADMINISTRATION**

Letter Audit Report on the Human Resources Administration's Monitoring of Its Employees Who Drive City-Owned or Personally-Owned Vehicles on City Business

Audit #7R14-065AL

Comptroller's Audit Library #8306

Issued: June 30, 2014

Monetary Effect: None

### **Introduction**

This audit determined whether the Human Resources Administration (HRA) is effectively monitoring its 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-owned 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" (Handbook). Through their Agency Transportation Coordinator (ATC), agency heads must ensure that all employees assigned a City-owned vehicle either for full-time use or temporary use have been authorized to drive. It is also the ATC's responsibility to ensure that these drivers have a valid license. The driver's license must be a New York State License unless the employee is exempt from City residency requirements. In that case, 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 Handbook further specifies that City agencies must establish programs that promote safety along with proper training in the use of motor vehicles.

City agencies are encouraged to enroll in the New York State Department of Motor Vehicles (DMV) License Event Notification System (LENS) program, whereby the ATC will be notified of any event that affects the driver's license, such as an expired license, the accumulation of points, an accident, and charges against a driver for driving while impaired or under the influence. This enables the ATC to ensure that only employees with valid licenses are driving on City business.

### **Results**

The audit found that HRA effectively monitors the driving behavior of its authorized drivers. HRA subscribes to the DMV's LENS, receives its updates, and revokes the privileges of those drivers who have suspended or revoked licenses in a timely manner as prescribed by regulations. In addition, HRA provided its employees with a required safety awareness program.

### **Agency's Response**

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

## DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

Letter Report on the New York City Department of Information Technology and Telecommunications' Compliance with Local Law 36

Audit #7R14-114AL

Comptroller's Library #8311

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the New York City Department of Information Technology and Telecommunications (DoITT) is in compliance with Local Law 36, which governs waste prevention, reuse, and recycling by City agencies. The objective of this audit is to determine if DoITT is complying with the local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources, and manage waste in a cost-effective manner. In addition, in the course of the audit, efforts made by DoITT to follow additional recycling rules established by the Department of Sanitation for the City of New York (DSNY) pursuant to Local Law 36 were noted. The audit of DoITT is one in a series of audits the Office is conducting on compliance with Local Law 36.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over arching "policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy." The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse, and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency, and where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012 and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY "summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan."

In addition, Local Law 36 requires the Commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the Department's annual recycling report.

### Results

The audit found that DoITT generally complies with Local Law 36. However, the audit found that DoITT did not submit its waste prevention, reuse and recycling plan to DSNY until the fall of 2013, after this audit had commenced, notwithstanding Local Law 36's requirement that such a plan be submitted to DSNY by no later than July 1, 2011. The audit further found that DoITT did not submit its 2012 annual report to its Commissioner or to DSNY as required. While DoITT source-



separates its recyclable materials, the audit noted a lack of receptacles for recycling mixed paper in one of DoITT's locations.

In addition to these findings, auditors observed that DoITT made additional efforts to address waste prevention, reuse, and safe handling of hazardous waste. Specifically, DoITT has set its printers to double-sided by default and encourages its employees to double-side all copies by placing posters by the copiers. DoITT also participates in a City-wide contract for hazardous waste pickups by an independent contractor. These measures were taken in accordance with DSNY's additional guidelines developed pursuant to Local Law 36.

The audit recommended that DoITT assess its plan each year and submit annual updates to its Commissioner and to DSNY. The audit also recommends that DoITT provide adequate bins for the collection of mixed paper and cardboard in addition to plain shredded papers bins.

The agency stated that it "obtained compliance with our recycling obligations by arrangements with the management of the buildings in which we rent office space. Each building management operates a facility in which recyclable materials are separated. This operation was in place well before your predecessor commenced this audit; our initial omission to file the required documentation of that operation with the Department of Sanitation was purely a procedural oversight that did not impair our adherence to recycling requirements."

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

DoITT reported that it has implemented the audit recommendation.

## DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

Audit Letter Report on the Expenditures Submitted by Accenture LLP for Its Access NYC Program Contract with the New York City Department of Information Technology and Telecommunications

Audit # FM13-082AL

Comptroller's Audit Library #8283

Issued: September 20, 2013

Monetary Effect: Potential Revenue: \$6,834

### Introduction

This audit determined whether the expenditures for the Access NYC Program contract were reasonable and justified.

Access NYC is an online resource that promotes self-sufficiency among New York City residents by providing a single point of entry to City, State, and Federal human service benefit programs. This free service helps City residents determine if they qualify for City, State, and Federal benefit programs such as Medicaid, food stamps, or help with utility bills. The Department of Information Technology and Telecommunications (DoITT) awarded a contract to Accenture LLP (Accenture) to provide systems integration services for the Access NYC Program between November 1, 2007 and October 31, 2012. The contract's value was approximately \$111 million. As of October 2012, Accenture was paid \$109,406,005.

### Results

The audit identified internal control deficiencies regarding DoITT's contract management and payment approval process. The lack of detail on timesheets and the delay in approving timesheets invalidated the timesheet review process and raised questions about DoITT's ability to determine whether work performed justified payments made.

Accenture also had a significant imputed mark-up on services provided by its subcontractors as high as 178 percent. For the contract period, subcontractors billed Accenture \$2,286,371 for services and Accenture added a mark-up of \$1,061,505. The average mark-up rate was nearly 58 percent when Accenture billed the City for those services.

Further, DoITT delayed submitting payments for certain hardware and software invoices for up to 150 days in January 2009. By not paying invoices in a timely manner, DoITT forwent the sales discount provided in the contract. In January 2009, DoITT only paid three of seven invoices on hardware and software purchases within 30 days of receipt and did not ensure the sales discount was applied to subsequent invoices as allowed under the contract.

The audit made the following four recommendations to DoITT:

- Strengthen the internal controls for its payment approval process by:
  - Reviewing and approving timesheets in a timely manner;
  - Ensuring that consultant obtains proper written approval/waiver before extra hour(s) of work performed is paid; and
  - Ensuring that hardware and software purchased by the contractor is fully supported by documentation that the quantity ordered was actually delivered.
- When feasible, take advantage of any sales discount available.
- Improve its contract monitoring policy by ensuring that all future contracts:

- Require contractors to provide more detailed information on timesheets, including but not limited to:
    - A more detailed description of work performed.
    - Work location for each specific task order if the hourly rates are affected by work location.
  - Include a clause that limits the mark-up percentage (imputed or otherwise) that contractors can charge on subcontractor services and equipment.
  - Require contractors to provide proof of delivery for all hardware and software purchased.
- Consider conducting a market survey of the hourly rates being paid for various IT consultant work titles and establish a not-to-exceed rate that should be used as a basis for future contracts.

DoITT officials disagreed with most of the audit findings and recommendations. DoITT agreed that the sales discount was not received. The total overpayment by the City was \$6,834 and Accenture has agreed to reimburse the City for this amount.

The audit suggests that DoITT specifically reconsider the recommendations requiring that contractors provide more detailed information on their timesheets and to limit mark-up percentages that contractors can charge on subcontractor work in future contracts because these are areas where significant cost savings can be achieved.

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

DoITT reported that two recommendations have been implemented: to take advantage of sales discounts when feasible and to require contractors to provide proof of delivery. The remaining two recommendations have not been implemented.

## LAW DEPARTMENT

Letter Report on the New York City Law Department's Compliance with Local Law 36

Audit #7R14-092AL

Comptroller's Audit Library #8313

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the New York City Law Department (Law Department) is in compliance with Local Law 36, which governs waste prevention, reuse and recycling by City agencies. The objective of this audit is to determine if the Law Department is complying with local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources and manage waste in a cost-effective manner. In addition, in the course of the audit, auditors noted efforts made by the Law Department to follow additional recycling rules established by the Department of Sanitation for the City of New York (DSNY) pursuant to Local Law 36. The audit of the Law Department is one in a series of audits the Office is conducting on compliance with Local Law 36.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over-arching "policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy." The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse, and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency, and where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012 and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY "summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan."

In addition, Local Law 36 requires the commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the Department's annual recycling report.

### Results

The audit found that the Law Department fully complies with Local Law 36. The Law Department source-separates its recyclable materials, has designated a lead recycling/sustainability coordinator and assistant coordinators, and has established an agency waste prevention, reuse and recycling plan which is updated and reported annually.

In addition to these findings, auditors observed that the Law Department has made additional efforts to address waste prevention, reuse, and safe handling of hazardous waste beyond the requirements of the local law. Specifically, the Law Department participates in a City-wide

contract for hazardous waste pickups by an independent contractor and also participates in City-wide training for the safe handling of hazardous materials.

The Law Department agreed with the report.

## MULTI-AGENCY

A Compilation Letter Report on the Multi Agencies' Monitoring of Their Employees Who Drive City-Owned or Personally-Owned Vehicles on City Business

Report #7R14-085S

Comptroller's Library #8295

Issued: December 18, 2013

Monetary Effect: None

### Introduction

The City Comptroller's Office has conducted a series of 10 audits of 20 agencies on the effectiveness of their monitoring of employees who drive City-owned or personally-owned vehicles on City business. These audits focused on the "City Vehicle Driver Handbook" (Handbook), which covers agencies' monitoring of their employees' driving behavior and the requirements promoting driver safety. Some of the audits focused on agency monitoring of driver usage of E-ZPass and parking permits. The 10 audits were of public safety, legal affairs, public administrators, and administrative oversight agencies. These audits were important because there were 1,431 new personal injury motor vehicle accident claims filed against the City in Fiscal Year 2012. Settling of personal injury motor vehicle accident claims cost the City \$69.9 million in FY 2012.

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. Through their Agency Transportation Coordinator (ATC), agency heads must ensure that all employees assigned a City-owned vehicle either for full-time use or temporary use is 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).

### Results

The audits generally found that most agencies effectively monitored employees who were assigned a vehicle or used their personally owned vehicle on City business. However, some of the audits identified certain agencies that were either not effectively monitoring their drivers or were unaware of the requirements outlined in the City of New York's "City Vehicle Driver Handbook." The 10 audits found a common theme in agencies' monitoring of their drivers: There was compliance at large agencies. However, smaller agencies were generally unacquainted with the City rules and regulations, or did not comply with the rules.

The audits generally found that most agencies effectively monitored employees who use an E-ZPass and parking permits while driving City-owned or personally-owned vehicles on City business in accordance with applicable rules and regulations. However, two agencies—the Department of Correction (DOC) and Board of Correction (BOC)—did not effectively monitor employees who use an E-ZPass to conduct City business. Although DOC was reimbursed for non-business usage of E-ZPass, the reimbursement did not cover the added cost of maintenance and depreciation associated with the additional mileage on a City vehicle accrued from personal usage.

With regard to BOC, its lack of effective monitoring of drivers who were assigned a vehicle or used their personally owned vehicle on City business also had a poor impact on the monitoring of its E-ZPass usage. Although the audit found no instances of personal use or abuse of E-ZPass

usage by BOC employees, the lack of monitoring as prescribed under City regulations makes for an environment easily susceptible to abuse.

## MULTI-AGENCY

Letter Audit Report on the Human Services Agencies' Monitoring of Their Employees Who Drive City Owned or Personally Owned Vehicles on City Business

Audit Number: 7R13-098AL  
Comptroller's Audit Library #8302  
Issued: June 25, 2014  
Monetary Effect: None

### Introduction

This audit determined if the human services agencies listed below effectively monitor their employees who drive City owned or personally owned vehicles on City business. These human services agencies include the following:

- Administration for Children's Services (ACS)
- Department for the Aging (DFTA)

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" (Handbook). Through their Agency Transportation Coordinator (ATC), agency heads must ensure that all employees assigned a City owned vehicle either for full time use or temporary use have been authorized to drive. It is also the ATC's responsibility to ensure that these drivers have a valid license. 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 Handbook further specifies that City agencies must establish programs that promote safety and 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 DMV's LENS program was designed to notify the ATC of any event that affects the driver's license. This includes if a license is expiring, points, accidents, and driving while impaired or 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 both human services agencies effectively monitor the driving behavior of their authorized drivers. They subscribe to the New York State Department of Motor Vehicles (DMV) License Event Notification System (LENS), receive their updates, and revoke the privileges of those drivers that have a suspended or revoked license in a timely manner as prescribed by regulations. In addition, both human services agencies provided their employees with a required safety awareness program.

In their responses, ACS and DFTA officials generally agreed with the report.



## MULTI-AGENCY

Audit Report on the Financial and Operating Practices of the New York City Water and Sewer System and the Determination of Water Rates

Audit #FN13-075A

Comptroller's Library #8294

Issued: December 11, 2013

Monetary Effect: Potential Revenue: \$42 million

### Introduction

This audit determined whether water and sewer rates were established based on reasonable assumptions, revenue and expenses reported were accurate and complete, and whether the accounts receivable data maintained in the Department of Environmental Protection's (DEP) Customer Information System (CIS) were accurate and reliable.

The New York City water and sewer system ("the System") is a network of watersheds, reservoirs, tunnels, aqueducts, water mains, sewers, treatment plants, and pumping stations, including more than 7,000 miles of pipes running from upstate New York to every building in New York City (the City). The System provides service to approximately 836,000 customer accounts in the City.

In 1984, the New York City Municipal Water Finance Authority (the Authority) and the New York City Water Board (the Board) (collectively NYW) were created to change the way the City's water and sewer infrastructure was operated and funded. Under the new structure, the Authority is primarily responsible for issuing bonds to finance the System's capital construction and infrastructure improvements and hiring a consultant to provide professional services in connection with determining water rates.

The Board leases the System from the City and is primarily responsible for establishing water and sewer rates, and ensuring revenues received are sufficient to place the System on a self-sustaining basis. The lease agreement provides for the City to manage the physical operation and capital improvement of the System, and bill and collect water and sewer charges on behalf of the Board. The operation and maintenance expenses incurred by the City are reimbursed by the Board. DEP is the primary City agency that handles the operation of the System and provides billing services to the Board.

For Fiscal Year 2012, the combined certified financial statements of the Authority and the Board reported total revenue of \$3.48 billion and expenses of \$3.5 billion.

### Results

The audit found that DEP did not maintain accurate and reliable accounts receivable data in the CIS. Accordingly, given the heavy reliance on CIS data, NYW may be underestimating the collectability of accounts receivable—a factor that can affect the rate setting process. The auditors attribute this problem to NYW's failure to establish a consistent and reasonable methodology to value accounts receivable and a lack of oversight over DEP operations.

In addition, the audit identified problems with DEP's procedures for billing and collecting revenue from customer accounts that led to at least \$15 million in foregone revenues during Fiscal Year 2012. As NYW is responsible for ensuring that the System has sufficient revenue to be "self-sustainable," ensuring that DEP collects all legitimate revenue is an important NYW function. However, there was no evidence that NYW was cognizant of DEP's problems in properly assessing late payment charges, accurately maintaining customer account information, and monitoring accounts with significant outstanding balances.

In a related matter, City owned properties operated by private entities, State owned properties, and Housing Development Fund Corporation cooperatives owed the City \$27 million in delinquent charges as of June 30, 2012. Given that these properties are largely excluded from lien sales, DEP has limited options to enforce collection of these charges. Nevertheless, there was no evidence that NYW directed DEP to pursue alternative methods to collect these funds.

Some of NYW's underlying budget decisions used to establish water and sewer rates may not be based on reasonable assumptions. To ensure that the System meets debt coverage ratios expected by rating agencies, NYW budgets to ensure a surplus. However, the actual surplus for the audit period has exceeded the amount forecasted by 24 to 41 percent over the past four fiscal years. This leads the auditors to believe NYW's cash flow projections might have over estimated the water and sewer revenue needs.

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

- Re-evaluate the methodology used to calculate the allowance for uncollectable accounts and unbilled receivables.
- Ensure the data used to calculate the allowance for uncollectible accounts is relevant, sufficient, and reliable, so that the net realized value of the accounts receivable is reasonable and appropriate.
- Use consistent accounting methods when reporting revenue including receivables, late payment charges, and allowance for uncollectable accounts.
- Work with DEP to strengthen internal controls over the billing and collection process in order to increase collectability from customers.
- Ensure DEP conducts periodic reviews of CIS account activities.
- Ensure DEP carefully reviews the customer account history and includes all eligible properties in lien sales.
- Establish alternate methods to collect delinquent charges from City-owned properties that are operated by private entities, State-operated properties, and properties exempt from lien sales.
- Ensure DEP adheres to the City's solicitation process and properly reviews all supporting documents submitted by vendors and all invoices paid were appropriate.
- Ensure cash flow assumptions are established based on data that is adequately substantiated to justify water and sewer rates before they are enacted.

### **Audit Follow-up**

NYW reported that it continues to disagree with the audit recommendations. However, NYW stated that several improvements were made to the CIS, and it will reassess its methodology for the allowance for uncollectible accounts.

## REVIEWS OF MANAGERIAL LUMP-SUM PAYMENTS

Monetary Effect: Actual Savings: \$933,351

The Comptroller’s Office 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 2014, those audits of the managerial lump-sum requests submitted by City agencies resulted in a savings to the City of New York of \$933,351:

Total number of claims in Fiscal Year 2013	808
Total amount of agency-prepared lump-sum claims	\$ 19,988,962
Total amount of lump-sum claims approved for payment	\$ 19,065,611
Claims correctly prepared by the agency	513
Claims reduced during audit	242
Claims increased during audit	53
Claims denied	0
Total dollar value of agency overpayments, before audit	\$ 943,634
Total dollar value of agency underpayments, before audit	\$ 10,283
<b>Net Savings resulting from audit</b>	<b>\$ 933,351</b>

**REVIEWS OF HIGH RISK WELFARE FUND PAYMENT VOUCHERS**

Monetary Effect:      Actual Savings:      \$ 23,602\*  
                                  Potential Savings:      \$ 286,961

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 1) the payments are in compliance with provisions contained in more than 600 agreements and 2) 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 2014, one letter report was issued to the Office of Labor Relations.

	<b><u>Number of Vouchers</u></b>	<b><u>Amount</u></b>
Total Number of Vouchers reviewed:	4,257	\$ 565,168,826
Vouchers – no errors:	3,846	\$ 264,341,127
Vouchers – with errors:	411	\$ 300,827,699
Overpayments:		\$ 318,290
Underpayments:		\$ 0

\*Collections during Fiscal Year 2014 totaled \$23,602. Part of the collection amount, \$3,525, is from overpayments identified in previous years. Agencies recouped this amount by check.

## DEPARTMENT OF PARKS AND RECREATION

Audit Report on the Health and Safety Conditions of Department of Parks and Recreation's Public Swimming Pools

Audit #MH12-137A

Comptroller's Audit Library #8281

Issued: August 22, 2013

Monetary Effect: None

### Introduction

This audit determined whether the Department of Parks and Recreation (DPR) has adequate controls in place to ensure that (1) public swimming pools are being consistently maintained and operating in a safe manner, and (2) lifeguards are qualified and properly vetted. DPR is responsible for operating both indoor and outdoor swimming pools in City parks. During the 2012 summer swimming season from June 28, 2012 through September 3, 2012, DPR operated 81 outdoor swimming pools in 55 facilities and 12 indoor swimming pools located in 11 DPR recreation centers. The Department of Health and Mental Hygiene (DOHMH) is responsible for inspecting all pools to ensure that they comply with the State Department of Health Sanitary Code and DOHMH's Health Code regulations. According to the Health Code regulations, operators of public pools must ensure that pools are maintained in a safe, clean, and sanitary condition.

The primary audit scope was Calendar Year 2012. Auditors conducted reinspections of selected pools in July 2013 to determine whether conditions they reported to DPR during the 2012 summer swimming season were addressed. For an analysis of violations issued by DOHMH, the audit scope included Calendar Year 2011.

### Results

DPR's controls to ensure that pools are consistently maintained in a safe manner need improvement. There were structural and safety conditions at some of the 39 pools auditors inspected that were not repaired. In addition, the audit found that pool personnel at some of the pools—specifically at the mini-pools—may not have consistently tested or monitored the quality of the pool water as required by DPR's own regulations.

In addition, DPR did not consistently track or address violations issued by DOHMH inspectors at City pools to ensure that the identified conditions were corrected. The audit found instances of recurring DOHMH violations that DPR did not appear to address in a timely manner. Unannounced inspections performed at 39 sampled pools identified 54 deficient conditions at 29 of them, indicating that DPR was not consistently adhering to the City Health Code, the pools' safety plans, or its own policies and procedures. For example, the audit found:

- Several safety concerns pertaining to the physical condition of the pools, including loose ladders and flooding of water on or around the deck area;
- Slip and fall hazards at several pools; and
- Instances of poor physical conditions in the locker rooms and bathrooms, including non-working showers.

The audit found that DPR ensured that its lifeguards were qualified, were properly vetted before being hired, and had been retested and recertified for the 2012 season.

The audit made 10 recommendations, five of which are listed below. DPR should:

- Establish written policies and procedures that require documentation for all pre-season inspections conducted and the results of those inspections.
- Establish written policies and procedures that explain how the conditions in need of repair are reported and addressed.
- Reinforce the requirement that Filter Plant Operators (FPO) perform all the water-quality tests in the frequency and manner stipulated by DPR regulations and ensure the results are recorded in the daily log reports.
- Track and monitor DOHMH violations to ensure that all violations are addressed and mitigated in a timely manner.
- Address the outstanding conditions cited in the report.

DPR agreed with the intent of all 10 audit recommendations. However, the agency asserted that it already complied with two recommendations regarding the development of written policies and procedures for documenting all pre-season inspections and for reporting and addressing conditions in need of repair.

### **Audit Follow-up**

DPR reported that all of the audit recommendations are being implemented. DPR also reported that a follow-up internal audit on the health and safety conditions has been initiated and a draft report is expected by the end of Calendar Year 2014.

**DEPARTMENT OF SMALL BUSINESS SERVICES**

Letter Report on the New York City Small Business Service's Compliance with Local Law 36

Audit #7R14-116AL

Comptroller's Audit Library #8310

Issued: June 30, 2014

Monetary Effect: None

**Introduction**

This audit determined whether the New York City Small Business Service (SBS) is in compliance with Local Law 36, which governs waste prevention, reuse, and recycling by City agencies. The objective of this audit was to determine if SBS complied with local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources, and manage waste in a cost-effective manner. In addition, in the course of the audit, auditors noted efforts made by SBS to follow additional recycling rules established by the Department of Sanitation (DSNY) pursuant to Local Law 36.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over arching "policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy." The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse, and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency and, where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012, and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY "summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan."

In addition, Local Law 36 requires the commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the Department's annual recycling report.

**Results**

The audit found that that SBS generally complies with Local Law 36. However, the audit found that SBS did not submit its waste prevention, reuse and recycling plan to DSNY until the fall of 2013, after this audit had commenced, notwithstanding Local Law 36's requirement that such a plan be submitted to DSNY by no later than July 1, 2011. Further, the audit found that SBS did not submit the required annual reports to its Commissioner or to DSNY.

In addition to these findings, auditors observed that SBS has made additional efforts to address waste prevention, reuse, and safe handling of hazardous waste. Specifically, SBS participates in a City-wide contract for hazardous waste pickups by an independent contractor. This participation is in accordance with DSNY's additional guidelines enacted pursuant to Local Law 36.

The audit recommended that SBS submit the required annual reports to its Commissioner and DSNY by July 1st of each year as required by Local Law 36.

The agency stated: “As noted, in your report, SBS has submitted the recycling plan and we will continue to take measures to ensure that SBS is following its waste prevention, reuse, and recycling plan. ...SBS will submit its annual reports as required by Local Law 36.”

**Audit Follow-up**

SBS reported that the audit recommendation has been implemented.



## NEW YORK CITY TRANSIT

Follow-up Audit Report on New York City Transit's Efforts to Inspect, Repair, and Maintain Elevators and Escalators

Audit # MJ12-129F

Comptroller's Audit Library #8284

Issued: September 25, 2013

Monetary Effect: None

### Introduction

This follow-up audit determined whether New York City Transit (NYCT) implemented the 17 recommendations made in a previous audit, *Audit Report on New York City Transit Efforts to Inspect, Repair and Maintain Elevators and Escalators* (#MJ10-065A) issued July 23, 2010. NYCT is the largest agency in the Metropolitan Transportation Authority's (MTA) regional transportation network. NYCT operates 24 subway lines that connect 468 active stations throughout four of the City's five boroughs and serves millions of commuters daily. The NYCT Division of Elevators and Escalators (E&E) is responsible for ensuring that all elevators and escalators in subway stations and other NYCT facilities are clean, safe, and reliable.

The prior audit disclosed weaknesses and inefficiencies that inhibited, and at times rendered inadequate, E&E's efforts to maintain, inspect, and repair station elevators and escalators. Although the NYCT E&E had a comprehensive program for the operation of subway station elevators and escalators, it did not ensure that all required preventive and scheduled maintenance system work was performed consistently. Although inspection records showed a significant portion of required equipment inspections performed, five-year safety tests were lacking.

### Results

This audit determined that overall NYCT made improvements since the prior audit in addressing weaknesses and inefficiencies in its efforts to maintain, inspect, and repair subway station elevators and escalators. Of the 17 recommendations made in the previous audit, NYCT implemented 11 and partially implemented five. One other was no longer applicable. However, NYCT needs to improve its response time to address and remediate Type A (critical) defects and has not developed a standard timeframe within which Type B (non-critical) deficiencies are to be addressed. Further, E&E needs to ensure that *all* inspections and tests are performed as required.

To address these weaknesses, the audit makes eight recommendations, including that NYCT should:

- Ensure that all required safety inspections and tests are performed as required and that second or additional inspections, if required, are conducted at the time intervals prescribed by established criteria.
- Work to improve the response time in addressing and remediating Type A defects. In addition, develop a standard timeframe within which Type B deficiencies are to be addressed and corrected.

NYCT officials agreed with all eight of the audit's recommendations.

### Audit Follow-up

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

## DEPARTMENT OF TRANSPORTATION

Letter Report on the Department of Transportation's Controls over the Processing of Notices of Violations by the Highway Inspection Quality Assurance Unit

Audit # MD13-129AL

Comptroller's Audit Library #8303

Issued: June 30, 2014

Monetary Effect: None

### Introduction

The audit determined whether the Department of Transportation's (DOT's) Highway Inspection Quality Assurance (HIQA) unit has adequate controls in place to ensure that Notices of Violations (NOVs) are properly processed and whether the unit has made adequate efforts to identify and eliminate deficiencies in its issuance process that may contribute to NOV dismissals.

NOVs are issued when there are violations of laws, rules, regulations, specifications, or stipulations. DOT NOVs are issued by two units, HIQA and the Sidewalk Management Unit. HIQA enforces the rules that govern the way utilities, plumbers, contractors, home owners and governmental agencies work on the City's streets and highways. The Sidewalk Management Unit issues NOVs to private and commercial property owners for defective sidewalks. NOVs issued by HIQA carry penalties that range from \$50 to \$5,000 depending upon the violation and fall under the jurisdiction of the Environmental Control Board (ECB), an administrative tribunal, which is a division of the Office of Administrative Trials and Hearings. NOVs issued by the Sidewalk Management Unit carry no fines and are not adjudicated by ECB. Rather, a lien is placed on the property and the NOV is filed with the County Clerk, where it remains until the Clerk receives official notification from the City that satisfactory repairs have been made.

HIQA issued 28,165 NOVs during Fiscal Year 2013, which accounted for 70 percent of the NOVs issued by DOT.

### Results

The audit found that HIQA has adequate controls in place to process NOVs. The audit identified only minor weaknesses, which we found resulted mainly from data entry errors and issues with the timely processing and supervisory review for a small number of NOVs. DOT officials have begun working on a system to electronically issue NOVs, which is intended to reduce data entry errors. The audit also found that DOT has reasonable controls in place to identify and eliminate deficiencies in its issuance process that may contribute to NOV dismissals.

Because no material weaknesses were found in DOT's controls, the audit makes no recommendations to the agency.

## DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT

Letter Report on the New York City Department of Youth and Community Development's Compliance with Local Law 36

Audit #7R14-090AL

Comptroller's Audit Library #8308

Issued: June 30, 2014

Monetary Effect: None

### Introduction

This audit determined whether the New York City Department of Youth and Community Development (DYCD) is in compliance with Local Law 36, which governs waste prevention, reuse and recycling by City agencies. The objective of this audit is to determine if DYCD complied with local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources and manage waste in a cost-effective manner. In addition, in the course of the audit, auditors noted efforts made by DYCD to follow additional recycling rules established by the Department of Sanitation for the City of New York (DSNY) pursuant to Local Law 36.

In 1989, New York City established Local Law 19, codified as Administrative Code §§ 16-301, et seq., to establish an over-arching "policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy." The law mandates recycling in New York City by residents, agencies, institutions, and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36 by which it amended the recycling provisions of Local Law 19 (Administrative Code § 16-307) to require each City agency to develop a waste prevention, reuse, and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency, and where the agency occupies more than one building, to designate an assistant coordinator for each building the agency occupies. By July 1, 2012 and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY "summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan."

In addition, Local Law 36 requires the commissioner of DSNY to adopt, amend, and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the department's annual recycling report.

### Results

The audit found that that DYCD generally complies with Local Law 36. DYCD source-separates its recyclable materials, has designated a lead recycling/sustainability coordinator and assistant coordinators, and has established an agency waste prevention, reuse, and recycling plan. However, the audit found no evidence that DYCD submitted its 2012 annual report to its Commissioner or to DSNY as required.

In addition to these findings, auditors observed that DYCD has made additional efforts to address waste prevention, reuse and safe handling of hazardous waste. DYCD has instituted double-

sided copying as a default setting and requested contractors to submit proposals electronically. All procurements are listed on DYCD's website where potential vendors are referred for information rather than provided individually through the mail. Lastly, DYCD participates in a City-wide contract for hazardous waste disposal by an independent contractor and also participates in City-wide training for the safe handling of hazardous materials. These measures were taken in accordance with DSNY's additional guidelines enacted pursuant to Local Law 36.

The audit recommended that DYCD ensure that all future annual reports will be submitted to its agency's Commissioner and to DSNY.

The agency acknowledged that "it did not submit an annual report for Fiscal Year 2012 and will take all appropriate steps to ensure that all future annual reports are submitted on a timely basis."

### **Audit Follow-up**

DYCD reported that it is implementing the audit recommendation.

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



## CLAIMS

During Fiscal Year 2014, reports were issued on claims filed against the City. The analyses of these claims result in accepted amounts that totaled: \$4,337,713. These analyses led to a potential cost avoidance of \$19,742,182 as shown below:

Total Claim Amount	\$ 24,079,895
Less: Analyses Accepted Amount	\$ 4,337,713
Potential Cost Avoidance	\$ 19,742,182

**\*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 four claims follows:

REPORT NUMBER	CLAIMANT	DATE ISSUED	CLAIM AMOUNT	ANALYSES ACCEPTED AMOUNT	DISPOSITION SETTLEMENT AMOUNT
SR14-084S	Christ the Rock World Restoration Church International	12/20/13	*	*	*
SR14-109S	Bo Quan Yu	6/25/14	*	*	*
SR14-108S	Eli Zikrey	6/24/14	*	*	*
SR13-108S	Yonkers Contracting Company, Inc.	6/27/14	*	*	*
	<b>FISCAL YEAR 2014 TOTALS</b>		<b>\$ 24,079,895</b>	<b>\$ 4,337,713</b>	<b>\$ 19,742,182</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 Economic Development Corporation (EDC), the Department of Information Technology and Telecommunications (DoITT), the Department of Parks and Recreation (DPR), and the Department of Transportation (DOT). Our audits evaluate the payments made by such entities as sports franchises and hotels. As shown below, Fiscal Year 2014 audits resulted in collecting actual revenues totaling \$ 1,565,303 and potential revenues totaling \$1,667,902. 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>
FK12-070A	8279	EDC – Howard Hughes Corporation’s Compliance with Its City Leases for the South Street Seaport Marketplace and Theater	7/25/13	\$ 101,934	\$ 1,667,902
FM12-085A	8293	DoITT – Compliance of Verizon New York, Inc.	12/9/13	\$ 1,410,000	0
FM12-122A	8276	DPR – Compliance of Statue Cruises, LLC with Its License Agreement	7/2/13	\$ 53,369	0
MJ12-127A	8282	DOT – Cemusa, NY, LLC’s Payment of Franchise Fees in Compliance with Its Coordinated Street Furniture Franchise Agreement	9/6/13	0	0
	<b>TOTAL</b>			<b>\$ 1,565,303</b>	<b>\$ 1,667,902</b>



## ECONOMIC DEVELOPMENT CORPORATION

Audit Report of the Howard Hughes Corporation's Compliance with Its City Leases for the South Street Seaport Marketplace and Theatre

Audit #FK12-070A

Comptroller's Library #8279

Issued: July 25, 2013

Monetary Effect:	Actual Revenue:	\$101,934
	Potential Revenue:	\$1,667,902

### Introduction

This audit determined whether the Howard Hughes Corporation (HHC) accurately reported Gross Receipts, properly calculated rents, and complied with other major requirements of its City lease agreements, and whether EDC, as the City's lease administrator, adequately monitored HHC to ensure its compliance with lease agreement terms. The scope of this audit was the fiscal year ending June 30, 2011. The audit scope was extended to cover the period January 1, 2007, through December 31, 2012, to expand on the effect of HHC improperly calculating its rents.

The City and HHC are parties to leases, as amended and supplemented, for designated spaces within the South Street Seaport (the Marketplace Lease and the Theatre Lease). In exchange for the use of these leased premises, HHC agreed to pay the City the greater of a Minimum Base Rent that is based on Gross Leasable Area square footage or an Alternative Base Rent of 15 percent of Gross Receipts exclusive of certain operating and administrative expenses and offset by a portion of its real estate obligation. HHC also agreed to pay supplemental rents if certain financial conditions were met.

For the year ending June 30, 2011, HHC reported Marketplace Gross Receipts of \$7.5 million for which HHC paid Minimum Base Rent of \$1.3 million and no Supplemental Rent, and Theatre Gross Receipts of \$2,000 for which HHC paid Retail Minimum Base Rent of \$22,866 and no Retail Supplemental Rent.

### Results

HHC improperly calculated Marketplace Minimum Base Rent and Theatre Retail Minimum Base Rent because it understated square footage upon which rents were based. The audit could not determine the total Marketplace Lease and Theatre Lease premises square footage and thus total minimum base rents due the City because EDC did not commission an independent certified engineering survey of the premises. However, based on an HHC survey, HHC may owe the City as much as \$1,222,751 for unpaid rents, plus accrued interest of \$547,085 for the period of January 1, 2007 through December 31, 2012.

For the period of January 1, 2011 through June 30, 2011, HHC also improperly calculated its Marketplace Alternative Base Rent because it did not generate or report income, improperly calculated imputed reimbursement rates, deducted from Gross Receipts direct reimbursements that were not supported by Subleases and Subtenant invoices, and deducted duplicative explicit and imputed reimbursements. Additionally, for the year ending June 30, 2011, HHC reported Theatre income of only \$2,000, and consequently the City did not realize any Theatre Retail Alternative Base Rent or Retail Supplemental Rent.

The review also determined that EDC did not adequately monitor HHC to ensure its compliance with lease terms.

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

- HHC should upon notification, remit to the City EDC-assessed Marketplace Minimum Base Rent and Theatre Retail Minimum Base Rent and accrued interest resulting from understated square footage for the period of January 1, 2007 through December 31, 2012.
- EDC should immediately commission an independent certified engineering survey to determine and document the Gross Leasable Area square footage, total square footage, and Landlord's Qualifying Floor Area square footage of designated spaces within the Marketplace Lease and Theatre Lease Premises.
- EDC should calculate Marketplace Minimum Base Rent and Theatre Retail Minimum Base Rent and accrued interest owed to the City resulting from understated square footage for the period of January 1, 2007 through December 31, 2012.
- EDC should send written notice to HHC advising it that unpaid Marketplace Minimum Base Rent and Theatre Retail Minimum Base Rent and accrued interest charges are to be paid in full immediately and that a failure to pay these charges in full within 15 days of written notice constitutes an Event of Default under Article 24 of the lease.

In their response, HHC officials generally disputed the audit's findings and maintained they report revenues and expenses and calculate rents due the City in accordance with the terms of its leases as amended and supplemented.

In their response, EDC officials agreed in principle with most of the report's findings and recommendations related to HHC and EDC lessees that pay income-based rent and detailed steps they took or will take to implement the recommendations. EDC did not agree to pursue collection of rents for the period of January 1, 2007 through October 21, 2010 on the basis that a Stipulation and Agreed Order dated October 21, 2010 settled "[a]ll outstanding issues concerning rent payments."

### **Audit Follow-up**

HHC reported that it remitted \$26,542.67 in additional rents and interest related to the understatement of square footage for the Theatre Lease, completed a Gross Leasable Area recertification for all the premises under the Marketplace and Theatre Leases, and paid additional rent and interest of \$75,391.28. Additionally, HHC reported that the seven recommendations regarding the calculation and payment of rent were no longer applicable because "[e]ffective June 27, 2013, HHC executed an amended and restated lease with the City of New York which simplified the calculation for rents owed to the City."

EDC reported that it fully implemented six recommendations and partially implemented one recommendation regarding the calculation, payment, and review of HHC rents, and enforcement action. However, EDC neglected to report—during the course of the audit and in its status report—that HHC leases were amended and restated and that rent payment terms were changed.

**DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS**

Audit Report on the Compliance of Verizon New York, Inc. with Its Cable Franchise Agreement

Audit # FM12-085A

Comptroller's Audit Library #8293

Issued: December 9, 2013

Monetary Effect: Actual Revenue: \$1.41 million

**Introduction**

This audit's objectives were to determine whether Verizon properly and accurately reported gross revenues on its quarterly franchise fee reports, correctly calculated and paid its franchise fees to the City on time, and complied with certain non-revenue terms of the franchise agreement (e.g., maintain the required insurance, a performance bond, letter of credit, and cash security fund). The scope of this audit covers Calendar Year 2012. The scope was expanded to the period of July 2008 to June 2013 with regard to additional procedures related to our review of advertising revenue. For Calendar Year 2012 (January 1, 2012 through December 31, 2012) Verizon reported gross revenues to the City totaling nearly \$427 million and paid related franchise fees totaling \$21.3 million.

A cable franchise agreement between Verizon New York, Inc. (Verizon) and the Department of Information Technology and Telecommunications (DoITT) permits Verizon to operate and maintain a cable system and deliver cable service throughout New York City. The agreement also requires Verizon to pay the City a franchise fee equal to five percent of gross revenue.

**Results**

From July 2008 to June 2013, Verizon understated advertising revenue on the quarterly franchise fee reports it submits to the City by approximately \$28.2 million, resulting in approximately \$1.41 million in franchise fees owed to the City. Specifically, Verizon understated \$17.1 million in advertising commissions and did not report \$11.1 million in foregone revenue from the value of advertising availabilities retained for its own use, resulting in \$855,000 and \$555,000 in franchise fees due to the City, respectively. Moreover, Verizon did not comply with certain non-revenue-related requirements of its agreement with the City, such as maintaining the required insurance.

On another issue, the Comptroller's Office and DoITT both faced significant difficulties in obtaining the sufficient and appropriate documentation necessary to perform their respective oversight functions. Some of these difficulties were due to limitations or complicating factors inherent to Verizon's internal processes that may not have been anticipated when the franchise agreement was written. Other limitations were due to non-disclosure clauses within the agreements entered into by Verizon with third parties which do not grant the City access rights to records that are deemed confidential.

The audit made eight recommendations, including the following:

Verizon should:

- Immediately remit \$1.41 million in additional franchise fees due to the City.
- Report all advertising revenues at gross (including all advertising commissions) in the quarterly franchise fee reports it submits to the City, as required by the franchise agreement, and pay the appropriate franchise fees.

- Track the value of its internal marketing advertising availabilities, report the value of such advertisements in its quarterly franchise fee reports submitted to the City, and pay the appropriate franchise fees.
- Modify existing third-party agreements to allow the Comptroller's Office and DoITT to obtain the records necessary to properly determine Verizon's compliance with the terms of the franchise agreement.
- Provide DoITT with access to all records necessary to oversee Verizon's compliance with the terms of the franchise agreement, including records that are considered confidential but are required to determine the accurate reporting of gross revenue.

DoITT should:

- Ensure that Verizon pays the \$1.41 million in additional franchise fees due to the City. As per the franchise agreement, if Verizon has not paid the franchise fees following at least 30 days written notice, DoITT should assess a nine percent late fee on the amount due.
- Ensure that Verizon accurately reports all revenue on its quarterly franchise fee reports and pays the appropriate franchise fees, as required by the franchise agreement.

In its response, Verizon officials disagreed with the audit's findings and conclusions and did not address the recommendations in the report. DoITT officials said that they were in agreement with the report's recommendations.

### **Audit Follow-up**

DoITT reported that Verizon has remitted the \$1.41 million and continues to maintain that it is not obligated to give copies of its advertising contracts to DoITT for its review. Therefore, the remaining two recommendations have not been implemented.

Verizon reported that although it disagreed with the audit's findings and recommendations, it has implemented two recommendations and continues to disagree with the remaining three recommendations.

## DEPARTMENT OF PARKS AND RECREATION

Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement

Audit # FM12-122A

Comptroller's Audit Library #8276

Issued: July 2, 2013

Monetary Effect: Actual Revenue: \$53,369

### Introduction

This audit's objectives were to determine whether Statue Cruises accurately reported its gross receipts, properly calculated the license fees due the City, paid its license fees on time, and complied with certain other major non-revenue terms of the license agreement (i.e., ensuring the licensed premises is in good order, maintaining the required security deposit, carrying the required insurance, and submitting the required reports). The audit scope was January 1, 2011 to August 31, 2012. For operating year 2011 (January 1, 2011 to December 31, 2011), Statue Cruises reported approximately \$39.6 million in gross receipts to the Department of Parks and Recreation (DPR) and paid approximately \$3.2 million in license fees.

A license agreement between Statue Cruises, LLC (Statue Cruises) and DPR permits Statue Cruises to operate and maintain three landing facilities and adjacent walkways in Battery Park for the operation of a ferry service between Battery Park and Liberty and Ellis Islands, a sightseeing cruise (Harbor Cruise), and other ferry operations such as day and night charters. In addition, Statue Cruises, with DPR's approval, may operate charter events from slips 1 and 2 in Battery Park.

### Results

The review found that Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. As a result, auditors were not able to ascertain whether all revenue is being reported. For example, there were 108 instances from March through August 2012 where Statue Cruises could not account for a total of 45,569 ticket numbers, resulting in estimated unreported revenue of at least \$592,397. Also, Statue Cruises does not use a point-of-sale (POS) system or a functioning cash register to record and process transactions at the Harbor Cruise slip. Furthermore, there was \$217,529 in verifiable charter event and Temporary Use Authorization revenue that was not reported. However, due to control issues and the reliability of the information provided, there could be additional unreported revenue. At a minimum, Statue Cruises underreported a total of \$809,926 and owes the City \$83,369—\$64,794 in additional license fees plus \$18,575 in late fees.

Additionally, Statue Cruises does not segregate its books and records from its New Jersey operation and other affiliates, and claims it did not have to pay certain City and State taxes in 2011. In addition, Statue Cruises did not maintain portions of the perimeter fencing in good order. Finally, Statue Cruises and DPR have not established guidelines for issuing and reporting complimentary tickets to the City. Statue Cruises maintained the required security deposit, carried the required insurance, and submitted the required reports in a timely manner.

The audit made the following eight recommendations:

Statue Cruises should:

- Immediately remit \$83,369 in additional license fees and late charges due the City.
- Hire a reputable outside consultant to implement the necessary internal controls that would conform to the requirements of the license agreement.

- Hire a fiscal monitor, to be approved by DPR, that would ensure adherence to established internal controls and proper reporting of gross revenue and license fees.

DPR should:

- Coordinate efforts with the appropriate taxation authorities to address Statue Cruises' non-payment of taxes. If found that Statue Cruises must pay the necessary tax, DPR should ensure immediate payment of any taxes, interest, and penalties that may be assessed.
- Ensure that Statue Cruises hires an independent consultant to implement the necessary internal controls and that it hires a competent fiscal monitor for the duration of the agreement to ensure proper reporting of gross revenue and license fees in accordance with the license terms.
- Issue a Notice-to-Cure requiring that Statue Cruises pay the \$83,369 in additional license fees and late charges due to the City, and take action to ensure that Statue Cruises corrects the internal control deficiencies identified in this report.
- In conjunction with the National Park Service, consider exercising its rights under section 3.3 (a) of the license agreement if Statue Cruises does not comply with the Notice-to-Cure.
- Periodically evaluate Statue Cruises' internal control procedures to ensure that Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.

In its response, Statue Cruises disagreed with most of the report's findings and did not respond to the report's recommendations. Specifically, Statue Cruises disagreed with the amount of missing ticket numbers and the related estimated unreported revenue. In addition, Statue Cruises disagreed with the questionable exemption for City and State taxes and the unreported TUA fees. However, Statue Cruises did agree that it underreported charter event revenue, resulting in \$1,034 additional license fees due.

In its response, DPR agreed with all of the report's recommendations.

### **Audit Follow-up**

Statue Cruises reported that it has remitted payment of \$83,369. In addition, Statue Cruises reported it has hired an IT consultant with training in POS systems that will also monitor Statue Cruises' internal controls and reporting of revenues.

DPR reported that it has reviewed the additional records provided by Statue Cruises and has determined that some of the missing ticket numbers do not represent actual sales and will credit approximately \$30,000 back to Statue Cruises. DPR also reported that the remaining audit recommendations are being implemented. DPR has referred Statue Cruises' non-payment of taxes to the appropriate taxation authorities.



## DEPARTMENT OF TRANSPORTATION

Audit Report on Cemusa NY LLC's Payment of Franchise Fees in Compliance with Its Coordinated Street Furniture Franchise Agreement with the Department of Transportation

Audit # MJ12-127A

Comptroller's Audit Library #8282

Issued: September 5, 2013

Monetary Effect: None

### Introduction

This audit determined whether Cemusa NY LLC (Cemusa) (1) accurately recorded and reported gross advertising revenue and paid the appropriate cash component of the franchise fee, and (2) provided the alternative compensation and no-cost advertising panels to the City in compliance with the franchise agreement. On May 19, 2006, the Department of Transportation (DOT) entered into a 20-year franchise agreement with Cemusa, Inc. (subsequently assigned to Cemusa, a wholly-owned subsidiary) to design, construct, install, and maintain coordinated street furniture throughout the City, including at least 3,300 bus stop shelters, 330 newsstands, automatic public toilets, trash receptacles, news-racks, and other public service structures. DOT is responsible for overseeing the franchise agreement.

Cemusa has the exclusive right to sell and place advertising on panels affixed to the bus stop shelters and newsstands. In return, Cemusa agreed to pay and/or provide the City with a franchise fee totaling \$1.39 billion over the 20-year term of the agreement, consisting of a minimum cash component of \$999 million and a non-cash component (alternative compensation) valued at nearly \$400 million in the form of advertising promoting New York City in Cemusa's like-kind markets outside of the City and abroad. The cash and non-cash components of the franchise fee are to be rendered to the City in annual amounts specified in the agreement. Cemusa also agreed to provide at no cost to the City or its marketing partner and agent, New York City and Company (NYC & Co.), up to 22.5 percent of the inventory of advertising panels citywide for NYC & Co. advertising purposes and public-service advertising.

### Results

This audit concluded that, with the exception of the value of bonus panels provided under certain contracts, Cemusa accurately recorded and reported advertising revenue and appropriately paid \$42.6 million (the guaranteed minimum)—the cash component of the franchise fee—to the City in compliance with the franchise agreement for Calendar Year 2011. It also provided up to 22.5 percent of its inventory of advertising panels within the City to NYC & Co. for its purposes. Further, Cemusa maintained adequate internal controls to provide reasonable assurance that revenues derived from advertising sales were appropriately recorded, accounted for, and reported to DOT.

However, with regard to the alternative compensation component of the franchise fee, Cemusa needs to provide the City an additional \$11,792,442 in alternative compensation (out-of-home advertising) because it mistakenly included value-added taxes in its calculation of advertising promoting New York City placed in Spain, Italy, and Portugal for the first six years (Fiscal Years 2007 – 2012) of the franchise agreement. Further, Cemusa did not report to DOT the fair market value of bonus panels extended to customers. The value of these panels should be included in Cemusa's calculation of gross revenue and subsequently used in calculating the cash component of the franchise fees due the City.

To address these weaknesses, the audit made three recommendations to Cemusa. Specifically, the audit recommended that Cemusa should:

- Compensate the City for the additional \$11.79 million in alternative compensation resulting from mistakenly including value-added taxes for years 1-6 of the franchise agreement.
- Going forward, exclude any value-added taxes when calculating the value of alternative compensation in accordance with the franchise agreement.
- Track and value bonus panels extended to its customers and report the value of such bonuses in its monthly/quarterly gross revenue reports to DOT.

In addition, the audit made two recommendations to DOT, including that DOT should meet with Cemusa and NYC & Co. to work out an acceptable plan for Cemusa to compensate the City for the \$11.79 million due in alternative compensation for years 1-6 of the franchise agreement.

Cemusa tacitly disagreed with the three recommendations made to the company through its disagreement with the related audit findings. Similarly, DOT did not directly address the two recommendations made to the agency, but appeared to support Cemusa's disagreement with the findings.

### **Audit Follow-up**

DOT reported that JCDecaux, N.A. has purchased Cemusa, Inc. and DOT will discuss with JCDecaux the additional \$11.79 million in alternative compensation owed to the City. In addition, both DOT and Cemusa, Inc. reported that the remainder of the recommendations have either been implemented or are in the process of being implemented.