

City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



FINANCIAL AUDIT

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Deputy Comptroller for Audit

Audit Report on the New York City
Taxi and Limousine Commission's
Oversight over Its Revenue Collection
Practices

FM17-082A

July 12, 2017

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

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To the Residents of the City of New York:

My office has audited the New York City Taxi and Limousine Commission (TLC) to determine whether TLC has adequate internal controls to ensure that revenues are properly collected, recorded, and reconciled and that related transactions are supported by adequate documentation. We perform audits of City agencies such as TLC as a means of increasing their accountability for City resources and revenues in their charge.

The audit determined that TLC has adequate controls over the core components of its revenue collection, recording, and reconciliation processes. However, the audit also found control weaknesses in certain aspects of TLC's operations that have fiscal implications for the City. Specifically, the audit found that TLC relaxed its rules for assessing medallion transfer taxes, which resulted in under-assessments of an undetermined amount. In addition, delays and missed opportunities in TLC's enforcement of the City Taxicab Improvement Fund (TIF) requirements contributed to an uncollected balance, as of May 2017, of \$5.7 million, or 8 percent, of the \$72.7 million of TIF surcharges paid by passengers throughout the first two years of the TIF program. These funds are supposed to be used to subsidize the cost of increasing the number of wheelchair-accessible TLC-licensed vehicles. Finally, the audit found that TLC erroneously classified approximately \$1 million of revenue derived from fines it collected following proceedings at the City's Office of Administrative Trials and Hearings (OATH).

The audit recommends that TLC should ensure its internal policies and procedures for the assessment and collection of the medallion transfer tax are consistently applied in compliance with applicable law, including applicable TLC rules. TLC should also enforce licensees' obligations to remit, on time and in full, all TIF surcharges, promptly commence enforcement proceedings against delinquent licensees, and take all necessary, lawful actions to collect the sums owed. In addition, TLC should ensure staff responsible for approving and recommending approval of medallion and SHL permit transfers require all prospective transferors to clear unpaid TIF balances before processing of any such transfer. Finally, TLC should implement sufficient controls to ensure accurate classification and reporting of fines collected as a result of OATH proceedings and review the sufficiency of related accounting procedures and controls.

The results of the audit have been discussed with TLC officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the New York City Taxi and Limousine Commission's Oversight over Its Revenue Collection Practices

FM17-082A

EXECUTIVE SUMMARY

The Taxi and Limousine Commission (TLC) was created in 1971 by Local Law 12 to regulate and improve taxi and livery services in New York City.¹ Its mission is to establish and enforce professional and uniform standards applicable to “for-hire” transportation service and ensure public safety. Pursuant to Chapter 65, §2303, of the City Charter, TLC is authorized to license and regulate the medallion taxicabs, street hail liveries (SHLs) (commonly known as “green cabs”), and other transportation service providers.² TLC also performs safety and emissions inspections of TLC-licensed vehicles, issues summonses for TLC-related violations, and oversees the sale and transfer of medallions and SHL permits.

TLC is governed by a board of nine commissioners appointed by the Mayor, one of whom is appointed as the Chair. The Chair presides over regularly scheduled public meetings and functions as the head of TLC. The administration of TLC's revenue is governed by Comptroller's Directives that prescribe methods for revenue-collection and recording for City agencies.

TLC's main revenue categories include fees paid in connection with licensing and inspections, fines, and medallion sales. For Fiscal Years 2015 and 2016, TLC reported total revenue of \$95 million and \$85 million, respectively. Further, TLC administers the collection of other revenue related to its Taxicab Improvement Fund (TIF) and the medallion transfer tax.³ TIF revenue, which is collected through a \$0.30 per ride fare surcharge, is used to subsidize the cost of increasing the number of wheelchair-accessible TLC-licensed vehicles.⁴ In addition, TLC, on behalf of the

¹ TLC's authority is set forth in City Charter Chapter 65. Rules applicable to TLC are found in Title 35 of the Rules of the City of New York (RCNY), Chapters 51–84.

² Medallions are aluminum plates affixed to the hood of taxicabs to represent physical evidence of a taxicab license. The medallion system was established in 1937 through the Haas Act, which was passed to limit the number of taxicabs and regulate the industry.

³ The TIF initiative commenced on January 1, 2015, to generate revenue to be used to increase the number of wheelchair-accessible TLC-licensed vehicles on the road.

⁴ SHL permittees are also required to collect and pay surcharges similar to TIF surcharges that are called Street Hail Livery Improvement Fund, or SHLIF, surcharges. Where this report refers to TIF surcharges that term also refers to SHLIF surcharges, unless otherwise indicated.

New York City Department of Finance (DOF), collects a tax that is levied on all medallion transfers.⁵

We conducted this audit to determine whether TLC has adequate internal controls to ensure that revenues are properly collected, recorded, and reconciled and that related transactions are supported by adequate documentation.

Audit Findings and Conclusion

Our audit determined that TLC has adequate controls over the core components of its revenue collection, recording, and reconciliation processes. However, we also found control weaknesses in certain aspects of TLC's operations that have fiscal implications for the City. Specifically, we found that TLC relaxed its rules for assessing medallion transfer taxes, which resulted in under-assessments of an undetermined amount. Based on our review of 100 transfers out of 232 that occurred during our audit scope period, we identified 8 transfers that were assessed for lower amounts than required by applicable rules, which resulted in the total amount of the assessments being \$29,225 less than it should have been. In addition, delays and missed opportunities in TLC's enforcement of TIF requirements contributed to an uncollected balance, as of May 2017, of \$5.7 million, or 8 percent, of the \$72.7 million of TIF surcharges paid by passengers throughout the two preceding fiscal years. Finally, we found TLC erroneously classified approximately \$1 million of revenue derived from fines it collected following proceedings at the City's Office of Administrative Trials and Hearings (OATH).⁶

Audit Recommendations

To address these issues, we make a total of four recommendations, specifically, that TLC should:

- Ensure that its internal policies and procedures for the assessment and collection of the medallion transfer tax are consistently applied in compliance with applicable law, including applicable TLC rules. If rule changes are warranted, follow the procedures prescribed by applicable law for effecting such changes.
- Enforce licensees' obligations to remit, on time and in full, all TIF surcharges, promptly commence enforcement proceedings against delinquent licensees, and take all necessary, lawful actions to collect the sums owed.
- Ensure that staff responsible for approving and recommending approval of medallion and SHL permit transfers require all prospective transferors to clear unpaid TIF balances before processing of any such transfer.
- Implement sufficient controls to ensure accurate classification and reporting of fines collected as a result of OATH proceedings and review the sufficiency of related accounting procedures and controls.

⁵ On March 21, 2017, Local Law 58 changed the medallion transfer tax from 5 percent to 0.5 percent. The law is codified at New York City Administrative Code §11-402(a). During the audit scope period, if a medallion was sold for less than fair market value as determined by TLC, the 5 percent tax was assessed on fair market value rather than the sale price, unless the parties to the sale obtained a waiver from DOF. RCNY, Title 35, §58-45(g)(2).

⁶ OATH is an independent administrative law court created to conduct hearings on matters pertaining to City agencies' licensing, regulatory, and enforcement authority.

Agency Response

In its written response, TLC summarized its efforts and progress to date in relation to the collection of revenue generally, and referred to certain actions it planned to take to address issues identified in the audit. Although TLC responded to each audit recommendation, in most instances it neither expressly agreed nor disagreed with those recommendations. Preliminarily, in response to the recommendation that it ensure it consistently applies its rules related to the imposition of the medallion transfer tax, TLC contends that it can restore consistency between its rules and its internal policies without actually changing its published rules. With regard to the additional recommendations, TLC does not clearly state whether it will promptly commence enforcement proceedings to collect delinquent TIF surcharges as recommended. Similarly, TLC does not make clear whether it will instruct its staff to require clearance of all outstanding TIF charges before approving or recommending approval of the proposed transfer of a medallion or permit, which is also recommended.

AUDIT REPORT

Background

TLC was created in 1971 by Local Law 12 to regulate and improve taxi and livery services in New York City. Its mission is to establish and enforce professional and uniform standards applicable to “for-hire” transportation service and ensure public safety. Pursuant to Chapter 65, §2303, of the City Charter, TLC is authorized to license and regulate medallion taxicabs, SHLs, and other transportation service providers. According to recent reports, the industry regulated by TLC is currently undergoing radical changes with the emergence of app-based ride sharing services that are competing with medallion and livery cabs in New York City.⁷ That shift in industry economics has resulted in a rapid decline of the market price of the taxi medallions that TLC regulates. Medallions that were reported to be selling for over \$1 million as recently as 2014 are now reported as selling for between a quarter to half that amount.⁸

TLC licenses and regulates more than 100,000 vehicles and 150,000 drivers. It also performs safety and emissions inspections of the 13,587 medallion taxicabs three times a year, as well as inspections of TLC-licensed for-hire vehicles twice a year. In addition, TLC issues summonses for TLC-related violations and oversees the sale and transfer of medallions and SHL permits. Further, TLC approval is required by law for all transfers of medallions.⁹ During our audit scope period, a five percent transfer tax was levied on the buyer based on the price paid for the medallion at the time of a transfer. However, if the price paid was below the Fair Market Value (FMV) as calculated by TLC, the buyer would pay the five percent tax on the established FMV, unless the buyer obtained a waiver letter from DOF.¹⁰ In that case, the buyer would pay the tax based on the actual purchase price.

TLC is governed by a board of nine commissioners appointed by the Mayor, one of whom is appointed as Chair. The Chair presides over regularly scheduled public meetings and functions as the head of TLC. The administration of TLC’s revenue is governed by Comptroller’s Directives that prescribe methods for revenue collection and recording practices for City agencies. For this audit, we focused on TLC’s compliance with Comptroller’s Directive #11, *Cash Accountability and Control* and Directive #21, *Revenue and Receivable Monitoring*. Together, those two Directives outline and provide the minimum requirements for cash-related internal controls; recognition criteria for revenues and receivables; and guidance for the billing, collection and control over all City revenues and receivables, including TLC’s.

⁷ Services such as Uber and Lyft are just two of the smartphone application-based services that have become popular in New York City.

⁸ Mosendz, P. *Taxi Medallion Prices Are Plummeting, Endangering Loans*, Bloomberg, Jan. 30, 2017 <https://www.bloomberg.com/news/articles/2017-01-30/taxi-medallion-prices-are-plummeting-endangering-loans>;
Furfaro, D. *Taxi medallions reach lowest value of 21st century*, NY Post, Apr. 5, 2017 <http://nypost.com/2017/04/05/taxi-medallions-reach-lowest-value-of-21st-century/>.

⁹ See New York City Administrative Code, Title 19, Chapter 5, Transportation of Passengers for Hire by Motor Vehicles, §§19-504, 19-512.

¹⁰ TLC assesses the medallion transfer tax on “the greater of: (i) the actual consideration being paid for the transfer; and (ii) the Fair Market Value [FMV].” FMV is the “average value of arms-length transactions for similar Medallions during the prior calendar month, as determined by the Commission.”

TLC's main revenue categories include fees paid in connection with licensing and inspections, fines, and medallion sales. For Fiscal Years 2015 and 2016, TLC reported total revenue of \$95 million and \$85 million, respectively. The following table illustrates all revenue collected and the associated categories reported by TLC during Fiscal Years 2015 and 2016.

Table I

Summary of Revenue Reported for
Fiscal Years 2015 and 2016

TLC Revenue ¹¹	FY 2015		FY 2016	
	Amount	% of Total Revenue	Amount	% of Total Revenue
Licensing & Inspection	\$ 56,332,844	59.00%	\$ 65,959,552	77.86%
Re-inspection	\$ 655,704	0.69%	\$ 651,257	0.77%
Fines	\$ 15,342,234	16.07%	\$ 16,275,560	19.21%
Seized Vehicles Auctioned	\$ 88,181	0.09%	\$ 14,695	0.02%
New Medallion Sales	\$ 20,875,061	21.86%	\$ -	0.00%
Taxicab Rooftop Advertising	\$ 529,610	0.55%	\$ 537,750	0.64%
Other Fees and Miscellaneous Income	\$ 1,657,249	1.74%	\$ 1,273,198	1.50%
Total TLC Revenue	\$ 95,480,883	100.00%	\$ 84,712,012	100.00%

Further, TLC administers the collection of other revenue related to the TIF and to the medallion transfer tax. TIF revenue is collected through a \$0.30 per ride fare surcharge, which is used to subsidize the cost of increasing the number of wheelchair-accessible TLC-licensed vehicles. In addition, TLC, on behalf of DOF, also collects the tax that is levied on all medallion transfers, which was at the rate of five percent during our audit scope period. The following table illustrates revenue amounts collected on behalf of TIF and DOF reported by TLC for Fiscal Years 2015 and 2016.

Table II

Summary of Revenue Administered
by TLC for Fiscal Years 2015 and
2016

TLC Revenue Administered	FY 2015 Amount	FY 2016 Amount
Taxicab Improvement Fund	\$ 11,856,321	\$ 41,475,604
Medallion Transfer Tax	\$ 2,255,043	\$ 1,406,004
Total Non-TLC Revenue	\$ 14,111,364	\$ 42,881,608

In 2013, TLC entered into a Memorandum of Understanding (MOU) with DOF to develop the License Application, Renewals and Summonses (LARS) online payment system as part of the

¹¹ For TLC revenue, we calculated the percentage of total revenue for each group based on the total revenue of \$95,480,883 and \$84,712,012, reported in the Comprehensive Annual Financial Report for Fiscal Years 2015 and 2016, respectively.

Citywide Payments and Receivables Program. Through that system, daily online payment information collected via LARS is entered into the City's Financial Management System (FMS) through the New York City Financial Information Services Agency, and updated into TLC's Taxi Affairs Management Information System (TAMIS).¹² Payments collected in person are also processed through TAMIS. All deposits of such online and in-person payments are automatically transferred to the City treasury on a daily basis.

Objectives

To determine whether TLC has adequate internal controls to ensure that:

- Revenues were properly collected, recorded, and reconciled; and
- Revenue transactions were supported by adequate documentation.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit was Fiscal Years 2015 and 2016 (July 1, 2014, to June 30, 2016). Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with TLC officials during and at the conclusion of this audit. A preliminary draft report was sent to TLC and was discussed at an exit conference held on May 30, 2017. On June 6, 2017, we submitted a draft report to TLC with a request for written comments. We received a written response from TLC on June 16, 2017.

In its written response, TLC summarized its efforts and progress to date in relation to the collection of revenue generally, and referred to certain actions it planned to take to address issues identified in the audit. Although TLC responded to each audit recommendation, in most instances it neither expressly agreed nor disagreed with those recommendations. Preliminarily, in response to the recommendation that it ensure it consistently applies its rules related to the imposition of the medallion transfer tax, TLC contends that it can restore consistency between its rules and its internal policies without actually changing its published rules. With regard to the additional recommendations, TLC does not clearly state whether it will promptly commence enforcement proceedings to collect delinquent TIF surcharges as recommended. Similarly, TLC does not make clear whether it will instruct its staff to require clearance of all outstanding TIF charges before

¹² TAMIS is TLC's system of record for all licensee information. As such, it contains information on licensees' initial applications, their license status, training and test results, settlement, summons and point information, license renewals and payment records. TAMIS resides on a City computer system maintained by the New York City Department of Information Technology & Telecommunications.

approving or recommending approval of the proposed transfer of a medallion or permit, which is also recommended.

The full text of TLC's response is included as an addendum to this report.

FINDINGS

Our audit determined that TLC has adequate controls over the core components of its revenue collection, recording, and reconciliation processes. We found that TLC's collections are fully automated and that its transactions are accurately recorded, independently reconciled and adequately supervised.

However, our audit also found certain control weaknesses in other aspects of TLC's operations that have fiscal implications for the City. In particular, we found:

- TLC did not consistently enforce its rules for calculating medallion transfer taxes and as a result, under assessed medallion transfer taxes due to the City.
- TLC did not adequately enforce procedures for the timely remittance of TIF surcharges by its licensees. As a result, as of May 3, 2017, TLC had not collected approximately \$5.7 million, or 8 percent, of the \$72.7 million in TIF surcharges its licensees collected from passengers between January 2015 and June 2016.
- TLC erroneously classified \$1 million in fine revenue due to a coding error in the billing function.

These issues are discussed in detail in the following sections of this report.

TLC Did Not Consistently Enforce Its Rules for Calculating Medallion Transfer Taxes

Chapter 58 of Title 35 of the Rules of the City of New York establishes rules and procedures relating to the licensing and operation of taxicabs, including requirements for the transfer of medallions. Among other things, during our audit scope period, the regulations imposed a five percent tax on all medallion transfers that TLC collects on behalf of DOF.¹³ During Fiscal Years 2015 and 2016, TLC reported 232 transfers of independent and mini-fleet medallions that resulted in the collection of approximately \$4 million in transfer tax revenue. However, our review of 100 sampled medallion transfers found that TLC did not consistently follow its rules for processing medallion transfers and calculating the tax. Specifically, TLC sometimes calculated the transfer tax based on sales at below FMV without requiring the parties to obtain required waivers from DOF, as described below.

Of the 100 sampled medallion transfers completed during Fiscal Years 2015 and 2016, we found 24 medallions that were transferred at below FMV, where no DOF waiver letter was obtained and TLC nonetheless assessed the five percent medallion transfer tax based on the below-FMV sale price. Under TLC's rules, codified in Title 35 of the Rules of the City of New York, Chapter 58, if a medallion is transferred for less than its FMV, the buyer must either pay the tax based on FMV or provide TLC with a waiver letter from DOF along with other supporting documentation, in which case, the tax would be based on the lower sale price.¹⁴ According to TLC, because of the rapidly falling medallion prices, in August 2015, it changed its procedures and stopped requiring a DOF waiver letter from the buyer before assessing the medallion transfer tax on the below-FMV sale price.

¹³ 35 RCNY §58-43.

¹⁴ 35 RCNY §§58-03(l),(t), 58-45(g)(2).

Notwithstanding TLC's explanation, we found that 8 of the 24 below-FMV medallion transfers with no DOF waiver letter occurred between July 2014 and November 2014, between 9 and 13 months *before* TLC changed its internal procedures. In each of those eight medallion transfers, the sale price paid was below TLC's internally-calculated FMV, but TLC assessed the medallion transfer tax based on below-FMV sale price. As a result, the transfer taxes that TLC assessed in those 8 instances were lower by a combined total of \$29,225 than the amounts TLC would have assessed had it followed its rules.

We also found that even after August 2015—the month that TLC reportedly began assessing the medallion transfer tax on actual sale prices below FMV with no DOF waiver—its practice was inconsistent. Specifically, for transfers that occurred from August 2015 through June 2016, we found 16 instances of medallion transfers in our sample where the medallions were transferred at below FMV with no DOF waiver letters obtained by TLC before it approved the transfer and 2 other below-FMV medallion transfers in which TLC obtained DOF waiver letters. In all 18 cases, TLC assessed the five percent transfer tax on the lower sale price and not on the higher FMV.

While TLC maintains that it changed its internal procedures in response to falling medallion prices, we note that it did not formally revise the applicable rules that govern medallion transfers and, based on our sample, it did not consistently apply its new informal procedures. Both facts raise concerns.

Absent a formal rule change with a 30-day notice and comment period as required by the City Administrative Procedures Act, the public is less likely to have notice and an opportunity to comment regarding such changes, and therefore, it is possible that varying views on the efficacy of such changes might exist and be less likely to be considered. In addition, there is a greater chance that such changes in internal procedure would result in an inconsistent application of the affected rules, as we observed was the case in our sample. Further, in the absence of a formal rule change and the attendant mandatory comment period, there is less likelihood that the concerns that prompted implementation of the rule in the first place will be adequately addressed, for example, by a change in the rules. Thus, we question TLC's informal decision not to enforce formally promulgated rules.

TLC Response: “During the audit scope period, TLC corresponded with the Department of Finance (DOF) with respect to the sale/transfer of medallions. The amount of time it took to process a DOF waiver letter was impacting the closing of some transfers, and it seemed reasonable to offer exceptions to the waiver letter requirement in some circumstances, such as a foreclosure sale. TLC obtained guidance from DOF on how to calculate the transfer tax in a variety of cases, and TLC agreed to calculate the tax based on the actual consideration, unless there were circumstances that required further DOF review.”

Auditor Comment: TLC did not provide us with requested documentation of the guidance it received from DOF. In any event, TLC's decision to stop enforcing its published rule was not memorialized in writing and was inconsistently applied in practice, in effect diminishing the transparency of TLC's policy. If the current rule is impractical, steps should be taken to change it by following the legally prescribed process for doing so.

TLC Did Not Enforce Its Own Procedures for the Timely Collection of TIF Surcharges

Although TLC has established adequate procedures for the collection of TIF surcharges, it did not ensure that payment deadlines were properly enforced. As a result, we found that, as of May 3, 2017, TLC had not collected approximately \$5.7 million or 8 percent of the \$72.7 million TIF surcharges it assessed for the period of January 2015 through June 2016—money that its licensees had collected from passengers 11 to 28 months earlier. Since those funds are designated for use in increasing the number of wheelchair-accessible vehicles, full and prompt payment of the surcharge is important to helping achieve the City's goals.

In accordance with Comptroller's Directive #21, Section 3.0, it is the responsibility of the agency's Chief Financial Officer to ensure a "disciplined follow up of all overdue payments" and to promptly forward "overdue receivables to internal law and/or collection units," which in this case is TLC's summoning unit. Our review of TLC's Industry Notice #15-13, indicated that owners and drivers were required to pay the TIF surcharges by the first day of the second month following the quarter end. Further, Industry Notice #15-13 states that failure to submit the payment within the mandated timeframe could result in a summons and the imposition of fines and/or possible suspension of the license until payment is made. However, during our audit scope period, TLC's practices for collecting overdue TIF surcharges were neither in compliance with Comptroller's Directive # 21, nor did they effectively support the requirements set forth in the TLC Industry Notices.

In two separate instances where TIF surcharges were overdue, we found that TLC allowed a medallion owner and a SHL permit owner to pay their outstanding TIF surcharges almost two years after the original due dates. In those two instances TLC did issue summonses based on the owners' failure to remit the TIF surcharges they had collected. Thereafter, TLC settled with the two owners, gave them both additional time to pay their past-due TIF surcharges, and further allowed them 50 days to settle future TIF charges. Moreover, in our sample of 10 licensees with outstanding TIF balances, we found that as of May 3, 2017, TLC never issued summonses to at least 7 licensees with outstanding TIF surcharge balances totaling \$21,228, some dating back as long as two years. Delays in TLC's collection of TIF surcharges raise a concern that it may be perceived as tolerating nonpayment and late payment of TIF charges, which will ultimately diminish the likelihood of its receiving full and prompt payment from the owners.

We also found that TLC missed opportunities to collect a portion of the \$5.7 million in outstanding TIF surcharges when it approved medallion and SHL permit transfers from licensees with past-due TIF assessments. For example, our review of 100 sampled medallion transfers within our audit scope period found that TLC processed and approved 6 of them without requiring payment of \$6,302 in unpaid TIF surcharges. TLC's rules regarding medallion transfers require owners to clear all open items and outstanding balances at the time that the ownership of medallions and permits are transferred.¹⁵ That requirement includes arrears in the payment of TIF surcharges, but it was not enforced in the six abovementioned instances, and TLC thereby missed what may have been its best opportunity to ensure that money that its licensees collected from taxicab and SHL passengers for the purpose of increasing wheelchair accessibility in the City's licensed taxicabs would in fact be deposited in the fund established for that purpose.

¹⁵ 35 RCNY §58-46(b) & §82-44(b)(5).

TLC Erroneously Classified More Than \$1 Million in Fine Revenue

TLC misclassified the fine revenue that resulted from OATH adjudications of disputed summonses. According to an interagency agreement between TLC and OATH, dated July 1, 2011, TLC transferred its summons adjudication functions to OATH. In connection with that transfer, it was decided that all fine revenue generated as a result of OATH adjudications of TLC summonses would be reported in the City's financial records as revenue collected by OATH. However, our review found that because TLC erroneously used a TLC revenue code rather than the OATH revenue code on a payment form that licensees received following OATH proceedings, during Fiscal Years 2015 and 2016, TLC reported \$1,009,587 in payments submitted with such forms as TLC revenue.

TLC Response: "In the past, TLC determined this revenue is TLC revenue, in part considering that it is derived from enforcement activity undertaken and initiated by the TLC. This involved a collective TLC staff effort among enforcement and prosecution personnel, and the costs of enforcement actions paid from the TLC's budget, such as staff time, postage, and mailing supplies. Roughly one-third of the fine revenue cited in the audit report was the result of default judgments, in which an individual did not attend their OATH hearing, but TLC collected payment by initiating actions to enforce the default judgments, and collect outstanding debt."

Auditor Comment: The issue identified in the audit was not whether the fines that TLC collected arguably could have been classified as TLC revenue based on its expenses and level of effort, but whether they were classified in accordance with the applicable criteria. TLC informed us during the audit that its agreement with OATH provided that TLC would credit OATH with all fine revenue it collected as a result of OATH's adjudications of TLC's summonses. Our finding is based on that criterion and we urge TLC to conform its practices to its agreement.

RECOMMENDATIONS

TLC should:

1. Ensure that its internal policies and procedures for the assessment and collection of the medallion transfer tax are consistently applied in compliance with applicable law, including applicable TLC rules. If rule changes are warranted, follow the procedures prescribed by applicable law for effecting such changes.

TLC Response: “TLC is reviewing this policy with DOF and will clearly document in writing any agreed-upon revisions to the policy as to when a waiver letter is required from DOF before approving a transfer. At this time a change to TLC rules regarding fair market value is not necessary, because the rules do not require that TLC calculate a fair market value, and the limited number of transactions and variability in prices, among other factors, make it inadvisable to do so. . . . Moreover, the TLC believes that the issue can be addressed with a clarification of the collection process between the TLC and DOF and would not require rulemaking.”

Auditor Comment: We acknowledge and credit TLC’s commitment to put revisions to its policies regarding DOF waiver letters in writing. We believe that it is equally important that TLC ensure that its internal policies and procedures—including those that involve interaction with DOF on the collection of the medallion transfer tax—are consistent with TLC’s rules. The audit report cites four relevant provisions of TLC’s published rules, which are codified in Title 35, Chapter 58 of the Rules of the City of New York.

- One rule provides an overview of the requirements for the transfer of an interest in a taxicab medallion between private parties, including, among others, “Transfer Tax Payment. A Transferee of a Taxicab Medallion must satisfy his or her transfer tax liability as determined by the NYC Department of Finance, prior to or at the time of transfer.” 35 RCNY § 58-43.
- The second provision states, “If the transfer [of a taxicab medallion] is by gift or is for less than Market Value, the Transferee *must produce a waiver letter from the NYC Department of Finance* along with any documentation referred to in the waiver.” 35 RCNY § 58-45(g)(2). [Emphasis added.]
- The third provision defines Market Value, “in reference to the transfer of a Taxicab Medallion . . . [as] the greater of (i) the actual consideration being paid for the transfer; and (ii) the Fair Market Value.” 35 RCNY § 58-03(t).
- Fair Market Value, in turn, is defined as follows: “Fair Market Value in reference to the transfer of a Taxicab Medallion is the average value of arms-length transactions for similar Medallions during the prior calendar month, *as determined by the Commission.*” 35 RCNY § 58-03(l). [Emphasis added.]

Inasmuch as one rule expressly requires a DOF waiver letter when a medallion is transferred for less than market value, and a second rule makes the fair market value as determined by TLC a proxy for market value, it is not clear how a process that dispenses with TLC’s determination of fair market value can be consistent with the current rules. It is also unclear what purpose is served by retaining—as opposed to changing—rules that are not being followed or enforced. Accordingly, we urge TLC to restore consistency—and transparency—between its rules and its policies and procedures, including by changing its rules in accordance with the public notice procedures prescribed by applicable law, if rule changes are warranted.

2. Enforce licensees' obligations to remit, on time and in full, all TIF surcharges, promptly commence enforcement proceedings against delinquent licensees, and take all necessary, lawful actions to collect the sums owed.

TLC Response: "Of the \$5.7 million in outstanding surcharge payments, roughly 15 percent have entered into payment plans with the TLC. Those on payment plans may receive TIF funds only after paying off their outstanding balances, while also staying current on new surcharge invoices. For the remaining owners, TLC has issued directives and will pursue all necessary enforcement action to ensure those funds are collected."

Auditor Comment: Although TLC indicated its intention to take all necessary enforcement action to collect the outstanding TIF surcharges, it did not propose any changes to its existing procedures to reduce the current backlog. TLC should promptly commence enforcement proceedings to collect the surcharges from delinquent licensees.

3. Ensure that staff responsible for approving and recommending approval of medallion and SHL permit transfers require all prospective transferors to clear unpaid TIF balances before processing of any such transfer.

TLC Response: "Starting in May 2016, TLC has used an updated 'Buyer Certification' form, in which the buyer acknowledges responsibility for remittance of all monies collected for various taxes and surcharges, including the Taxi Improvement Surcharge."

Auditor Comment: By updating the buyer certification form, TLC shifted the responsibility for paying outstanding TIF surcharges to the new owner. However, the cases we reviewed provide no reason to believe that making the new owners responsible will result in speedier payments. To the contrary, of the six transferred medallions with past-due TIF surcharges outstanding as of May 2017, four of the transfers had been processed by TLC eleven months earlier—in June 2016—after TLC updated the abovementioned form. Bearing in mind that the TIF surcharges were collected from passengers on the premise that the money would be set aside to improve the wheelchair accessibility of TLC-licensed vehicles, there is no justification for allowing those funds to be retained by anyone for any other purpose. Accordingly, we continue to recommend that TLC enforce its rule that requires clearance of the outstanding surcharges, particularly TIF surcharges, at the time of the transfer, which may be its best opportunity to do so.

4. Implement sufficient controls to ensure accurate classification and reporting of fines collected as a result of OATH proceedings and review the sufficiency of related accounting procedures and controls.

TLC Response: "TLC is reviewing the recommendation and will clarify a definition of 'fine revenue' to ensure accurate classification and reporting of fines."

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope was July 1, 2014, through June 30, 2016.

To obtain an understanding of TLC's operations, we reviewed prior audit reports issued by the City Comptroller's Office. We also reviewed TLC's rules and regulations related to its licensing, summoning, inspection, as well as medallion sale and transfer practices. In addition, we reviewed the interagency agreement regarding the transfer of adjudications functions to OATH and the MOU with DOF regarding TLC's participation in the Citywide Payments and Receivables Program. In addition, we reviewed the MOU with DOF regarding the transfer of the docketed judgments to DOF for collection and TLC's letter to authorize the Law Department to settle outstanding fines or penalties owed to TLC.

To obtain an understanding of TLC's internal control structure over its revenue collection practices, we conducted walkthrough meetings and site observations, and interviewed relevant agency personnel and officials. To obtain an understanding of TLC's Management Information System, we conducted walkthroughs and observed demonstrations of TLC's TAMIS and Electronic Summoning and Administration Program (ESAP).¹⁶

To determine whether TLC's revenues were properly collected and recorded, we judgmentally sampled all of TLC's related bank accounts for the month of June 2016, the last month of our audit scope. After determining the revenue collected by all bank accounts, we compared the revenue collected with the total revenue reported in TLC's Monthly FMS Reconciliation of Cash Basis Revenue for June 2016 to identify any discrepancies.

To determine whether TLC's license revenue was properly collected and deposited, we randomly sampled 10 active licensees from the 208,625 licensing payments in TAMIS during Fiscal Year 2016, and traced the licensing payments to the bank records. To ascertain the accuracy of the TAMIS database, we randomly sampled 10 licensing payments from the 532 Citibank records for June 30, 2016, the last day of our audit scope, and traced them to TAMIS.

To determine whether TLC properly recorded and reported its fine revenue, we reviewed the fine revenue recorded in the City's FMS and the related TAMIS data to determine whether TLC properly classified the fine revenue. In addition, we judgmentally selected 30 samples from 455 administrative settlement offers ensuring we included various types of administrative summons. Further, we selected 30 consumer complaint settlements (1,142 total settlements) issued in June 2016, the last month of our audit scope, to determine whether the related fine revenue was properly collected.

¹⁶ ESAP is TLC's primary system for summoning. It produces summonses for street summoning, administrative summoning, consumer complaint summoning and vehicle inspection summoning. It also produces directives to licensees that will lead to a summons if the recipient fails to comply within the time specified in the directive. Pertinent information about each settlement and summons is uploaded to TAMIS.

To determine whether TLC properly tracked the outstanding fines, we reviewed a list of outstanding settlement offers and summonses issued during our audit scope as of February 27, 2017. We randomly sampled 10 open summonses out of 4,920 with open guilty disposition codes to ascertain the status of the licensees in TAMIS. We also reviewed the collection data from the Law Department and traced the collections to TAMIS to determine whether the payments were properly updated in TAMIS.

To determine whether TLC properly collected and deposited the vehicle auction revenue, we reviewed the contract with a third party for the towing, storage and auctions of seized vehicles. We also reviewed other auction related documents to determine whether TLC collected and recorded its share of net proceeds. We also analyzed the records related to the entire auction process including advertisements, auction prices, and winning bidders to assess whether the auctions were properly conducted.

To determine whether the medallion sales revenue was properly recorded and reported, we compared the final list of winning bids for the medallions sold in the 2013 and 2014 auctions with the tentative bids to identify the withdrawn bids. We also determined whether the nonrefundable down payments were retained as revenue in accordance with TLC's medallion sales policies. We also summarized the medallion winning bids and the nonrefundable down payments and compared it with the reported revenue for inaccuracy. Medallion sale information was verified through TAMIS to ensure the medallions sold were properly recorded and no other medallions were issued other than those of the reported sales.

To determine whether TLC properly administered the medallion transfers and accurately determined the transfer tax in accordance with TLC's rules and regulations, we judgmentally selected to review the supporting documentation of 100 out of a total of 232 medallion transfers that resulted in a transfer tax for Fiscal Years 2015 and 2016. We also recalculated the five percent transfer tax based on the methodology provided by TLC. We also verified with TAMIS to ensure no medallions were transferred without settling any outstanding fines or TIF payments.

To determine whether TLC properly billed the TIF surcharges for our audit scope, we compared the surcharges billed with the monthly trip data posted on TLC's website from January 2015 through June 2016, the daily trip data total for June 2016, and the details of trip data for June 30, 2016, to identify any significant discrepancies. To determine whether the TIF surcharges were timely collected, we reviewed the collection data provided by TLC as of January 2017 and established an outstanding list of licensees with unpaid TIF surcharges. From the outstanding list, we judgmentally sampled 10 out of 4,178 licensees ensuring we included both SHL and medallion licensees to review the collection documents and to ascertain their individual collection status. We also reviewed the information related to the outstanding amounts owed by a single agent. In addition, we obtained a list of outstanding TIF surcharges as of May 3, 2017, with respect to the surcharges billed for our audit scope, to assess the adequacy of TLC's collection efforts.

The results of the above tests, while not projectable to their respective populations, provided a reasonable basis for us to evaluate whether or not TLC properly collected, recorded, and reconciled revenues and revenue transactions were supported by adequate documentation.



June 15, 2017

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**RE: Audit Report on the New York City Taxi and Limousine
Commission's Oversight over Its Revenue Collection Practices No.
FM17-082A**

Dear Ms. Landa,

The Taxi and Limousine Commission (TLC) has reviewed the audit report concerning oversight over revenue collection practices dated June 6, 2017. We appreciate the opportunity to submit comments, and this response letter addresses the four recommendations made in the audit report.

TLC focuses on equitable service delivery through its commitments to access and safety for all New Yorkers. We now license over 160,000 drivers and 100,000 vehicles. We are on track to receive 50,000 new driver license applications and 35,000 new vehicle applications by the end of this fiscal year, increases of 10 percent and 31 percent over the prior year, respectively. In this time of continued growth in the industries we regulate, our challenge is to maintain and improve our standards of customer service, accessibility, safety and accountability.

Revenue collection is a key part of our day to day operation. We work hard to make it easier to do business with the TLC. In 2016, we started processing more transactions online and through e-mail, including applications for a new license. Electronic payments now account for two-thirds of agency revenue up from 46 percent the previous year. Licensees can also make payments in person at our facility in Long Island City's Falchi Building, which opened in 2015. Moreover, we have strengthened our internal controls on existing practices, and established systems and processes for collecting and managing new sources of revenue, such as the Taxi



Improvement Fund Surcharge.

As stated in your report “TLC has adequate controls over the core components of its revenue collection, recording, and reconciliation processes” and “collections are fully automated and...transactions are accurately recorded, independently reconciled and adequately supervised.” Indeed, TLC continues to streamline its revenue collection practices to ensure we are prepared for future growth and evolution of the for-hire vehicle market.

Regarding the specific recommendations made in the audit report, TLC submits the following responses:

1. **Recommendation:** Ensure that its internal policies and procedures for the assessment and collection of the medallion transfer tax are consistently applied in compliance with applicable law, including applicable TLC rules. If rule changes are warranted, follow the procedures prescribed by applicable law for effecting such changes.

TLC Response: During the audit scope period, TLC corresponded with the Department of Finance (DOF) with respect to the sale/transfer of medallions. The amount of time it took to process a DOF waiver letter was impacting the closing of some transfers, and it seemed reasonable to offer exceptions to the waiver letter requirement in some circumstances, such as a foreclosure sale. TLC obtained guidance from DOF on how to calculate the transfer tax in a variety of cases, and TLC agreed to calculate the tax based on the actual consideration, unless there were circumstances that required further DOF review.

TLC is reviewing this policy with DOF and will clearly document in writing any agreed-upon revisions to the policy as to when a waiver letter is required from DOF before approving a transfer. At this time a change to TLC rules regarding fair market value is not necessary, because the rules do not require that TLC calculate a fair market value, and the limited number of transactions and variability in prices, among other factors, make it inadvisable to do so. In fact, TLC stopped posting a report of monthly average sale pricing on its website in October 2014 because the constant questions we received about it made it clear that the report created confusion among those looking to buy or sell, as subsequent litigation has demonstrated. Moreover, the TLC believes that the issue can be addressed with a clarification of the collection process between the TLC and DOF and would not require rulemaking.

2. **Recommendation:** Enforce licensees’ obligations to remit, on time and in full, all TIF surcharges, promptly commence enforcement proceedings against delinquent licensees, and take all necessary lawful actions to collect the sums owed.

TLC Response: TLC started collecting the TIF surcharge in 2015, but did not start making incentive payments to drivers and owners of wheelchair accessible vehicles until



January 2016. Before an owner of a medallion or SHL permit can participate in the TIF program, TLC confirms whether any TIF surcharge payments are outstanding. Owners are barred from receiving TIF funds unless they resolve any unpaid open items. Of the \$5.7 million in outstanding surcharge payments, roughly 15 percent have entered into payment plans with the TLC. Those on payment plans may receive TIF funds only after paying off their outstanding balances, while also staying current on new surcharge invoices. For the remaining owners, TLC has issued directives and will pursue all necessary enforcement action to ensure those funds are collected.

3. **Recommendation:** Ensure that staff responsible for approving and recommending approval of medallion and SHL permit transfers require all prospective transferors to clear unpaid TIF balances before processing of any such transfer.

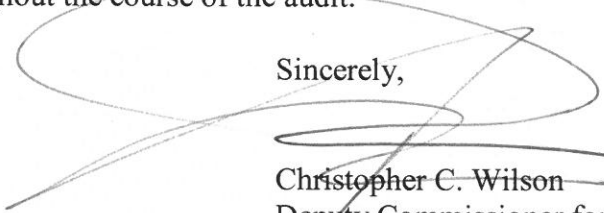
TLC Response: Starting in May 2016, TLC has used an updated "Buyer Certification" form, in which the buyer acknowledges responsibility for remittance of all monies collected for various taxes and surcharges, including the Taxi Improvement Surcharge.

4. **Recommendation:** Implement sufficient controls to ensure accurate classification and reporting of fines collected as a result of OATH proceedings and review the sufficiency of related accounting procedures and controls.

TLC Response: In the past, TLC determined this revenue is TLC revenue, in part considering that it is derived from enforcement activity undertaken and initiated by the TLC. This involved a collective TLC staff effort among enforcement and prosecution personnel, and the costs of enforcement actions paid from the TLC's budget, such as staff time, postage, and mailing supplies. Roughly one-third of the fine revenue cited in the audit report was the result of default judgments, in which an individual did not attend their OATH hearing, but TLC collected payment by initiating actions to enforce the default judgments, and collect outstanding debt. TLC is reviewing the recommendation and will clarify a definition of "fine revenue" to ensure accurate classification and reporting of fines.

Thank you for the opportunity to comment on the report, and for your consideration of TLC's feedback throughout the course of the audit.

Sincerely,


Christopher C. Wilson
Deputy Commissioner for Legal Affairs/General
Counsel