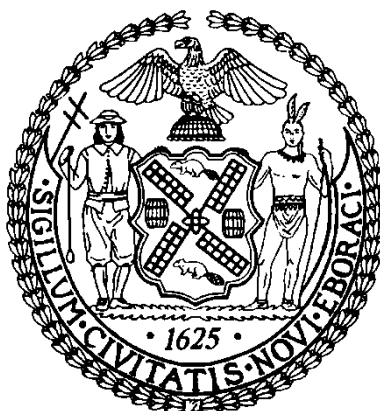


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

IT AUDIT & RESEARCH

**Tina Kim
Deputy Comptroller for Audit**



**Follow-up Audit Report on the Controls
of the Department of Design and Construction
Over Contractor-Provided Vehicles**

7S10-146F

June 3, 2011

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

June 3, 2011

To the Residents of the City of New York:

My office has audited the New York City Department of Design and Construction (DDC) to determine whether the agency implemented the eight recommendations made in the previous audit entitled *Audit Report on the Controls of the Department of Design and Construction over Contractor-Provided Vehicles*, (MH06-130A) issued June 26, 2007. We perform follow-up audits of City agencies as a means of ensuring that they operate efficiently and properly safeguard City funds and resources entrusted to them.

The current follow-up audit disclosed that of the eight recommendations made in the previous audit, DDC has implemented five, has not implemented one, and two are no longer applicable. We found that DDC's list of drivers, sent to the New York State License Event Notification System (LENS) for the report, dated June 26, 2010, did not include all drivers. In addition, one driver was found to be licensed out of state and domiciled in New York, which is in violation of Department of Motor Vehicle Regulations. An additional driver was found to be licensed in both New York and another state.

This audit recommends that DDC ensure that the list of DDC drivers sent to LENS is complete and includes all drivers, including those with out-of-state licenses, and that all drivers are licensed by the state in which they legally reside and maintain licenses in only one state.

The results of the audit have been discussed with DDC 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 e-mail my audit bureau at audit@comptroller.nyc.gov.

Sincerely,



John C. Liu

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The City of New York
Office of the Comptroller
IT Audit & Research

**Follow-up Audit Report on the Controls of the
Department of Design and Construction Over
Contractor-Provided Vehicles**

7S10-146F

AUDIT REPORT IN BRIEF

This follow-up audit determined whether the New York City Department of Design and Construction (DDC) implemented the eight recommendations made in the previous audit, *Audit Report on the Controls of the Department of Design and Construction over Contractor-Provided Vehicles*, (MH06-130A) issued June 26, 2007.

The previous audit determined whether DDC had adequate controls over the use and assignment of contractor-provided vehicles to DDC employees (including maintaining assignment forms on file, using trip logs to record how vehicles are used, and instituting procedures for assigning vehicles). The audit found that DDC controls over contractor-provided vehicles were inadequate. Specifically, six of the 154 DDC drivers reviewed drove contractor-provided vehicles while having a suspended drivers licenses or privileges, while DDC could not provide evidence that one employee had a driver's license. In addition, DDC did not have a copy of current licenses for 25 of 154 drivers (20 of the 25 drivers had a copy of an expired license on file and the other 5 drivers had no license on file).

Furthermore, City vehicles were kept at home while drivers were on vacation, making these vehicles unavailable for use by other engineers in the division. Moreover, DDC failed to ensure that accurate records were maintained detailing how contractor-provided vehicles assigned to the Infrastructure Division were used and drivers did not complete their trip logs in accordance with DDC procedures. Also, vehicles assigned to the Technical Support Division were found to be used primarily for commuting rather than for work-related purposes.

Audit Findings and Conclusions

The current follow-up audit found that of the eight recommendations made in the previous audit, DDC has implemented five, has not implemented one and two are no longer applicable. Specifically, we found that: DDC maintained valid and up-to-date driver's licenses; there were no DDC drivers (from those sampled) of contractor-provided-vehicles with a revoked or suspended license, and all of the drivers assigned contractor-provided vehicles were with the

Infrastructure unit (the Technical Support Unit is no longer issued contractor-provided-vehicles). Further, DDC has established and distributed a written policy that clearly incorporates procedures for assigned vehicles when an engineer is planning to be away for a week or more, vehicle trip logs were completed as required, and DDC vehicle coordinators reviewed and signed-off on the vehicle trip logs included in our sample. However, we found that DDC's list of drivers, sent to the New York State License Event Notification System (LENS) for the report, dated June 26, 2010, did not include all drivers. A complete list is critical because, among other things, LENS allows DDC to be notified when a driver's license is revoked or suspended. Finally, one driver was found to be licensed out of state and domiciled in New York in violation of Department of Motor Vehicle regulations. An additional driver was found to be licensed in both New York and another state. Events related to out of state drivers' licenses are not reported by the LENS system, if they occur outside of New York State. However, events occurring in New York State involving non-New York State licensees are reported by LENS. If DDC is unaware of the driving records of its employees, it can hinder DDC's ability to defend itself in court if the driver had a poor driving record.

Audit Recommendations

To address the issue that still exists, we recommend that DDC:

- Ensure that the list of DDC drivers sent to LENS is complete and includes all drivers, including those with out-of-state licenses.

To address the new issues in this report, we recommend that DDC:

- Ensure that all drivers are licensed by the state in which they legally reside and maintain licenses in only one state.

Agency Response

In their response DDC officials generally agreed with the recommendations and described the actions to be taken to address them.

INTRODUCTION

Background

DDC, created in 1995 by Local Law 77, is authorized to assume responsibility for City capital construction projects that were formerly the responsibility of the Departments of Transportation, Environmental Protection, or Citywide Administrative Services. DDC oversees projects for some 22 City agencies. Through the use of engineers, architects, and construction professionals, DDC designs and builds the City's streets, highways, sewers, and water mains as well as public buildings such as firehouses, police stations, jails, and courts.

DDC provides its engineers with vehicles to perform on-site inspections for projects across the City and to attend meetings at the various job sites. In addition, some large construction contracts have provisions that provide for one or more vehicles to be used by DDC engineers for the duration of the contract. Those vehicles are registered to the City even though they are owned by the contractors. All expenses related to those vehicles (including insurance, parking, repair, gas, and maintenance) are considered contractor expenses. The insurance liability for contractor-provided vehicles is the responsibility of the contractor; however, improper use of the vehicle is considered the City's liability.

According to City of New York *City Vehicle Driver Handbook* procedures, City Authorized Drivers must maintain a valid driver's license whenever operating a City Government Vehicle. In addition, each driver assigned a vehicle for commuting must receive written approval annually from the Agency Transportation Coordinator (ATC) and Agency Head. The ATC must also enroll each City Authorized Driver in the New York State License Event Notification System (LENS). Out-of-state drivers, however, are responsible for providing a bi-annual update of official Department of Motor Vehicles records (DMV) to the ATC. These procedures also require that drivers maintain accurate odometer readings and fill out trip tickets after each vehicle use. Additionally, it requires that employees maintain a valid driver license from the state of his/her domicile. Furthermore, New York State Department of Motor Vehicles regulations require that a driver apply for a New York State license within 30 days after becoming a New York State resident.

Objective

The objective of this audit was to determine whether DDC implemented the eight recommendations contained in the previous audit, *Audit Report on the Controls of the Department of Design and Construction Over Contractor-Provided Vehicles*, (MH06-130A) issued June 26, 2007.

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 fieldwork for this follow-up audit was conducted from January 2011, through March 2011.

To address DDC's current status on the recommendations made in our previous audit, we interviewed appropriate DDC officials to obtain an understanding of the policies and procedures currently in place. We also used the following sources of information as criteria to assess implementation:

- *Audit Report on the Controls of the Department of Design and Construction Over Contractor-Provided Vehicles*, (MH06-130A) issued June 26, 2007,
- DDC's updated "Audit Implementation Plan" dated December 3, 2007,
- New York State Department of Motor Vehicles Regulations,
- Department of Motor Vehicle driver's abstracts (several states),
- The City of New York – City Vehicle Driver Handbook (dated February 2009),
- Annual City Government Vehicle Commuting Authorization Forms,
- DDC's Request For Assignment of Passenger Vehicle Forms, Driver Files, Driver's Database Listing, Vehicle Files, Vehicle Trip Logs, and Contractor Vehicle Listings (CTR), and
- DDC's Policies and Procedures Memorandum -- #07-01,

Using DDC lists of vehicles in use from June 2010 to February 2011, we identified 74 contractor-provided vehicles maintained by the Fleet Management Division that had been assigned to 64 employees (drivers may have been assigned to more than one vehicle, as several vehicles were retired) from DDC's Infrastructure Division.

To determine if DDC maintained valid and up-to-date driver's licenses on file, we judgmentally selected 34 drivers' files of the 64 drivers who had been assigned to these vehicles during the test period.

We also reviewed 21 *Request for Assignment of Passenger Vehicle* forms related to the 15 sampled vehicles for November 2010 to December 2010 to determine whether those forms were completed properly, contained a reason the vehicles were needed for commuting (if appropriate) and approved.

For commuting cases, we also reviewed 48 *Annual City Government Vehicle Authorization Forms* that were currently on file as of December 2010 to determine whether those forms were completed properly and approved.

To determine whether any unlicensed drivers used City vehicles, we reviewed the Department of Motor Vehicles driver's abstracts for several states to determine whether 51 of the 64 drivers who had driven contractor-provided vehicles during our scope period had valid driver's licenses and were therefore allowed to drive those vehicles. If we found that a driver had suspended driving privileges, an expired license, or had surrendered his/her license, we verified that the driver resolved the issue.

We accessed the NYS DMV Dial-In Inquiry System to determine the driving record status for those DDC employees who were listed as residing outside of New York State. We also searched NYSDMV's system to ascertain whether they had New York State driver's licenses.

We performed DMV searches for driving records of those drivers in the states where they resided to determine their driving record status. These searches also included a search of Lexis-Nexis databases which also confirms the residency of the DDC employees.

We judgmentally selected and reviewed 15 vehicle trip logs from November 2010 through December 2010. These 15 trip logs consisted of nine vehicle trip logs from the month of November 2010, and six vehicle trip logs from the month of December 2010. We reviewed these vehicle logs to determine:

- Whether the trip logs were completed properly by the drivers and maintained at the Fleet Management Division.
- How often vehicles were not being used while employees were on vacation.
- Whether the commuting mileage recorded on the trip logs was reasonable, by comparing those miles with the distance the employee lived from work, as determined by online mapping programs.

Discussion of Audit Results

The matters covered in this report were discussed with DDC officials during and at the conclusion of this audit. A preliminary draft report was sent to DDC officials and discussed at an exit conference held on April 28, 2011. On May 3, 2011, we submitted a draft report to DDC officials with a request for comments. We received a written response from DDC officials on May 17, 2011. In their response DDC officials generally agreed with the recommendations and described the actions to be taken to address them.

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

RESULTS OF FOLLOW-UP AUDIT

Of the eight recommendations made in the previous audit, DDC has implemented five, has not implemented one, and two are no longer applicable. Specifically, we found: DDC maintained valid and up-to-date driver's licenses; there were no DDC drivers (from those sampled) of contractor-provided-vehicles with a revoked or suspended license; and all of the drivers assigned contractor-provided vehicles were with the Infrastructure unit (the Technical Support Unit is no longer issued contractor-provided-vehicles). Further, DDC has established and distributed a written policy that clearly incorporates procedures for assigned vehicles when an engineer is planning to be away for a week or more, vehicle trip logs were completed as required, and DDC vehicle coordinators reviewed and signed-off on the vehicle trip logs included in our sample.

During this follow-up audit, we found that the LENS report dated, June 26, 2010, did not list the names of six DDC drivers with New York driver's licenses. It is important that DDC provide a complete list of drivers to LENS because, among other things, the system allows DDC to be notified when a driver's license is revoked or suspended. Additionally, although the audit did not find any sampled drivers with revoked or suspended licenses, many out-of-state "Driver History Abstracts" on file were outdated, and it may be possible that a driver with such a license could filter through unfettered in the future. Finally, one driver was found to be licensed out of state and domiciled in another state in violation of Department of Motor Vehicle regulations. An additional driver was found to be licensed in two states, which would potentially allow him to evade detection of motor vehicle infractions by the LENS system if the infraction were reported on his out-of-state license. Events related to out-of-state drivers' licenses are not reported by the LENS system if they occur outside of New York State. However, events occurring in New York State involving non-New York State licensees are reported by LENS. If DDC is unaware of the driving records of its employees, it can hinder DDC's ability to defend itself in court if the driver had a poor driving record.

Previous Finding: "Failure to Adequately Monitor Driving Records"

Previous Recommendation #1: DDC should "Update and review its manual files to ensure that all DDC drivers have valid and up-to-date driver's licenses."

Previous DDC Response: DDC generally agreed stating that "the Department is also updating its manual files to reflect all current drivers' licenses."

CURRENT STATUS: IMPLEMENTED

The audit found that DDC maintained valid and up-to-date driver's licenses, providing manual files containing all 34 current drivers' licenses requested. Therefore, we consider this recommendation implemented.

Previous Recommendation #2: DDC should "Follow up more effectively upon notification by DMV that employee licenses have been revoked or suspended and take

appropriate action—either by having those employees correct their license status or by suspending the employees’ driving privileges.”

Previous DDC Response: DDC generally agreed stating, “DDC has issued a Commissioner’s Directive requiring all personnel to immediately notify DDC if their license is suspended or in danger of being suspended.”

CURRENT STATUS: IMPLEMENTED

There were no instances of DDC drivers (from those sampled) who had driven contractor-provided-vehicles with a revoked or suspended license. In addition to the Commissioner’s Directive issued by DDC, there were three instances in specific driver’s files when drivers were sent e-mails informing them that their licenses had been suspended and that they needed to resolve the situation prior to operating a city vehicle. Therefore, we consider this recommendation implemented.

Previous Recommendation #3: DDC should “Better monitor its drivers through the LENS program by ensuring that the list of DDC drivers sent to LENS is complete and includes all drivers, including those with out-of-state licenses.”

Previous DDC Response: DDC generally agreed stating, “DDC is researching with NYS and other states to determine the best method for obtaining timely suspension information for out-of-state employees.”

CURRENT STATUS: NOT IMPLEMENTED

The audit found that the LENS report dated June 26, 2010, did not list the names of six DDC drivers with New York driver’s licenses. Additionally, many out-of-state driver abstracts on file were outdated. Although, the audit did not find any drivers with revoked or suspended licenses, it is possible that a driver with such a license could go through existing controls undetected in the future. Therefore, we consider this recommendation not implemented.

Previous Finding: “Vehicles Assigned to the Technical Support Division Are Primarily Used for Commuting and Not for Work-Related Purposes”

Previous Recommendation #4: DDC should “Perform an analysis of the contractor-provided vehicles assigned to Technical Support to assess the Division’s true transportation needs in regard to performing site visits and any other work-related tasks.”

Previous DDC Response: DDC agreed stating, “DDC is doing a complete review of the cost and use of the vehicles in the Technical Support Unit to ensure that they are being utilized efficiently and effectively for City work.”

CURRENT STATUS: NO LONGER APPLICABLE

Previous Recommendation #5: DDC should “Better utilize the contractor-provided vehicles assigned to Technical Support.”

Previous DDC Response: DDC agreed stating, it “has instructed all unit heads that vehicles be made readily available during work hours for work-related usage.”

CURRENT STATUS: NO LONGER APPLICABLE

We found that all of the drivers who were assigned contractor-provided vehicles were with the Infrastructure unit. Although DDC did not produce any internal documentation containing language stating that the practice of issuing vehicles to the Technical Support Unit had ceased, in response to a request for a “Copy of the most recent analysis completed assessing transportation needs of the contractor-provided vehicles to the Technical Support Unit,” DDC sent an e-mail to the audit team stating: “Technical Support Unit’s contractor-provided vehicles were removed from this unit as a result of the Comptroller’s audit.” Therefore, we consider these recommendations no longer applicable.

Previous Finding: “Vehicles Not in Use While Drivers Took Off From Work”

Previous Recommendation #6: “DDC should establish a written policy that clearly incorporates procedures for assigned vehicles when an engineer is planning to be away for a week or more and distribute this policy to all drivers.”

Previous DDC Response: DDC agreed stating, “DDC has issued a Commissioner’s Directive stating that cars must be reassigned during planned leave to get the most use from these vehicles. Drivers must notify their vehicle coordinators when out from work for a week or more and make the car available to alternative drivers who are assigned to this project(s) during this period.”

CURRENT STATUS: IMPLEMENTED

The *DDC Policies and Procedures Memorandum #07-01* was issued on March 12, 2007, and distributed to staff via e-mail on March 13, 2007; therefore, we consider this recommendation implemented.

Previous Finding: “Failure to Maintain Detailed Records That Accurately Reflect Vehicle Use”

Previous Recommendation #7: DDC should “Require that the Infrastructure Division drivers complete the trip logs as required.”

Previous DDC Response: DDC agreed stating, “DDC has strengthened its current policy by issuing a Commissioner’s Directive stating that trip logs must be correctly filled out reflecting each stop made.”

CURRENT STATUS: IMPLEMENTED

Our review of the 15 sampled vehicle trip logs found that trip logs were completed as required. Therefore, we consider this recommendation implemented.

Previous Recommendation #8: DDC should “Require that Vehicle Coordinators review the trip logs and sign them as evidence of a review.”

Previous DDC Response: DDC agreed stating that “logs will be reviewed and signed off by vehicle coordinators. DDC’s Fleet Management & Internal audit Units will randomly review trip logs to ensure that they are completed correctly. Drivers that complete logs incorrectly may face disciplinary action.”

CURRENT STATUS: IMPLEMENTED

Our review confirmed that DDC vehicle coordinators did, in fact, review and sign-off on the 15 vehicle trip logs included in our sample; therefore, we consider this recommendation implemented.

OTHER ISSUES

DDC Does Not Comply with Local and State Regulations

Our tests disclosed that one driver who was domiciled in New York was found to be licensed in Massachusetts, and an additional driver was found to be licensed in two states (New York and Pennsylvania). This is clearly contrary to the City of New York *City Vehicle Driver Handbook*, Section 2 “Driver Licensing Requirements” which states:

“City Authorized Drivers must maintain a valid New York State driver license whenever operating a City Government Vehicle. However, in the case of an agency employee who is not required to maintain residency in New York State, the employee must have a valid driver license from the state of his/her domicile and the driver license must cover the classification of vehicles being driven.”

In addition, New York State Department of Motor Vehicles regulations state that “If you become a resident of NYS, you must apply for a NYS driver license not more than 30 days after you become a NYS resident.” The regulations add that in order to exchange an out-of-state driver license for a New York State license, the out-of-state driver license must be surrendered.

As events related to out of state drivers’ licenses are not reported by the LENS system if they occur outside of New York State, New York residents who produce an out-of-state license will not be identified by LENS, if the infraction happened outside of New York State. According to Governmental Accounting Office (GAO) reports concerning highway safety, an individual’s history of violations significantly affect the likelihood of an automobile accident. Insurance companies routinely use a driver’s history when determining premium rates (The City

is self insured). If DDC is unaware of the driving records of its employees, it can hinder DDC's ability to defend itself in court if the driver had a poor driving record.

RECOMMENDATIONS

To address the issue remaining from the previous audit, we recommend that DDC:

1. Ensure that the list of DDC drivers sent to LENS is complete and includes all drivers, including those with out-of-state licenses.

DDC Response: "DDC insists that full and proper listings of DDC drivers were sent to NYS for entry into DMV's License Events Notification Services (LENS) database and that any discrepancies may be due to NYS not maintaining their system properly. Based on the audit's finding/recommendation, DDC will now request from NYS-DMV a periodic report of DDC drivers, reconcile the information with our records, and inform NYS-DMV of any inconsistencies."

Auditor Comment: We recognize that a listing of DDC drivers was sent to NYS for entry into LENS, however, the LENS report (which we reviewed) that DDC received back from NYS was incomplete. Ultimately, it is DDC's responsibility to ensure that the information received from LENS reconciles with its records and that DDC has the most accurate driver license information for all its drivers.

To address the new issues in this report, we recommend that DDC:

2. Ensure that all drivers are licensed by the state in which they legally reside, and maintain licenses in only one state.

DDC Response: "DDC is committed to ensuring that our drivers obey all NYS driving requirements and drive in a safe and responsible manner. In both cases cited by the auditors, DDC has informed these drivers that they can only maintain one license which must be in the state where they reside. Both drivers are taking actions to correct any discrepancies with their legal license. However, it should be noted that, DDC does not have access to out-of-state drivers' information. Since the majority of out-of-state DDC employees reside in New Jersey, DDC also monitors the NJ DMV system. Unlike the NYS system which automatically notifies the subscriber of their driver's infractions in real time, the NJ system provides only a historic snapshot of a driver's record when requested. Thus, DDC is unable to monitor on a real time basis if drivers are violating driving requirements outside of the state.

DDC will resend a memo to all DDC drivers instructing them to obey all driving laws and requirements, emphasizing that they must report all infractions (regardless of where they occur) immediately to DDC's Fleet Unit and that they must be licensed in the state where

they reside. DDC is reviewing all drivers' records to ensure that they are licensed in the state where they reside.”

Auditor Comment: We acknowledge that DDC will ensure that all drivers are licensed by the state in which they legally reside, and maintain licenses in only one state. We would like to reiterate that since the City is self-insured, if DDC is unaware of the driving records of its employees, it can hinder DDC’s ability to defend itself in court if the driver had a poor driving record.



NEW YORK CITY DEPARTMENT OF
DESIGN + CONSTRUCTION

DAVID J. BURNEY, FAIA
Commissioner

May 17, 2011

H. Tina Kim
Deputy Comptroller
NYC Office of the Comptroller
1 Centre Street
New York, NY 10007

Re: NYC Comptroller's Draft Follow-up Audit Report on the Controls of the Department of Design and Construction Over Contractor-Provided Vehicles (7S10-146F)

Dear Ms. Kim:

The Department of Design and Construction (DDC) appreciates the City Comptroller's efforts with respect to this follow-up audit of the agency's controls over contractor-provided vehicles.

Below are our responses to the draft follow-up audit findings and recommendations:

"The Department should..."

1. "Ensure that the list of DDC drivers sent to LENS is complete and includes all drivers, including those with out-of-state licenses."

Agency Response: DDC insists that full and proper listings of DDC drivers were sent to NYS for entry into DMV's License Events Notification Services (LENS) database and that any discrepancies may be due to NYS not maintaining their system properly. Based on the audit's finding/recommendation, DDC will now request from NYS-DMV a periodic report of DDC drivers, reconcile the information with our records, and inform NYS-DMV of any inconsistencies.

2. "Ensure that all drivers are licensed by the state in which they legally reside and maintain licenses in only one state."

Agency Response: DDC is committed to ensuring that our drivers obey all NYS driving requirements and drive in a safe and responsible manner. In both cases cited by the auditors, DDC has informed these drivers that they can only maintain one license which must be in the state where they reside. Both drivers are taking actions to correct any discrepancies with their legal license. However, it should be noted that, DDC does not have access to out-of-state drivers' information. Since the majority of out-of-state DDC employees reside in New Jersey, DDC also monitors the NJ DMV system. Unlike the NYS system which automatically notifies the subscriber of their driver's infractions





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May 17, 2011

Response to NYC Comptroller's Draft Follow-up Report on the Controls of the Department of Design and Construction Over Contractor-Provided Vehicles

in real time, the NJ system provides only a historic snapshot of a driver's record when requested. Thus, DDC is unable to monitor on a real time basis if drivers are violating driving requirements outside of the state.

DDC will resend a memo to all DDC drivers instructing them to obey all driving laws and requirements, emphasizing that they must report all infractions (regardless of where they occur) immediately to DDC's Fleet Unit and that they must be licensed in the state where they reside. DDC is reviewing all drivers' records to ensure that they are licensed in the state where they reside.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Burney".

David J. Burney

