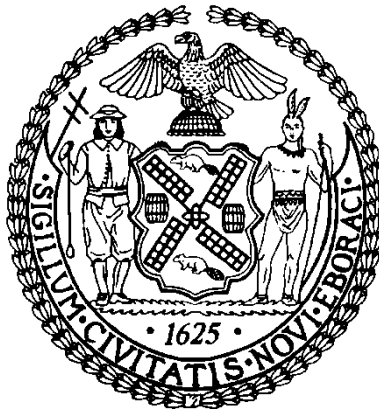


CITY OF NEW YORK OFFICE OF THE COMPTROLLER

**John C. Liu
COMPTROLLER**

**H. Tina Kim
Deputy Comptroller for Audit**



**Report To
The Mayor and City Council on
City Comptroller Audit Operations
Fiscal Year 2009**

March 1, 2010

<http://comptroller.nyc.gov>

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JOHN C. LIU
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March 1, 2010

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

I hereby transmit the annual report on the operations of the audit bureaus of the New York City Comptroller's Office for Fiscal Year 2009. This report is mandated under Section 93 (f) of the City Charter, which stipulates that no later than March 1st of each year the Comptroller is to provide a report to the Mayor and City Council on all major audit activities of City agencies conducted in the previous fiscal year. In Fiscal Year 2009, the audit bureaus issued 69 audits and special reports that resulted in \$12.8 million in actual revenues and savings, \$36.6 million in potential revenues and savings, and called into question another \$35.5 million associated with claims filed against the City.

Section 93 (c) of the City Charter requires that the Comptroller's Office conduct audits in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States and that it audit one or more of the programs or activities of each City agency at least once every four years. The Comptroller's Office successfully met this mandate for the four-year cycle that ended December 31, 2009.

According to Generally Accepted Government Auditing Standards, government auditing entities must undergo an external peer review every three years. The audit bureaus have undergone such reviews, the most recent of which were conducted in 2004 and 2007 by the Institute of Internal Auditors (IIA). In each of these reviews, the IIA concluded that the audit bureaus complied with Generally Accepted Government Auditing Standards, reported no negative findings, and offered no recommendations for improvement. In addition, the 2007 review expressly noted that the bureaus should be commended for their performance in several areas.

Although this report covers the audit operations of the last full fiscal year of the previous administration, it presents me with the opportunity to share my own view of the importance of the audit function. As Comptroller, I intend to make aggressive and vigorous use of the power of audit to both champion and pursue the achievement of efficient, effective City operations and services.

The severe national and local recessions have resulted in lower tax collections at the State and City level. As a consequence, the City is facing looming budget deficits that are in the billions of dollars in each of the next several years. It is therefore urgent that we root out waste, mismanagement, and inefficiencies in City government. As New York City Comptroller, my audits will be critical in accomplishing that task and in putting government resources to work to improve the lives of all New Yorkers.

Sincerely,



John C. Liu

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SUMMARY OF AUDIT RESULTS

Actual savings and revenues identified in Fiscal Year 2009 totaled \$12.8 million.

Potential cost avoidance, savings, and revenues identified in Fiscal Year 2009 totaled \$72.1 million. It should be noted that these are estimates of what could be achieved if all the audit and special report recommendations were implemented. Of this \$72.1 million:

- \$36.6 million represents potential cost savings or revenues from a variety of management and financial audit findings.
- \$35.5 million presents potential cost avoidance resulting from analyses of claims.

The Comptroller's Bureau of Management Audit and Bureau of Financial Audit issued 69 audits and special reports in Fiscal Year 2009. Audits of managerial lump-sum and welfare-fund payments were also performed.

This report is divided into two sections: one section for audits and special reports of City agencies and public authorities, and one section for audits and special reports covering private entities that received funding from or generated revenue for the City. The audits were performed in accordance with generally accepted government auditing standards, 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.

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ACTUAL/ POTENTIAL SAVINGS/REVENUE & POTENTIAL COST AVOIDANCE
FROM AUDITS AND SPECIAL REPORTS FOR FISCAL YEAR 2009

<u>REPORT TYPE</u>	<u>FISCAL YEAR 2009 NUMBER OF REPORTS</u>	<u>FISCAL YEAR 2009 ACTUAL SAVINGS/ REVENUE</u>	<u>FISCAL YEAR 2009 POTENTIAL SAVINGS/ REVENUE(1)</u>	<u>FISCAL YEAR 2009 POTENTIAL COST AVOIDANCE</u>	<u>TOTAL</u>
Government Agencies					
Audits	40	\$2,061	\$35,959,370	\$0	\$35,961,431
Managerial Lump Sum Reviews	NA	\$276,835	\$0	\$0	\$276,835
High Risk Voucher Reviews	NA	\$155,611	\$21,215	\$0	\$176,826
Total Government Agencies	40	\$434,507	\$35,980,585	\$0	\$36,415,092
Non-Government Agencies	29	\$12,415,322	\$587,585	\$35,526,191	\$48,529,098
Grand Total Government and Non-Government Agencies	69	\$12,849,829	\$36,568,170	\$35,526,191	\$84,944,190

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

SECTION I
GOVERNMENT AGENCIES

ADMINISTRATION FOR CHILDREN'S SERVICES

Audit Report on the Inwood House Foster Care Contract with the Administration for Children's Services

Audit # MD09-061A

Comptroller's Audit Library #7951

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit examined the compliance of Inwood House (Inwood) with major provisions of its foster-care contract with the Administration for Children's Services (ACS) during Fiscal Year 2008. ACS is responsible for protecting children from abuse and neglect, and provides preventive, foster care, and adoption services. It contracts with a network of 36 foster-care agencies to provide support services to approximately 17,000 foster-care children.

In March 2000, ACS entered into a contract with Inwood to provide foster-care services, including preparation for parenting, to pregnant young women between the ages of 12 and 20, as well as to their babies after birth. In January 2006, ACS renewed the contract with Inwood for a three-year term for the period March 1, 2006, through February 28, 2009, for a total amount not to exceed \$4,883,974.

Results

The audit found that Inwood generally complied with the major programmatic provisions of its foster-care contract with ACS. For 29 of the 30 cases reviewed, caseworkers had regular contacts with the young women and prepared reports on those contacts. In addition, 14 of the 16 sampled clients who were present at the Maternity Residence on a daily basis and were not absent without leave (AWOL) received all of the required services. Furthermore, the four sampled young women in the Mother-Child Foster Care program and the one sampled young women in the Agency-Operated Boarding Home (AOBH) also received all of the required services.

The review of the foster parents' files indicated that all 13 foster parents received the required background checks and training and that pre-placement inspections of their homes were conducted as required. In addition, the review of the 12 Inwood employee files indicated that the required background checks were completed and that the employees had the credentials and experience necessary for their positions. Also, the Maternity Residence and the AOBH provided an adequate living environment.

However, the audit noted concerns about young women who were AWOL from the Maternity Residence and the services they did not receive because of their absences. In addition, there was no evidence that Inwood filed Missing Person Reports or otherwise reported the young women's AWOL status to the police, as required. The audit also concluded that Inwood did not always receive the correct payment amount for days-of-care requests made to ACS.

The audit made 10 recommendations, some of which are listed below. ACS and Inwood officials should:

- Examine AWOL incidents and try to find solutions to decrease the AWOL rate and the length of time that clients remain AWOL.
- Ensure that all clients receive the required services, including education, independent-living skills, and in-depth interviews with social workers. In addition, all client-contact forms should be reviewed and signed by an Inwood supervisor or manager.
- Ensure that Missing Person Reports are filed for all AWOL young women under the age of 21. For those who are Person in Need of Supervision (PINS) cases, have Family Court warrants, or are below the age of 21, Inwood officials should insist the police file a Missing Person Report. If the police will not file the report, Inwood officials should request that a patrol supervisor come to the scene.
- Arrange a meeting with higher-level police officials at the local precinct to discuss difficulties in filing Missing Person Reports for AWOL young women who have PINS cases, have Family Court warrants, or are 17 or 18 years of age.

We received a response from ACS that incorporated the responses of both ACS and Inwood. ACS officials generally agreed with the recommendations addressed to ACS but did not address one of them. Inwood officials agreed with the recommendations addressed to Inwood but contended that five recommendations were already being addressed during the audit period reviewed.

Audit Follow-up

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

ADMINISTRATION FOR CHILDREN'S SERVICES

Audit Report on Administration for Children's Services Oversight and Monitoring of the Screening of Personnel by Contracted Child-Care Centers

Audit #MJ09-073A

Comptroller's Audit Library #7964

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit assessed the adequacy of the Administration of Children's Services (ACS) oversight and monitoring of the compliance of contracted child-care centers with contract provisions and City and State regulations pertaining to the screening of their personnel for past or pending criminal actions and reports of child abuse and maltreatment.

ACS has a mission to protect the City's children from abuse and neglect. Its Division of Child Care and Head Start (DCCHS) administers and oversees child-care services and Head Start programs provided by private, non-profit, and community-based organizations under contract

with ACS. As of January 2009, there were 282 group child-care centers under contract with ACS, responsible for serving 19,772 children under the age of six.

Results

ACS contract monitoring activities include evaluating contracted child-care program compliance with requirements for background screening of personnel. These activities include annual program assessments by the ACS Program Assessment Unit and follow-up visits by Borough Office personnel. However, these activities do not provide for sufficient ongoing monitoring to ensure that all personnel at contracted child-care centers are appropriately screened for past or pending criminal actions and reports of child abuse and maltreatment, as required by contract and statute. An examination of 236 personnel files at 15 sampled child-care centers and a review of operational practices disclosed certain weaknesses that provide possibilities for the lack of screening to go undetected or for unscreened personnel to have unsupervised contact with children.

The results of audit observations at 15 ACS-contracted child-care centers disclosed that seven (47%) of the centers lacked either the Department of Investigation (DOI) or Statewide Central Register (SCR) screening clearances for one or more of their personnel. Overall, the audit cited 21 (15%) of the 138 employee folders reviewed at these seven centers as lacking either SCR and/or DOI clearances. However, at no time during visits to the child-care centers did auditors observe any unscreened personnel working with children without being supervised. Further, auditors observed that there were at least two staff members working with the children in all areas. After additional follow-up by ACS, there remained nine employees at four centers who lacked SCR and/or DOI clearances.

In addition to monitoring weaknesses, the audit noted that ACS does not have a formal agreement with either DOI or the Department of Health and Mental Hygiene (DOHMH) specifying the responsibilities of each agency regarding ongoing communication and sharing of information between the agencies, particularly with respect to criminal and child-abuse and maltreatment screenings of child-care center personnel.

To address these issues, the audit makes eight recommendations, among them that ACS should:

- Increase the testing of child-care center personnel files to the maximum of 100 percent to ensure that clearances for all required personnel, paid and unpaid, are appropriately screened. If 100 percent testing is not possible, require that an acceptable level of existing personnel be checked and that all clearances be checked for all new personnel (paid and unpaid) who joined the child-care center since the date of the last assessment visit.
- Require Technical Consultants to follow up cited screening deficiencies to ensure that all required clearances are obtained by the child-care program.
- Require supervisor review of the site visit reports.
- Require that child-care centers immediately follow up on all individuals cited in this report for lacking either SCR or DOI clearances to ensure that clearances are obtained in a timely manner.

Audit Follow-up

ACS reported that six recommendations have either been implemented or are in the process of being implemented and the remaining two recommendations have been partially implemented. ACS stated that it will be sharing information with other agencies; however, ACS also stated that it is not necessary to enter into a memo of understanding to establish roles and responsibilities. Moreover, ACS reported that DCCHS has access to active personnel rosters and newly hired personnel; however, DCCHS does not have access to DOI and SCR databases because of confidentiality restrictions.

CIVILIAN COMPLAINT REVIEW BOARD

Follow-up Audit Report on the Case Management Practices of the Civilian Complaint Review Board

Audit #MG09-060F

Comptroller's Audit Library #7945

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Civilian Complaint Review Board's (CCRB) implemented the two recommendations made in a previous audit entitled *Audit Report on the Case Management Practices of the Civilian Complaint Review Board* (ME06-060A), issued on June 30, 2006. The CCRB is an independent mayoral agency authorized to investigate complaints concerning misconduct by City police officers. The Board, composed entirely of civilians, forwards its findings and recommendations to the Police Department.

The previous audit concluded that while CCRB ensured that a high percentage of its cases were completed in a timely manner, many case files lacked required investigative case plans and time-triggered progress reports. In addition, some of the plans and progress reports that were prepared lacked supervisory reviews.

Results

Of the two recommendations made in the previous audit, the CCRB implemented one and partially implemented the other. In this follow-up audit, marked improvement since the previous audit was noted regarding completion and supervisory review of investigative case plans and time-triggered progress reports. The use of automated e-mails to remind investigative team management of cases requiring investigative case plans and progress reports appears to have been a generally effective tool for ensuring the completion of investigative case plans. However, the overall compliance rate for time-triggered progress reports began to decline in May 2008.

While examining the implementation status of the recommendations presented in the previous audit, the audit found that the CCRB Complaint Tracking System (CTS) has some weaknesses. For instance, CTS does not require users to change access passwords periodically, it does not capture on a separate field whether a case plan or progress report has been reviewed by a supervisor, and the date fields automatically entered by the system can be altered during the investigations.

The audit made five recommendations to the CCRB. The CCRB should:

- Resume monitoring compliance rates on a regular basis to ensure that the investigative staff are abiding by the established procedures regarding completion of case plans and time-triggered progress reports.
- Ensure that team managers are aware of their teams' compliance rates for investigative case plans and time-triggered progress reports.

- Implement access controls for CTS that require users to change passwords periodically and that automatically lock out a user after a predetermined number of failed attempts to gain access.
- Enhance application controls to ensure the accuracy and reliability of CTS data.
- Enhance CTS by enabling it to capture and report whether investigative case plans and time-triggered progress reports have been reviewed, as required by internal procedures.

CCRB officials agreed with four of the five audit recommendations.

Audit Follow-up

CCRB reported that four recommendations have been implemented. CCRB did not implement access controls in CTS that require users to change passwords periodically and that has a lockout feature which is activated after a number of failed attempts. CCRB instead stated that it has placed password protection on the desktop which covers access to CTS.

MANHATTAN COMMUNITY BOARDS

Audit Report on the Office Equipment Inventory Practices of the 12 Manhattan Community Boards

Audit #FP08-117A

Comptroller's Audit Library #7927

Issued: February 26, 2009

Monetary Effect: None

Introduction

This audit determined whether the 12 Manhattan Community Boards (Boards) complied with certain inventory procedures for office equipment, as set forth in the Department of Investigation *Standards for Inventory Control and Management*, and maintained effective internal controls systems over equipment inventory, as required by Comptroller's Directive #1, "Financial Integrity Statement." The audit covered the period July 1, 2006, through June 30, 2007.

Results

The audit disclosed that except for Board #1, the Boards generally did not adhere to the Department of Investigation *Standards for Inventory Control and Management* and Comptroller's Directive #1. We found the Boards' inventory controls systems are ineffective and the inventory records are inaccurate and cannot be relied upon.

The audit made seven recommendations, including that the Boards should ensure that:

- Complete and accurate records of all equipment are maintained.
- Identification tags are affixed to all office equipment items and include a sequential internal control number.
- Unaccounted-for items are found and returned to each Board's office. If the items cannot be found, then the Boards should file a theft report with the Police Department.

The Boards generally agreed with the report recommendations.

Audit Follow-up

Manhattan Boards #1, #2, #3, #4, #5, #7, #8, #9, #10, #11, and #12 reported that most of the audit recommendations have been implemented. Manhattan Board #6 did not provide follow-up information.

NEW YORK CITY COMPTROLLER'S OFFICE

Cost Allocation Plan Fiscal Year 2008

Report: #FM09-068S

Comptroller's Audit Library # N/A

Issued: December 3, 2008

Monetary Effect: None

Introduction

The Cost Allocation Plan is used to identify and distribute allowable indirect costs of certain support services to City agencies. A portion of those 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 Cost Allocation Plan. The schedule indicated, by bureau, the percentage of staff time spent providing services to various City agencies during Fiscal Year 2008.

Results

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

CONFLICTS OF INTEREST BOARD**Audit Report on the Procurement and Inventory Practices of the Conflicts of Interest Board**

Audit #ME09-080A

Comptroller's Audit Library #7944

Issued: June 26, 2009

Monetary Effect: None

Introduction

This audit determined whether the Conflicts of Interest Board (COIB) complied with applicable procurement and inventory regulations and procedures. COIB was established in 1990 to interpret and enforce the Conflicts of Interest Law and the City's Financial Disclosure Law. COIB is responsible for educating City employees regarding ethical standards, issuing advisory opinions, and ensuring that City employees comply with the Conflicts of Interest Law. The scope period of this audit was Fiscal Year 2008 (July 1, 2007, through June 30, 2008). In Fiscal Year 2008, COIB expended \$1.9 million, of which \$193,588 was for Other Than Personal Services (OTPS).

Results

COIB's procurement practices generally complied with applicable procurement guidelines, including Procurement Policy Board rules, Comptroller's Directives, and its own procedures. Specifically, for the sampled payments, the audit determined that items purchased were necessary for COIB's office operation; purchase documents were appropriately prepared and approved; and vouchers had sufficient documentation to support payment. In addition, imprest fund expenditures did not exceed \$250 and included a specific payee; miscellaneous vouchers were used appropriately; and computations on vouchers were accurate. Furthermore, there was an adequate segregation of responsibilities in the procurement process; there were no instances of split purchasing to avoid purchasing rules; and COIB had adequate controls over its inventory of computers and electronic equipment.

However, there were some minor deficiencies in the sampled purchase-payment vouchers. Those deficiencies included the use of incorrect object codes and the late payment of vendor invoices. In addition, two sampled invoices were not stamped "Vouchered" or "Paid," and five sampled payment vouchers were not properly approved.

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

- Follow the City Chart of Accounts to ensure that expenditures are charged to correct object codes.
- Require that invoices are date-stamped upon receipt and that the dates of the certification of the receipt of goods or services are recorded.
- Ensure that all invoices are paid within 30 days of receipt of the invoice or of the certified receipt of the goods or services provided.
- Ensure that the correct invoice receipt dates are entered in the City Financial Management System when processing payment vouchers.

In their response, the COIB officials generally agreed with the audit’s findings and recommendations.

Audit Follow-up

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

OFFICE OF THE CRIMINAL JUSTICE COORDINATOR

Audit of Controls over Billings and Payments for Work by Panel Members in the Assigned Counsel Plan

Audit #7A08-085

Comptroller's Audit Library #7923

Issued: February 2, 2009

Monetary Effect: None

Introduction

This audit determined the adequacy of the controls over billing and payments in the computer systems of the Office of the Assigned Counsel Plan (ACP). The Assigned Counsel Panel is an organization of court-approved attorneys who provide representation to indigent persons charged with crimes in City courts. The Panel is authorized by Article 18-B of the New York State County Law and funded by the City. It reports to the Office of the Criminal Justice Coordinator (OCJC), which is responsible for managing the Panel and a roster of investigators and other experts. To be paid, Panel members and experts must submit vouchers to the court that detail the nature of the professional services rendered and the time expended.

In 2003, ACP developed an in-house Web-based application, the 18-B Web system, to improve the process of assigning attorneys while streamlining the voucher submission and processing, and to improve the system's capacity to prevent fraudulent claims from being submitted and paid. As of January 2007, the 18-B Web system handled 2 of the 12 types of vouchers that are processed by ACP. The FoxPro system, in use since 1993, continued to process family court case vouchers, expert witness vouchers, and court reporter vouchers. Since August 2007, all family court, court reporter, expert witness, and criminal court vouchers have been transferred from FoxPro into the ACP Import Database and submitted for payment to the Financial Information Services Agency (FISA) through the 18-B Web system. Audit fieldwork was conducted from September 2007 to May 2008.

Results

The 18-B Web system has adequate controls in place to manage assignment and scheduling of attorneys while ensuring that the voucher payment process is generally reliable. However, it had instances of incorrect data and contained certain mandatory data fields that were blank. This could have an effect on the reliability of the 18-B Web system.

Conversely, the FoxPro system has inadequate data controls that make it possible for duplicate and inaccurate payments to occur. The FoxPro system does not have the functionality that permits its staff to enter specific data, such as details of specific dates and hours spent for services performed by the attorney. Instead, the FoxPro system contains only the start date, end date, and total hours of services for each voucher submitted for payment. Without detailed, specific, date and time information, it was not possible to ascertain whether attorneys overbilled or double-billed ACP for their services. In the absence of the basic controls, the potential exists for such activity to go undetected by ACP staff.

In addition, vouchers exceeded the hours of services for single-day activity, and attorneys and expert witnesses were paid above the standard rate and over the maximum limit. Although the

FoxPro system has inadequate data control, the 18-B Web system generates an error and warning message that indicates the vouchers need further review. However, the ACP staff generally overrides this control and allows those vouchers to proceed without proper documentation. For 73 of the 250 sampled vouchers we examined, ACP did not have the required judge's approvals or attorney affirmations. We therefore could not determine whether those vouchers had the proper approval before being paid. In addition, there were vouchers in both the FoxPro system and the 18-B Web system that were submitted more than 12 months after the case disposition, contrary to ACP guidelines.

The audit made 17 recommendations, including that ACP:

- Create a system control that ensures that future-date activities are not paid prior to the actual work being completed, to prevent the potential for overbilling or double-billing.
- Ensure that prior to payment, judges' approvals and attorneys' affirmations specifying the time and billable services for all cases exceeding the standard rates and maximum limits are received by ACP staff.
- Develop a data purification plan that ensures that all inadequate data is corrected before it is transferred into the 18-B Web system.
- Ensure that the 18-B Web system will provide all the functions that should be available to users— specifically, the capability to identify overbilling and overlapping vouchers.

OCJC officials agreed with seven recommendations, partially agreed with one recommendation, disagreed with one recommendation and said that four recommendations were not applicable. They did not respond to four recommendations.

Audit Follow-up

OCJC reported that seven recommendations have been either implemented or are in the process of being implemented, one recommendation has been partially implemented, four recommendations are not applicable, and OCJC continues to disagree with one recommendation. OCJC did not respond to those recommendations related to FoxPro as OCJC stated in the draft response that FoxPro is no longer in use.

KINGS COUNTY DISTRICT ATTORNEY'S OFFICE

Audit Report on the Other Than Personal Service Expenditures of the Kings County District Attorney's Office, July 1, 2006–June 30, 2007

Audit #FL08-079A

Comptroller's Audit Library #7952

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Kings County District Attorney's Office complied with certain purchasing and inventory procedures for Other Than Personal Service (OTPS) expenditures of the New York City Comptroller's Internal Control and Accountability Directives (Comptroller's Directives), Procurement Policy Board (PPB) rules, City Financial Management System (FMS) accounting policies, procedures, and related bulletins, the Comptroller's "Fiscal Year-End Closing Instructions" for June 30, 2007, and other applicable OTPS and inventory guidelines.

The OTPS expenditures of the Kings County District Attorney's Office during Fiscal Year 2007, the period covered by the audit, amounted to \$2,650,356.

Results

The audit disclosed that all the purchases reviewed were for proper business purposes and properly authorized and approved, and that the purchased goods were received and the services rendered. However, the Kings County District Attorney's Office did not comply with all the City's FMS accounting policies and procedures, PPB rules, Comptroller's Directives, and Comptroller's fiscal year-end closing instructions. Specifically, the Kings County District Attorney's Office entered inaccurate information in FMS and used miscellaneous vouchers inappropriately. As a result, vouchers were not paid in accordance with PPB Prompt Payment Rules, and expenditures were recorded in the incorrect accounting period.

The audit made 11 recommendations, including that the Kings County District Attorney's Office should ensure that it:

- Enters actual dates of occurrence in the designated FMS fields for all purchases and train its staff on the procedures for processing payments through FMS to ensure that only complete and accurate information is entered in FMS, the voucher packages contain all the necessary documentation so that the staff has all the required information to enter into FMS, all invoices are paid in accordance with the PPB's Prompt Payment Rule, and, all expenses are charged to the correct fiscal year.
- Uses the appropriate purchase documents when making OTPS expenditures.
- Makes purchases from requirement contracts when they are available and completes and remits the necessary purchase order forms to the Department of Municipal Supply Services for processing.

- Presents all contracts, agreements, change orders, amendments, etc., to the Comptroller for registration, in addition to purchases exceeding \$25,000 for goods and services.

Kings County District Attorney's Office officials generally agreed with the audit findings and recommendations and described the specific steps that they have taken to address the exceptions noted in the report.

Audit Follow-up

The Kings County District Attorney's Office reported that it has changed its procedures to implement ten recommendations. However, the Kings County District Attorney's Office stated that it still plans to continue to use miscellaneous vouchers to pay court reporters and expert witnesses.

RICHMOND COUNTY DISTRICT ATTORNEY'S OFFICE

Audit Report on the Financial and Operating Practices of the Richmond County District Attorney's Office

Audit #FP09-109A

Comptroller's Audit Library #7954

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Richmond County District Attorney's Office complied with certain purchasing procedures as set forth in the New York City Comptroller's Directives (Comptroller's Directives) #1, #6, #11 and #24; applicable Procurement Policy Board (PPB) rules; and the Department of Investigation (DOI) *Standards for Inventory Control and Management*.

During Fiscal Year 2008, the period covered by the audit, Other Than Personal Service (OTPS) expenditures for the Richmond County District Attorney's Office amounted to \$932,195.

Results

The audit disclosed that the Richmond County District Attorney's Office generally adhered to Comptroller's Directives #1, #6, and #24; applicable PPB rules; and the DOI *Standards for Inventory Control and Management*. However, there were minor instances in which the Richmond County District Attorney's Office did not comply with certain purchasing procedures. The Richmond County District Attorney's Office:

- Lacked bidding documentation for one small purchase totaling \$5,622.
- Did not reconcile the demand account on a monthly basis.
- Lacked approvals from the Bureau Chief and Administration Bureau Chief for 6 of 21 Expenditure Request forms reviewed, totaling \$82,026.

The audit made four recommendations to address these issues. Richmond County District Attorney's Office should:

- Monitor expiration dates of all subscriptions and allow sufficient time to solicit bids.
- Solicit bids for purchases of more than \$5,000 and maintain bidding documentation, as required by PPB rule §3-08.
- Ensure that the demand bank account is reconciled to comply with the provisions of Comptroller's Directive #11.
- Adhere to its internal control procedures when processing expenditure requests.

Richmond County District Attorney's Office officials agreed with three of the four recommendations.

Audit Follow-up

The Richmond County District Attorney's Office reported that all of the audit recommendations have been implemented.

ECONOMIC DEVELOPMENT CORPORATION

Confidential Report

Report #FM09-070S

Comptroller's Audit Library #N/A

Issued: August 28, 2008

Monetary Effect: None

This was a confidential report released to the Department of Investigation on August 28, 2008.

DEPARTMENT OF EDUCATION

Confidential Report

Report #FM09-136S

Comptroller's Audit Library #N/A

Issued: June 11, 2009

This was a confidential report released on June 11, 2009.

ENVIRONMENTAL CONTROL BOARD

Audit Report on the Reliability and Accuracy of the Notices of Violation Data in the Environmental Control Board Computer Systems

Audit #7A08-084

Comptroller's Audit Library #7920

Issued: November 19, 2008

Monetary Effect: Potential Revenue: \$1.4 million

Introduction

This audit assessed the reliability of the Notices of Violation (NOVs) data in the Environmental Control Board (ECB) computer systems. It also determined whether ECB NOV data exists in a secure ECB environment, readily accessible to all essential users, and that it is reliable for adjudication purposes and contains information sufficiently pertinent for purposes of enforcement and penalty collection. The audit covered NOV data issued during Fiscal Year 2007.

An NOV is a written legal notice that charges the recipient with violating one or more of the City's quality-of-life rules or laws. ECB enforces the provisions of the City Charter and Administrative Code relating to street cleanliness, waste disposal, water supply purity, and the prevention of air, water, and noise pollution. ECB functions as an administrative tribunal that provides hearings on NOV data issued by a number of City agencies.

Results

ECB NOV data exists in a secure environment with restricted access obtained only through a pre-approval process. Data in 98.5 percent of the NOV records complies with specifications for information recorded in mandatory data fields that is used for adjudication as well as for enforcement or collection. However, data in the remaining 1.5 percent of the NOV records, representing a total of \$1.4 million in penalties for the audit period, does not contain sufficient information, and this could impede adjudication and ultimately prevent enforcement and collection.

The audit made two recommendations that ECB work with the Mayor's Office of Operations and issuing agencies:

- To alleviate the issuance of defective violations by developing additional improvement strategies for NOV data quality, such as coordinating with issuing agencies in their establishment of training programs for NOV-issuing officers to ensure that all required information is included on the violation.
- Establish a performance measurement tool to measure NOV data quality over time to assist ECB assessing the effectiveness of any implemented improvement initiatives for data quality.

In their response, ECB officials generally agreed with the audit's findings and recommendations.

Audit Follow-up

ECB reported that both audit recommendations are being implemented.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Audit Report on the Department of Environmental Protection Controls over the Billing of Water And Sewer Charges of Residential Properties

Audit #MH08-069A

Comptroller's Audit Library #7925

Issued: February 10, 2009

Monetary Effect: Potential Revenue: \$37,586

Introduction

This audit determined whether the Department of Environmental Protection (DEP) has adequate controls over the billing of water and sewer charges for residential properties to ensure that bills are accurate and that it has properly identified all properties whose accounts should be billed. The audit scope was July 2006 through April 2008.

The Bureau of Customer Services (BCS) of DEP is responsible for the billing of water and sewer charges for all properties within the City. BCS maintains customer, premise, and utility information using the Customer Information System (CIS). It also verifies the accuracy of water meters and remotes and inspects, repairs, and replaces them. Con Edison, through a contract with DEP, is responsible for reading meters. The premises of certain organizations are eligible for an exemption from payment of water and sewer charges. According to CIS, during Fiscal Year 2007 there was a total of 765,431 accounts associated with residential properties Citywide that were billed approximately \$1.4 billion in water and sewer charges.

Results

In general, DEP has adequate controls in place to ensure that bills are accurate. However, DEP lacks the controls needed to ensure that it properly identifies properties whose accounts should be billed. As a result, there is an increased risk that accounts may not be billed for water and sewer use and monies due the City will go uncollected.

The audit found properties incorrectly placed on inactive status resulting in their respective accounts not being billed an estimated \$11,409, lacking or incomplete exemption files, and a lack of monitoring of water use for exempt frontage accounts. The audit also found that an estimated \$26,177 was not billed to certain accounts because they were incorrectly classified as exempt from payment of water and sewer charges. In addition, DEP needs to improve its monitoring of accounts: the necessary work related to the installation, inspection, repair, or replacement of meters or remotes was either not completed or completed in an untimely manner; and accounts with three or more consecutive estimated bills were not always investigated, as required. DEP also has an inadequate tracking system for monitoring overdue work orders related to meters or remotes. Finally, DEP has no formal procedures for calculating estimated bills in which the average amount of water use is computed manually, or for assessing whether properties are eligible for exemption from payment of water and sewer charges.

The audit made 23 recommendations, including that DEP should:

- Investigate the four accounts that were determined to be incorrectly placed on inactive status and that should, therefore, be billed for water and sewer charges. After examination, and if warranted, start billing the accounts and recoup the moneys owed for the unbilled periods.
- Create a tracking system that would effectively monitor the inactive accounts. This system should include, but not be limited to: the date the account becomes inactive, the reason the account has become inactive, and an indication of whether or not the account will permanently remain on inactive status.
- Investigate the three accounts that were determined should not be exempt from payment of water and sewer charges. After examination, and if warranted, start billing the accounts and recoup the monies owed for the unbilled periods.
- Develop and implement written procedures for the Exemption Unit. The procedures should include the steps that the Exemption Unit needs to take to ensure compliance with the rules governing exempt properties in the State Law and the City Administrative Code. Among the procedures should be those for handling new organizations requesting exemption from the payment of water and sewer charges and periodically reviewing organizations that have already been granted exemptions, to ensure that all of them should continue to be exempt.
- Improve its oversight of accounts to ensure that work related to the installation, repairing, or replacement of meters or remotes is completed in a timely manner and that accounts receiving three or more consecutive estimated bills are investigated.

In their response, DEP officials agreed with 19 of the 23 recommendations and disagreed with the remaining 4 recommendations.

Audit Follow-up

DEP reported that 18 recommendations have either been implemented or are in the process of being implementing, one recommendation is in the planning stage, and DEP continues to disagree with the remaining four recommendations. DEP reported that in 2011 it plans to acquire a new Customer Information System with the ability to track all accounts, their status, and the status of work orders.

EQUAL EMPLOYMENT PRACTICES COMMISSION

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

Audit #MD09-057A

Comptroller's Audit Library #7938

Issued: May 29, 2009

Monetary Effect: None

Introduction

This audit determined whether the Equal Employment Practices Commission (EEPC) met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years.

The EEPC is an independent City commission responsible for monitoring and evaluating the employment programs, practices, policies, and procedures of all City agencies funded in whole or in part by the City. The aim of the EEPC is to ensure that agencies maintain an effective affirmative employment program of equal employment opportunity for protected groups (as identified in the City of New York Equal Employment Opportunity Policy) who are employed by or seek employment with City government. Chapter 36 of the City Charter mandates that the EEPC audit and evaluate every City agency at least once every four years and whenever requested by the Civil Service Commission or the Human Rights Commission.

The EEPC is responsible for auditing 156 City agencies, including 59 community boards. The audit covered January 1, 2007, to December 31, 2008.

Results

Although over the last few years the EEPC has increased the number of audits completed, it has not met its New York City Charter mandate to audit every City agency once every four years. For the most recent four-year cycle (calendar years 2005–2008), the EEPC had audited only 102 (65%) of the 156 agencies required to be audited by December 31, 2008. Audits for an additional 13 agencies were initiated but not completed by December 31, 2008.

The audit made two recommendations. EEPC officials should:

- Continue to request funds from the Mayor's Office for the additional staff members needed to meet the Charter mandate.
- Ensure that agencies not audited within the last four years are the next agencies scheduled to be audited.

EEPC officials agreed with the audit's findings and recommendations.

Audit Follow-up

EEPC reported that it has attempted to implement both audit recommendations. However, the Office of Management and Budget (OMB) has not honored EEPC's request for additional funding.

DEPARTMENT OF FINANCE

Audit Report on the Calculation and Application of the J-51 Tax Benefits for Properties in Manhattan by the Department of Finance

Audit #FP06-141A

Comptroller's Audit Library #7935

Issued: May 15, 2009

Monetary Effect: Potential Revenue: \$33,836,149

Introduction

This audit determined whether the Department of Finance (DOF) is properly calculating and applying J-51 tax-exemption and tax-abatement benefits. The scope of this audit covered tax assessments for properties in the borough of Manhattan for Fiscal Year 2007.

Results

The audit disclosed that there were weaknesses in the administration of key aspects of the J-51 tax-exemption-incentive program. While the properties in our sample received tax abatements that were appropriate, we found incorrect tax exemptions for the sampled non-government-funded properties. As a result, based on our calculations, the City did not realize \$2,619,577 in real estate tax revenue from the year those properties initially obtained tax benefits through Fiscal Year 2007.

In addition, we found that the lack of specificity in the J-51 statute permits discretionary interpretation and practices that limit City revenue potential because the exemptions amounts were not calculated on the basis of assessed value when the project was completed. For example, our sampled properties would have resulted in \$3.4 million in additional revenue by applying a different methodology to calculating exemptions. Moreover, since the exemptions granted under this program extend up to 32 more years, utilization of this different methodology would bring in the unrealized \$2,619,577, plus an estimated \$31,216,572 in additional taxes on the properties in future years.

The audit made 17 recommendations to the DOF concerning the calculation and application of J-51 tax-exemption benefits in the borough of Manhattan. Among the major recommendations, DOF should:

- Seek changes in the J-51 statute and/or City rules to specify the best method for calculating tax exemptions so as to ensure program equity and the greatest revenue potential for the City.
- Prorate tax exemptions as required by New York State Real Property Law. In this regard, DOF should ensure that exemption calculations of its computer system are accurate.
- Establish procedures to identify properties with large annual variations in market and assessed values.
- Review the assessments of any existing properties that show large annual variations in market and assessed values. DOF should adjust any values and associated exemptions that cannot be adequately substantiated.

- Ensure that all exemption calculations are based on accurate information in the tax exemption-tax abatement (TETA) database and recalculate improperly granted exemptions for the 23 properties cited in this report.
- Ensure that any future taxes are based on the recalculated exemptions.

In their response, DOF officials agreed with two recommendations to ensure that exemption calculations are based on accurate information in the computer database, and to consult Counsel regarding seeking changes in the J-51 statute or rules. DOF officials disagreed with three recommendations regarding the prorating of tax exemptions, recommending the establishment of procedures to identify properties with large annual variations in market and assessed values, and the related recommendation to review such properties and adjust any values and associated exemptions that cannot be substantiated. DOF did not respond to the other 12 recommendations.

Audit Follow-up

DOF reported that it has implemented two recommendations that it agreed with, but will not implement one recommendation, and disagreed with the remaining 14 recommendations. DOF reported that properties are promptly inspected and assessed, and that final certificates-of-eligibility received from the Department of Housing Preservation and Development (HPD) are maintained in the J-51 file. However, DOF reported that consulting Counsel regarding legislative changes would have to be initiated by or in conjunction with HPD.

NEW YORK CITY FIRE DEPARTMENT

Follow-up Audit on the New York City Fire Department Procedures for Replacement of Front-line Vehicles

Audit #FS09-082F

Comptroller's Audit Library #7933

Issued: April 21, 2009

Monetary Effect: None

Introduction

This follow-up audit determined whether the New York City Fire Department (FDNY) implemented the recommendations made in a previous audit entitled, *Audit Report on the Fire Department Procedures for Replacement of Front-line Vehicles* (MH05-073A), issued on May 17, 2005.

The previous audit evaluated whether FDNY was in compliance with its union contract with regard to replacement requirements for front-line fire-fighting vehicles. The audit found that FDNY was in compliance with the replacement requirements for front-line fire-fighting vehicles in its union contract, but FDNY needed to formalize its replacement procedures in its own written policies. Also, even though the location information for the spare vehicles was tracked in the FDFLEETS computer database, the location information for spare vehicles in FDFLEETS was not updated regularly. At the time of the audit, FDNY was working on the development of an Oracle database to replace FDFLEETS for vehicle tracking. The scope of this follow-up audit was July 1, 2007, through June 30, 2008.

Results

The current follow-up audit disclosed that of the four recommendations made in the previous audit, FDNY has implemented two and partially implemented two. FDNY has developed both a policy and guidelines regarding replacement of front-line vehicles, but they have not been signed, dated, or disseminated throughout FDNY.

To address the issues that still exist, the audit made three recommendations. FDNY should:

- Approve, sign, and date the policy regarding the replacement of the front-line fire-fighting vehicles and spare vehicles when they reach a certain age, and disseminate the policy to all appropriate FDNY units.
- Approve, sign, and date the guideline that determines when and for how long a spare vehicle should replace a front-line vehicle, and ensure that newer spares are assigned to those vehicles out of service for a longer time.
- Link the new database being developed for vehicle tracking, once it is in place, to all related FDNY systems.

In their response, FDNY officials agreed with the audit recommendations.

Audit Follow-up

FDNY reported that two recommendations have been implemented and the remaining recommendation is in the process of being implemented. FDNY plans to roll-out the new version of the vehicle tracking database next year.

HEALTH AND HOSPITALS CORPORATION**Audit Report on Inventory Controls over Noncontrolled Drugs at Coney Island Hospital**

Audit #MG07-111A

Comptroller's Audit Library #7941

Issued: June 25, 2009

Monetary Effect: None

Introduction

This audit determined whether Coney Island Hospital (Coney Island) had adequate internal controls over its pharmacy stockroom inventory of noncontrolled drugs.

The New York City Health and Hospitals Corporation (HHC), the largest municipal hospital and health care system in the country, is a \$5.4 billion public-benefit corporation that serves 1.3 million New Yorkers, nearly 400,000 of whom are uninsured. Located in Brooklyn, Coney Island is one of HHC's 11 acute-care hospitals that provide medical, mental health, and substance-abuse services to City residents—regardless of their ability to pay.

Coney Island purchases, stores, and dispenses noncontrolled drugs. To maintain inventory records, it is responsible for maintaining its perpetual inventory records for noncontrolled drugs kept in its pharmacy stockroom on the HHC computerized Other Than Personal Services (OTPS) procurement management system. During Fiscal Year 2007, Coney Island spent approximately \$13 million for controlled and noncontrolled drugs and reported the value of its drug inventory as \$883,394 at Fiscal Year-end 2007.

Results

The audit found that during Fiscal Year 2007, Coney Island did not maintain accurate perpetual inventory records, lacked an independent review of transactions entered into OTPS, and did not take corrective actions or document explanations when inventory discrepancies between actual (stockroom) and perpetual (OTPS) inventory were identified. In addition, pharmacy staff made unsubstantiated inventory adjustments on several occasions, totaling an estimated \$3.75 million, to the noncontrolled drug perpetual inventory in OTPS to align it with physical balances at the hospital. Nevertheless, the hospital still had discrepancies in 50 percent of the items at fiscal year-end.

After discussing these findings and newly implemented hospital procedures with Coney Island and HHC, auditors conducted additional testing at the end of Fiscal Year 2008 and determined that during that period, the hospital had improved its inventory controls and generally maintained accurate perpetual inventory during Fiscal Year 2008.

In addition, in November 2008, the pharmacy department presented an analysis of the unsubstantiated Fiscal Year 2007 adjustments, showing that \$2.9 million was related to inventory issuances that had not been recorded in OTPS. However, the hospital did not provide sufficient information to enable auditors to determine the accuracy of that analysis.

To address these issues, the audit recommended that Coney Island ensure that:

- Transactions posted in OTPS are independently reviewed in a timely manner to ensure records are complete and accurate.
- All inventory adjustments posted in OTPS are properly authorized and have supporting written explanations and/or supporting documentation on file.
- Storeroom inventory audits are conducted at least monthly in which all discrepancies are investigated and documented in writing.
- Discrepancies that cannot be resolved after investigation are brought to the attention of hospital management in writing to ensure that appropriate corrective actions are taken.

In their response, HHC officials generally agreed with all four recommendations. However, while they agreed with certain findings, they disagreed with the “reported severity of others” in the report. A careful review of HHC’s disagreements found them to be without merit.

Audit Follow-up

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

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Audit Report on the Inventory Controls of the Department of Health and Mental Hygiene over Nicotine Replacement Therapy Aids

Audit #MD09-071A

Comptroller's Audit Library #7950

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Bureau of Tobacco Control (BTC) of the Department of Health and Mental Hygiene (DOHMH) had adequate inventory controls over nicotine replacement therapy (NRT) aids. The scope of the audit was Fiscal Year 2008.

The mission of DOHMH is to protect and promote the health and mental well being of New York City residents. DOHMH has programs to prevent and control chronic diseases such as heart disease, diabetes, asthma, and cancer. It has also made reducing tobacco-related illness a priority. As part of its comprehensive plan to reduce tobacco use in New York City, BTC distributes NRT aids, such as gum, lozenges, and patches, to help people who are trying to quit smoking.

Results

BTC does not have adequate inventory controls over NRT aids. It relies solely on a third-party vendor, Vanguard, for the monitoring and supervision of NRT inventory. BTC does not reconcile NRT inventory balances, but instead relies on Vanguard to ensure that inventory records are accurate. Also, BTC does not monitor the physical inventory counts of NRT aids conducted by Vanguard and has never performed its own inventory count. Moreover, DOHMH has not conducted any independent audits of Vanguard's inventory operations.

There was no evidence that inventory discrepancies identified by Vanguard were shared with BTC officials or that these discrepancies were adequately investigated. Also, the audit identified some discrepancies in the Employee Smoking Cessation Assistance Program (ESCAPE) inventory records maintained by BTC. Moreover, BTC officials were unaware of the process of accounting for 311 kits returned undelivered that were reshipped by Vanguard and incorrectly included them as additional kits in BTC's calculation of the total number of NRT aids distributed during Fiscal Year 2008. Finally, BTC lacked written policies and procedures for aspects of the NRT program.

The audit made 11 recommendations, including that BTC officials should:

- Perform regular reconciliations of NRT inventory balances it receives from Vanguard with its own records to ensure that the inventory is being correctly accounted for.
- Assign individuals to attend and observe Vanguard's physical inventory count of NRT aids or periodically conduct its own unannounced physical inventory counts.
- Request that DOHMH conduct independent audits of Vanguard's operational controls and of its inventory operations.

- Ensure that Vanguard provides them with the inventory variances that are identified by physical inventory counts.
- Ensure that inventory variances are adequately investigated and that the outcomes of the investigations are adequately documented.

DOHMH officials generally agreed with the audit's recommendations.

Audit Follow-up

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

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Audit Report on the Reliability and Integrity of the Department of Housing Preservation and Development's Emergency Repair Program Data

Audit #7A08-086

Comptroller's Audit Library #7931

Issued: April 1, 2009

Monetary Effect: None

Introduction

This audit assessed the reliability and integrity of the Department of Housing Preservation and Development's (HPD) Emergency Repair Program data. The responsibilities of HPD include maximizing the availability, affordability, and quality of housing in New York City. HPD's Central Complaint Bureau, which is part of the City's 311 government information system, receives all complaints about emergency conditions from tenants in privately-owned and City-owned buildings. These complaints are entered into the HPDInfo computer system.

If the repairs are not made within the required 24-to-72-hour period, HPD, through its HPDInfo's Emergency Repair Program (ERP), hires a contractor or assigns its own employees to make the repair. Regardless of whether HPD employees or vendors correct the emergency condition, HPD notifies the Department of Finance (DOF) of the cost of the repair. DOF is responsible for billing the owner for the cost of the repair. The audit scope focused on Fiscal Year 2006 and Fiscal Year 2007 ERP data.

Results

The ERP data exists in a secure environment with restricted access and is readily available to its users. Data in all mandatory fields is entered in the correct data format (i.e., numerical format, date format, or letter format). However, there is inaccurate and incomplete data, and unused data fields within the ERP database. Also, access to ERP data is obtained through a pre-approval process, although access-control weaknesses exist: ERP is not equipped with an automatic lockout feature for invalid login after a predetermined number of unsuccessful attempts to access ERP data, and users no longer employed by HPD or on leave still maintain active ERP access. Therefore, it was not possible to ascertain whether the ERP database is accurate, complete, or reliable for the process of paying vendors and billing property owners.

The audit made five recommendations, including that HPD should:

- Perform an edit check and create a system control to ensure that the ERP vendor information is complete, accurate, and up to date.
- Review ERP tables, deleting any unused fields in a particular table, thus eliminating the possibility that inaccurate information is introduced into the system.
- Develop written policies and procedures for password-security control for the ERP database.
- Develop written policies and procedures for tracking system users and terminating inactive User IDs. In addition, HPD should periodically review the status of inactive user accounts and terminate access, when appropriate.

- Terminate inactive accounts identified in this audit.

In their response, HPD officials generally agreed with the audit recommendations.

Audit Follow-up

HPD reported that four recommendations have either been implemented or are in the process of being implemented and the remaining recommendation has been partially implemented. HPD stated that inactivating unused fields rather than deleting them will provide a better audit trail of user activity.

HUMAN RESOURCES ADMINISTRATION

Audit Report on the Compliance of the Human Resources Administration with Purchasing Directives

Audit #FP08-122A

Comptroller's Audit Library # 7953

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Human Resources Administration (HRA) adhered to Comptroller's Directives #24; the City Charter; and applicable Procurement Policy Board (PPB) rules. During Fiscal Year 2007, the period covered by the audit, HRA made Other Than Personal Service expenditures of approximately \$4.9 billion for social services programs

HRA serves more than three million New Yorkers through essential and diverse programs such as temporary cash assistance, public health insurance, food stamps, home-care for seniors and the disabled, child care, adult protective services, domestic violence, HIV/AIDS support services, child-support enforcement, and other income support services.

Results

The audit disclosed that HRA generally did not adhere to Comptroller's Directive #24, the City Charter, and applicable PPB rules in two major areas. HRA did not enter into contracts when purchasing services for clients and instead used purchase orders to process payments for services totaling \$146 million. Additionally HRA did not register a Memorandum of Understanding (MOU) with the Comptroller's Office.

Except for the above issues:

- Sampled vouchers and purchase documents were properly approved and authorized.
- Appropriate documentation was maintained to support the sampled vouchers.
- Sampled invoices were on file to substantiate the amount paid.
- Purchase files contained documentation indicating that goods and services were actually received.
- The drug-rehabilitation centers visited were adequately maintained.

The audit made five recommendations that HRA should:

- Ensure that it follows the City Charter and PPB rules when purchasing services by entering into formal contracts with these vendors.
- Discontinue using Purchase Orders to procure services.
- Register all these contracts and purchases with the Comptroller's Office, as required by the City Charter.

- Ensure that it adheres to provisions of Comptroller's Directive #24 by using the correct purchase document when processing payments through the City's Financial Management System (FMS).
- Present its MOUs to the Comptroller's Office for registration.

In their comments, HRA officials disagreed with the findings and recommendations of the audit.

Audit Follow-up

HRA reported that it continues to disagree with the audit recommendations.

HUMAN RESOURCES ADMINISTRATION

Audit Report on the Controls of the Human Resources Administration Bureau of Eligibility Verification (BEV) over the Investigation of Cash-Assistance Applicants.

Audit #MH09-059A

Comptroller's Audit Library #7943

Issued: June 26, 2009

Monetary Effect: None

Introduction

This audit determined whether BEV is processing and investigating cash-assistance applications in a timely and effective manner in accordance with established procedures.

The mission of the Human Resources Administration (HRA) is to enhance the quality of life for all City residents by providing temporary assistance to eligible individuals and families in the City to help them lead independent and productive lives. Family Assistance (FA) provides cash assistance to families and Safety Net Assistance (SNA) provides cash assistance to single adults or couples without children. FA clients can receive cash assistance for up to five years, and SNA clients can receive cash assistance for up to two years as long as their eligibility status is verified each year.

Requests for cash assistance are initiated at any one of HRA's 26 Job Centers. Applicants who apply for FA or SNA cash assistance must receive a decision from the Job Centers within 30 and 45 calendar days, respectively, from the date the application is filed. As required by New York State Social Services Law §132, BEV is responsible for conducting eligibility reviews of applicants to ensure that only eligible persons receive cash assistance. It assesses eligibility by conducting in-depth interviews, background checks, and home visits.

The period covered by this audit was July 1, 2007, through June 30, 2008.

Results

BEV is generally processing and investigating cash-assistance applications in a timely and effective manner and in accordance with established procedures. For the sampled 92 cases, 34

cases were denied, 30 cases valued at \$130,190.93 were accepted, and 28 cases valued at \$69,134.56 were accepted with a reduced budget. The audit found that face-to-face interviews were conducted within the required 17-day time-frame. Although BEV does not have a time standard by which it must make its recommendations to Job Centers, it generally made its recommendations within the 30- or 45-day time frame in which HRA is required to render cash-assistance decisions to applicants. The audit also found that the Job Centers' final decisions for cash assistance benefits generally corresponded with the recommendations made by BEV, and that applications requiring field visits were performed by two investigators at all times.

However, while auditors were able to obtain relevant information to perform tests for all 92 cases from HRA's databases, BEV was unable to find nine hard-copy files, despite several requests within a three-month period. As a result, the audit could not determine whether the applicants actually submitted the required documentation that they were asked to bring as evidence of eligibility.

The audit recommended that BEV should:

- Make every effort to maintain all hard-copy case files containing the client's verification documents upon which its recommendation is based. BEV officials should continue to look for the nine missing files that we cited.
- Ensure that all required home visits are conducted by field investigators and that the results of those visits are entered in the Maintaining and Preparing Executive Reports (MAPPER) tracking system.

In their response, HRA officials agreed with both recommendations and stated that corrective actions will be taken to improve the conditions cited in the report.

Audit Follow-up

HRA reported that both audit recommendations are being implemented.

HUMAN RESOURCES ADMINISTRATION

Audit Report on the Human Resources Administration's Fiscal Oversight of Personal Care Service Providers

Audit #MJ09-055A

Comptroller's Audit Library #7948

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit assessed the adequacy of the Human Resources Administration's (HRA) efforts to monitor the fiscal activities of contracted personal-care service providers and their compliance with fiscal provisions of their HRA contracts.

HRA's Home Care Services Program (HCSP) provides Medicaid-funded, non-institutional, long-term care options designed to help the elderly or disabled remain at home rather than in a nursing home or other institution. The Personal Care Program provides home attendant and/or housekeeping services to Medicaid-eligible clients who are in stable medical condition, but who have difficulty with daily life activities, such as walking, cooking, cleaning, bathing, or using the bathroom. HRA contracts with personal care agencies to provide personal care services to eligible individuals. In Fiscal Year 2008, the period covered by the audit, HRA had 93 contracts with different agencies to provide home attendant and housekeeping services to approximately 47,000 individuals at a cost of more than \$2 billion, half funded by the Federal government and half funded by New York State.

Results

HRA has a number of activities in place to monitor the fiscal affairs of contracted personal care providers but they are nullified by HRA's failure to act decisively and promptly. The audit found severe delinquencies in the completion of independent Certified Public Account (CPA) audits and in HRA closeouts of agencies' annual financial statements. These delinquencies occurred because of HRA delays in contracting for CPA audit services and resulted in significant delays in the annual HRA closeouts and the recovery of overpayments made to service providers. Consequently, the State and the City lost use of those funds and could have lost up to an estimated \$25 million in interest revenue on a total of \$203 million in outstanding overpayments that remained with the personal care agencies.

HRA does not expressly require personal-care providers to maintain their cash balances in accounts insured by Federal Deposit Insurance Corporation (FDIC) or to secure the accounts through collateralization or other acceptable means. On June 30, 2008, providers held \$255 million in bank balances of which an estimated \$233 million was not secured at that time by FDIC insurance or through a collateralization arrangement. Although, on October 14, 2008, the FDIC implemented a program to provide unlimited coverage of funds held in non-interest-bearing transaction accounts, the program is temporary and scheduled to expire on December 31, 2009.

The audit also disclosed that HRA Fiscal Managers do not perform field visits on a routine basis, nor do they make visits to all contracted personal care programs each year. Further, HRA's annual performance evaluations of its contracted personal care programs are not based on complete information or information relevant to the contract year. Also, the Director of the Fiscal Operations unit performed and oversaw several key functions, some of which were not adequately segregated. Lastly, HCSP's formal operating procedures do not reflect all current fiscal monitoring policies and procedures followed by the Fiscal Operations unit.

HRA, however, has established cost-containment and control policies for service providers to follow and incorporated these measures in its performance monitoring and evaluation of contractors. In general, service providers adopted these policies. In addition, the personal-care provider rates for Fiscal Year 2008 calculated by HRA and approved by the State Department of Health appeared reasonable and justified.

To address these issues, the audit made 12 recommendations, among them that HRA should:

- Ensure that contracts for CPA audit services are established sufficiently in advance of the end of each fiscal (contract) year to ensure that personal-care provider financial activities will be audited in a timely manner.
- Require personal-care providers to issue their financial statements within a set period of time after the end of each fiscal year.
- Perform timely closeouts for all contracts at the end of each contract year.
- Establish and distribute to all contracted personal-care providers a policy statement expressly requiring them to maintain cash deposits in bank accounts that are secured by FDIC insurance and secure the funds exceeding FDIC limits through collateralization or other acceptable methods. The policy should include periodic reporting requirements for the providers' financial institutions and standardization of the information to be reported.
- Review the HCSP *Contract Management System Procedures Manual*, identify deficiencies, and update policies to reflect procedures implemented since the manual was last updated. Prospectively, the manual should be updated periodically to address newly implemented or revised policies and operating procedures.

HRA officials agreed with ten of the audit recommendations and disagreed with two.

Audit Follow-up

HRA reported that 11 of the 12 audit recommendations have either been implemented or are in the process of being implemented. It disagreed with one recommendation, stating that it is not necessary to consult the Law Department regarding the contractors who refuse to provide bank-balance information.

MULTI-AGENCY

Audit Report on the Processes of the Environmental Control Board and the Department of Finance to Collect Fines for Violations Issued by the Department of Buildings

Audit #MD08-071A

Comptroller's Audit Library #7922

Issued: January 22, 2009

Monetary Effect: Unable to Determine

Introduction

This audit examined the adequacy of the Environmental Control Board's (ECB) and the Department of Finance's (DOF) collection processes for ECB-imposed fines resulting from violations issued by the Department of Buildings (DOB).

ECB is an administrative tribunal that adjudicates cases involving violations of the City's quality-of-life laws, including the ECB NOV's issued by DOB. DOB issues an ECB Notice of Violation (NOV) when a building does not comply with the building code or the City's Zoning Resolution. DOF is the collection agency for the City and is responsible for collecting ECB judgments. The audit covered the ECB-DOB violations in DOF's database as of October 2007 and the violations in ECB's database for the period December 1983 through October 2007.

Results

Although ECB is properly sending notification letters to respondents and is properly docketing the judgments within its established timeline, ECB did not forward cases to DOF for a period of more than 19 months, thereby severely limiting DOF's collection efforts.

Nevertheless, DOF should improve its record-keeping and collection process. It made minimal efforts to collect ECB-DOB violation fines from sampled respondents. As of May 2008, the sampled respondents had 394 unresolved violations as well as unpaid fines for 1,221 violations totaling approximately \$4 million. These fines remained unpaid for an average of 1,751 days from the dates the judgments for these cases were docketed (filed with the court) through May 1, 2008.

DOF also has no formal procedures, such as establishing a dollar-value threshold, to identify those respondents meriting additional collection efforts, and the procedures it does have are not always followed by its personnel. For example, initial attempts to contact respondents are not always performed by DOF. While sending a notification letter and making a telephone call do not guarantee that a respondent will pay, they are the only collection attempts that DOF makes. By failing to perform these minimal steps, DOF is practically assured that it will collect no monies from these respondents. Moreover, DOF failed to use its contracted collection agency to aid in its efforts. Finally, as DOF does not track the amounts of ECB-DOB violation fines it collects as compared with the total cases received for the same time period, it is unable to calculate its collection rate for those fines and is unable to determine the effectiveness of its collection activities.

The audit made 17 recommendations, six of which are listed below. DOF and ECB officials should:

- Consider legislative changes that would allow for additional enforcement capabilities to assist the agencies in their collection efforts. In addition, DOF and ECB officials should consider initiating a project with DOB whereby DOB would be able to deny new permits to respondents with open and outstanding violations.

DOF should:

- Establish formal procedures and criteria to identify and select cases for additional collection attempts.
- Ensure that it adheres to its own internal collection procedures and documents these efforts.
- Contact ECB to obtain prior payment information in an attempt to identify bank accounts of respondents in order to send execution letters to seize assets.
- Use the contract with its collection agency to assist in its fine collection efforts for ECB-DOB violations.
- Track ECB-DOB violation fine payments that result specifically from its collection efforts to determine the collection rate so as to monitor the effectiveness of DOF collection procedures.

ECB officials agreed with the three recommendations addressed to ECB. Although DOF officials expressed their overall disappointment with the audit, they agreed with or stated they have implemented 13 of the 16 recommendations addressed to DOF. They disagreed with the remaining three recommendations.

Audit Follow-up

DOF reported that 10 recommendations have been implemented, three recommendations are in process, and DOF continues to disagree with the remaining three recommendations.

ECB reported that the three recommendations addressed to ECB are being implemented.

AUDITS OF MANAGERIAL LUMP-SUM PAYMENTS

Monetary Effect: Actual Savings: \$276,835.46

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

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

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

For Fiscal Year 2009, those audits of the managerial lump-sum requests submitted by city agencies resulted in a savings to the City of New York of \$276,835.46:

Total number of claims in Fiscal Year 2009	460
Total amount of agency-prepared lump-sum claims	\$ 9,289,173.87
Total amount of lump-sum claims approved for payment	\$ 9,012,338.41
Claims correctly prepared by the agency	285
Claims reduced during audit	139
Claims increased during audit	36
Claims denied	0
Total dollar value of agency overpayments, before audit	\$ 282,360.42
Total dollar value of agency underpayments, before audit	\$ 5,524.96
Net Savings resulting from audit	\$ 276,835.46

AUDITS OF HIGH RISK WELFARE FUND PAYMENT VOUCHERS

Monetary Effect: Actual Savings: \$155,611
 Potential Savings: \$ 21,215

The Bureau of Financial Audit ensures that agencies are in compliance with provisions contained in more than 600 agreements between the City and various unions covering welfare and annuity benefits for active and retired employees.

Copies of all payment vouchers are submitted to the Comptroller by City agencies in accordance with Comptroller's Directive #8 (Special Audit Procedures on High Risk Vouchers).

The payments are reviewed to ensure that they conform to the terms and conditions of all agreements, Office of Labor Relations (OLR) stipulations, Personnel Orders, Office of Collective Bargaining decisions, etc. Audits have revealed the following types of errors:

- Contributions made in error for unauthorized titles or rates
- Contributions made for retirees prior to their actual retirement date
- Duplicate payments for a title or a group of titles under two different agreements or the same agreement

During Fiscal Year 2009—3,415 vouchers totaling over \$437.9 million were audited, with these results:

	<u>Number of Vouchers</u>	<u>Amount</u>
Total Number of Vouchers Audited:	3,415	\$437,904,448.64
Vouchers Accepted:	3,009	\$220,943,889.86
Vouchers Not Accepted:	406	\$216,960,558.78
Overpayments:		\$ 176,825.50
Questionable:		\$ 0.00
Underpayments:		\$ 7,099.20

Collections during Fiscal Year 2009 totaled \$155,611. Agencies recouped this amount either by check from the appropriate fund or by deducting the overpayment from subsequent payment vouchers.

DEPARTMENT OF PARKS AND RECREATION

Audit Report on the Compliance of the Central Park Conservancy with its Department of Parks and Recreation Management Agreement

Audit #FK07-096A

Comptroller's Audit Library #7932

Issued: April 1, 2009

Monetary Effect: None

Introduction

This audit determined whether the Central Park Conservancy (CPC) fulfills its responsibilities under the terms of its management agreement with the Department of Parks and Recreation (Parks). CPC is a private, not-for-profit organization founded in 1980. Under the agreement, CPC agrees to raise and expend annually a minimum of \$5 million with respect to maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park. In consideration of CPC's services, Parks pays CPC an annual fee based on monies raised and expended by CPC in the prior fiscal year and on revenues received by Parks from its Central Park concessions in the prior fiscal year.

According to CPC's certified financial statements for the fiscal year ended June 30, 2006, the period covered by the audit, CPC expended \$12.8 million on park maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities (operating expenses). In consideration of these services, Parks paid CPC \$4,282,200 (\$2,000,000 of which was for the monies raised and expended) and supplied CPC with \$100,000 worth of vehicles.

Results

CPC generally complied with its management agreement. In that regard, it exceeded its funding commitment, maintained Central Park in accordance with agreement standards, and complied with Procurement Policy Board and Parks purchasing rules. According to its certified financial statements for the year ended June 30, 2006, CPC expended \$12.8 million on maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities. This sum was well in excess of the \$7 million required to receive the maximum funding allowable based on monies raised and expended by CPC. (It must raise and expend \$5 million to receive the first \$1 million and an additional \$2 million to receive another \$1 million.) Parks Site Inspection Reports evidenced that Central Park was well maintained and that hazardous conditions noted by Parks inspectors were addressed and corrected by CPC in a timely manner.

However, CPC did not implement a system that would allow it to identify costs associated with its agreement. Further, Parks did not request and review any supporting documentation for expenses reported by CPC to ensure that it included only eligible expenses and maintained documentation to support those expenses. In the absence of a tracking system, CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. However, CPC's operations account included expenses that were ineligible under the terms of its agreement because they were prohibited, not for operating expenses, not incurred during Fiscal Year 2006, or lacked supporting documentation. Although these expenses were ineligible, they

were generally in keeping with CPC's mission of restoring, managing, and preserving Central Park. Nevertheless by including ineligible expenses in amounts used to support funding received from Parks, CPC could potentially increase the amount of funding it receives.

Parks also assigned permit-fee revenue to CPC that Parks should have collected and deposited in the City's General Fund and granted CPC the use of two City-owned properties in Central Park without a valid agreement or approval from the Franchise Concession and Review Committee (FCRC).

The audit made four recommendations to CPC and eight recommendations to Parks, including the following.

CPC should:

- Establish and maintain accurate records and accounts that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of its agreement.
- Include only expenses that are incurred in the prior fiscal year and directly related the maintenance, repair, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park in the amounts used to support the funding received from Parks.

Parks should:

- Issue permits and collect permit fees for all events in Central Park.
- Enter into valid agreements for use of the Dairy and Conservatory Gardens.
- Adhere to FCRC rules and regulations and obtain FCRC approval when granting private use of City properties.

In their responses, CPC and Parks took exception to the audit findings and recommendations regarding the tracking of agreement expenses and the inclusion of ineligible expenses in amounts used to support funding received from Parks. Both CPC and Parks claim that CPC has a structure on its general ledger to track expenses. CPC and Parks further claim that CPC did not submit ineligible expenses to Parks.

Audit Follow-up

Parks reported that six recommendations have been implemented and the remaining six recommendations are in the process of being implemented. Parks is in the process of finalizing concession agreements with CPC and will be seeking an approval of these agreements from the FCRC in the near future.

DEPARTMENT OF PARKS AND RECREATION

Follow-Up Audit Report on the Use of Procurement Cards by the Department of Parks and Recreation

Audit #FS09-107F

Comptroller's Audit Library #7936

Issued: May 29, 2009

Monetary Effect: None

Introduction

This follow-up audit determined whether the Department of Parks and Recreation (Parks) implemented the 13 recommendations made in a previous audit entitled *Audit Report on the Use of Procurement Cards by the Department of Parks and Recreation* (MH05-126A), issued on February 8, 2006. The scope period of this follow-up audit was Fiscal Year 2008.

The previous audit found that Parks had inadequate internal controls over its use of procurement cards (p-cards), lacked adequate internal written procedures for the correct use of p-cards, and did not sufficiently train new cardholders in their use. Further, Parks allowed individuals other than the cardholders to use the cards. The Accounts Payable Unit could not adequately review p-card purchases because of incomplete documentation. Also, there were problems with approvals and an absence of a log of purchases.

These internal control weaknesses resulted in: split purchases, thereby allowing transaction limits to be exceeded; sales taxes being incorrectly paid; and purchases being made without checking requirement contracts. In addition, the agency failed to inventory items purchased with p-cards. Finally, the lack of integration between the p-card program and City's Financial Management System allowed an invoice to be paid twice.

Results

The current follow-up audit disclosed that of the 13 recommendations made in the previous audit, Parks implemented seven recommendations, partially implemented four, and did not implement two. Parks provided written procedures that specified the guidelines for the use of p-cards and provided training to the cardholders. The review of a sample of 251 p-card transactions found that the cardholders stayed within their transaction limits and that there was no evidence of splitting purchases in order to circumvent the transaction limits for both the individual purchase and the monthly limit. In addition, each cardholder maintained a monthly purchase log and a file with monthly receipts and receiving reports. Both the log and the file are submitted to the Account Payables unit for review.

Parks partially addressed the issue of missing receiving reports, credit card purchases being signed by a person other than the cardholder, two instances of p-card purchase approval forms submitted beyond the designated date, and six instances of sales taxes being paid inappropriately. In addition, Parks did not implement the recommendation to maintain an inventory record for equipment purchased through p-cards and to ensure that cardholders document that the Department of Citywide Administrative Services (DCAS) Requirements Contracts are checked prior to making purchases.

The audit made six recommendations to address the outstanding issues that still exist, among them that Parks:

- Ensure that only cardholders use the p-cards.
- Ensure that cardholders submit receipts, receiving reports, and approval forms for all purchases. If a receipt or receiving report is not available, a note indicating the reason should be attached to the approval form.
- Ensure that cardholders document that DCAS Requirements Contracts are checked before purchases are made with p-cards.
- Maintain inventory records of equipment purchased with p-cards.

In their response, Parks officials generally agreed with the audit recommendations.

Audit Follow-up

Parks reported that all of the audit recommendations are being implemented. However, Parks noted that although p-cardholders are aware that they should not purchase items available on DCAS requirement contracts, they may have to bypass the DCAS requirement contracts in emergency situations.

BRONX COUNTY PUBLIC ADMINISTRATOR

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

Audit # MH07-128A

Comptroller's Audit Library #7937

Issued: May 29, 2009

Monetary Effect: Actual Revenue: \$2,061

Introduction

This audit determined whether the Office of the Bronx County Public Administrator (Bronx County PA) complied with Article 11 of the State Surrogate's Court Procedures Act (SCPA), the *Report and Guidelines of the Administrative Board for the Offices of the Public Administrators* (Administrative Board Guidelines), and other applicable federal, state, and City laws, rules, and regulations.

There are five Public Administrators in the City, each of whom serves one of the City's five counties and reports to the county Surrogate's Court. Each Public Administrator is responsible for administering the estates of individuals in the county who die intestate (those who die without a will) or when no other appropriate individual is willing or qualified to administer the estate. The audit covered estates closed by the Bronx County PA during Fiscal Year 2007 (July 1, 2006, through June 30, 2007). As of June 28, 2007, the Bronx County PA was administering 1,071 open estates with a total balance of approximately \$69.5 million and, according to the City's Fiscal Year 2007 annual financial report, it collected \$431,950 in revenues.

Results

The Bronx County PA did not adequately comply with Article 11 of the SCPA, the Administrative Board Guidelines, and other applicable federal, state, and City laws, rules, and regulations, largely because of inefficient management of the office's operations.

The audit identified inconsistent and inaccurate reporting of the status of estates, inadequate monitoring of the progress of estate administration, lack of supporting documentation in estate folders, miscalculation and incorrect payment of fees and commissions, unreported and underreported payments in 1099-reportable payments to the IRS, and inadequate controls over personal property. These conditions could be improved—if not fully corrected—by using the CompuTrust computerized case management system to its fullest capacity and by establishing and adhering to a comprehensive, written manual of policies and procedures that addresses all aspects of administering the estates that are the responsibility of the Bronx County PA.

The Bronx County PA also failed to pay commissions to the City for 15 of the 62 judgmentally selected estates that were closed in Fiscal Year 2007. The Bronx County PA, however, recouped and paid \$2,061 in commissions to the City for four of the estates.

Areas in which the Bronx County PA complied with the applicable rules and regulations included accounting for and maintaining a separate file for each estate valued at more than \$500, hiring an independent certified public accountant to conduct an annual audit; maintaining segregation of duties among employees, using two investigators for its residence searches,

keeping personal property in a secure safe, and maintaining a mail log for all correspondence that comes into the office.

Subsequent to the completion of fieldwork, additional areas of concern were identified. The audit found incomplete and untimely submission of the Report of Open Estates to the New York State Comptroller's Office, questionable investments of estate funds in auction-rate securities, and a significant number of open estates with negative balances.

The audit made 15 recommendations, including that the Bronx County PA should:

- Correctly use status codes in CompuTrust to designate estates as open, closed, reopened, and closed, enabling the office to correctly report closed estates for a given period.
- Develop a comprehensive policies and procedures manual.
- Comply with the Administrative Board Guidelines and require that all bidders submit sealed bids for each lot of personal property being auctioned and maintain these bids in the files.
- Immediately cease its practice of investing estate funds in auction-rate securities and refrain from doing so in the future.
- Consult with relevant City agencies, such as the Office of Management and Budget (OMB), to determine how to pay the initial costs of administering estates that appear to have assets without borrowing the funds from the pooled estate trust account.

In his response, the previous Bronx County Public Administrator generally agreed with the audit's 12 recommendations, but stated that the office lacked the resources necessary to implement two recommendations regarding the use of CompuTrust to maintain a comprehensive and current inventory listing and the development of a comprehensive procedures manual. In her response, the current Bronx County Public Administrator generally agreed with the subsequent three recommendations, listed last, above.

Audit Follow-up

The Bronx County PA reported that seven recommendations have either been implemented or are in the process of being implemented, five recommendations will be implemented, and the remaining three recommendations are no longer applicable. The Bronx County PA reported that it has purchased a new software system of Computrust which will be able to address a number of the audit recommendations.

KINGS COUNTY PUBLIC ADMINISTRATOR

Audit Report on the Estate Management Practices of the Kings County Public Administrator

Audit #MG09-054A

Comptroller's Audit Library #7946

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Office of the Kings County Public Administrator (Kings County PA) had adequate controls over its estate management practices during Fiscal Year 2008.

There are five Public Administrators (PAs) in New York City, each of whom serves one of the City's five counties and reports to the county Surrogate's Court. Kings County PA is responsible for administering the estates of individuals in Brooklyn who die intestate (those who die without a will) or when no other appropriate individual is willing or qualified to administer the estate. On June 13, 2008, the PA resigned "for various reasons." The Deputy PA subsequently departed in October 2008. In October 2008, the current PA was appointed as Deputy of Kings County PA, and in January 2009 was promoted to PA. In April 2009, a new Deputy PA was appointed.

During this audit, Kings County PA officials were unable to identify the number of estates Kings County PA was currently administering. According to the City's Fiscal Year 2008 annual financial report, Kings County PA collected \$1.7 million in revenues and had expenditures totaling \$536,127, consisting of \$491,077 for Personal Service expenditures and \$45,050 for Other Than Personal Service expenditures.

Results

The audit found that during Fiscal Year 2008, Kings County PA had inadequate controls over its estate management practices. Management had no written procedures or supervisory review system and CompuTrust, its centralized computer record-keeping system, was not secure, nor was its data reliable. Management did not maintain a reliable record log of all estates and supporting documentation under its administration, and therefore, did not know the total number of estates it was responsible for. Consequently, there is no assurance that the estate distributions that Kings County PA has made were appropriate.

The audit also found that Kings County PA failed to: (1) report its activities to oversight organizations, as required; (2) adequately review its financial transactions; and (3) track inventory it held for estates. In addition, there were procurement deficiencies, including undocumented vendor selections, missing contracts and 1099 forms, and inadequate documentation of the December 5, 2007 Kings County PA real estate auction.

To address these issues, the audit made 18 recommendations, including that Kings County PA should ensure that:

- Management can identify all estates under its administration, along with their current status, assigned attorneys, upcoming key dates and deadlines, inventories, and the appropriate reports for each.

- Staff has written policies and procedures that detail how estates should be administered.
- An audit of Kings County PA's office by an independent certified public accountant for Fiscal Year 2008 is completed as soon as possible.
- Inventory is logged into a central log as soon as the items are brought to the office, noting, at a minimum, the date received, estate number, inventory bag number, and bin in the vault in which inventory will be maintained.
- Office documents all pertinent information regarding vendors, including how vendors are selected, as well as evidence of the 1099 forms issued to its vendors, and that it maintains current contracts in centralized office files.

In their response, Kings County PA officials agreed with 15 of the 18 recommendations in the report and did not address three recommendations.

Audit Follow-up

Kings County PA reported that 15 recommendations have either been implemented or are in the process of being implemented and the remaining three recommendations have not been implemented primarily due to lack of staff.

NEW YORK PUBLIC LIBRARY

Follow-up Audit Report on the Financial Controls of the New York Public Library

Audit # FS08-115F

Comptroller's Audit Library #7915

Issued: September 25, 2008

Monetary Effect: None

Introduction

This follow-up audit determined whether the New York Public Library (Library) implemented the 12 recommendations made in a previous audit entitled *Audit Report on the Financial Controls of the New York Public Library* (MG05-092A), issued on November 22, 2005. This audit also determined the Library's current position on two recommendations that were not implemented in an earlier, 2001 follow-up audit, *Follow-up Audit on the Financial Operating Practices of the New York Public Library*, (ME01-077F), issued on June 29, 2001.

Results

The current follow-up audit disclosed that of the 12 recommendations made in the previous audit, the Library implemented 10 recommendations and partially implemented two. Regarding the latter, the Library did not segregate all vital functions of negotiating, approving, and managing equipment leases; and although the inventory is properly tagged and the inventory records are regularly updated, we found discrepancies during our physical inventory at two branch libraries. The two recommendations made in the earlier 2001 follow-up audit, which were not implemented as of 2005, were now found to be implemented.

The current audit identified new issues concerning purchase requisitions for computer purchases that lacked the required Information Technology Group (ITG) approvals; and the tracking and recording of external hardware and software user licenses within the ITG inventory database.

The audit made two recommendations to address the issues from the previous audit that still exist. The Library should:

- Segregate all vital functions of negotiating, approving, and managing equipment leases. The Library should provide increased management oversight of the entire process.
- Correct discrepancies found during the physical inventory count, and regularly verify and update its computer equipment inventory listing.

To address new issues, the audit made two recommendations, that the Library:

- Add a statement to the purchase requisition form indicating the need for ITG approval and add a place for an authorized signature.
- Maintain within the ITG inventory database a list of inventory-related information on external hardware, such as power supplies, external modems, and external hard drives, as well as software user licenses.

In their response, Library officials agreed with one recommendation and disagreed with the other three.

Audit Follow-up

The Library reported that three recommendations have been implemented, and one recommendation is not being implemented. The Library stated that it would be neither cost- nor time-effective for the Library to track all power supplies, external modems, and external hard drives.

RETIREMENT SYSTEMS

Non-Pedagogical Pensioners of the New York City Department of Education Working for the City after Retirement; January 1, 2007–December 31, 2007

Audit # FL09-116A

Comptroller's Audit Library #7955

Issued: June 30, 2009

Monetary Effect: Potential Savings: \$5,026

Introduction

This audit determined whether any Department of Education (non-pedagogical) pensioners were reemployed by a City agency and illegally collected a pension from the New York City Board of Education Retirement System (BERS), and quantified the amounts of improper pension payments to any individuals who appeared to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212 or City Charter §1117 during calendar year 2007.

Results

Two BERS retirees obtained \$5,026 in pension payments that appeared to violate applicable sections of State and City laws.

The report made four recommendations, specifically that BERS officials:

- Investigate the two individuals identified as receiving a pension while being reemployed in public service. BERS officials should also commence prompt recoupment action against these individuals if found to be illegally collecting pensions.
- Forward to the Department of Investigation, if the circumstances warrant such action, the names of these individuals if they are found to be illegally collecting pensions.
- Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators.”
- Send special reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service reemployment.

In their response, BERS officials described the actions they have taken to address the report's recommendations.

Audit Follow-up

BERS did not provide follow-up information.

RETIREMENT SYSTEMS

Pensioners of the New York City Employees' Retirement System Working for the City after Retirement; January 1, 2007–December 31, 2007

Audit #FL09-117A

Comptroller's Audit Library #7956

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether any New York City Employees' Retirement System pensioners were reemployed by a City agency and illegally collected a pension from the New York City Employees' Retirement System (NYCERS), and quantified the amounts of improper pension payments to any individuals who appeared to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during calendar year 2007.

Results

The audit did not find any individuals who received pension payments during 2007 that appear to violate applicable sections of State and City laws. Consequently, the audit did not make any recommendations to NYCERS officials.

RETIREMENT SYSTEMS

Pensioners of the New York City Police Department Working for the City after Retirement; January 1, 2007–December 31, 2007

Audit #FL09-118A

Comptroller's Audit Library #7957

Issued: June 30, 2009

Monetary Effect: Potential Savings: \$45,436

Introduction

This audit determined whether any New York City Police Department pensioners were reemployed by a City agency and illegally collected a pension from the New York City Police Pension Fund (POLICE), and quantified the amounts of improper pension payments to any individuals who appeared to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during calendar year 2007.

Results

Four POLICE retirees obtained \$45,436 in pension payments that appeared to violate applicable sections of State and City laws.

The report made four recommendations, specifically that POLICE officials:

- Investigate those individuals identified as receiving pensions while being reemployed in public service. POLICE officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.
- Forward to the Department of Investigation, if the circumstances warrant such action, the names of the individuals found to be illegally collecting pensions.
- Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators.”
- Send special reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service reemployment.

In their response, POLICE officials described the actions they have taken to address the report’s recommendations.

Audit Follow-up

POLICE reported that it has investigated all four retirees in question, and determined that the two disability retirees listed were in violation. Of the remaining two service retirees: one received a 211 waiver and the other did not receive approval for employment. POLICE will commence recoupment in January 2010. POLICE said the remainder of the recommendations are being implemented.

RETIREMENT SYSTEMS

Pensioners of the New York City Fire Department Working for the City after Retirement;
January 1, 2007–December 31, 2007

Audit #FL09-119A

Comptroller’s Audit Library #7958

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether any New York City Fire Department pensioners were reemployed by a City agency and illegally collected a pension from the Fire Department Pension Fund (FIRE), and quantified the amounts of improper pension payments to any individuals who

appeared to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during calendar year 2007.

Results

The audit did not find any individuals who received pension payments during 2007 that appear to violate applicable sections of State and City laws. Consequently, the audit did not make any recommendations to FIRE officials.

RETIREMENT SYSTEMS

Pedagogical Pensioners of the New York City Teachers' Retirement System Working for the City After Retirement; January 1, 2007–December 31, 2007

Audit #FL09-120A

Comptroller's Audit Library #7959

Issued: June 30, 2009

Monetary Effect: Potential Savings: \$166,084

Introduction

This audit determined whether any New York City Teachers' Retirement System pensioners were reemployed by a City agency and illegally collected a pension from the New York City Teachers' Retirement System (TRS), and quantified the amounts of improper pension payments to any individuals who appeared to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during calendar year 2007.

Results

Thirteen TRS retirees obtained \$166,084 in pension payments that appeared to violate applicable sections of State and City laws.

The report made four recommendations, specifically that TRS officials:

- Investigate those individuals identified as receiving pensions while being reemployed in public service. TRS officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.
- Forward to the Department of Investigation, if the circumstances warrant such action, the names of those individuals found to be illegally collecting pensions.
- Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators.”
- Send special reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service reemployment.

In their response, TRS officials described the actions they have taken to address the report's recommendations.

Audit Follow-up

TRS reported that it is in full compliance with all of the audit recommendations.

RETIREMENT SYTEMS

NYC Pensioners Working for New York State After Their Retirement; January 1, 2007–December 31, 2007

Audit #FL09-121A

Comptroller's Audit Library #7960

Issued: June 30, 2009

Monetary Effect: Potential Savings: \$285,449

Introduction

This audit determined whether any New York City pensioners returned to public service as employees of New York State and illegally collected a pension from New York City, and quantified the amounts of improper pension payments to any individuals who appeared to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during calendar year 2007.

Results

Fourteen New York City pensioners working for New York State obtained \$285,449 in pension payments that appeared to violate applicable sections of State and City laws.

The report made four recommendations, specifically that officials of the five New York City retirement systems:

- Investigate those individuals identified as receiving pensions while being reemployed in New York State public service. City retirement system officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.
- Forward to the Department of Investigation, if the circumstances warrant such action, the names of the individuals found to be illegally collecting pensions.
- Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators.”
- Send special reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service reemployment.

Officials of the New York City retirement systems generally agreed to implement or stated that they were already in the process of implementing the audit's recommendations.

Audit Follow-up

TRS reported that it is in full compliance with all of the audit recommendations.

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

POLICE reported that it has investigated all members in question, and determined that one member is an elected official and the other three members did not have 211 waivers. POLICE will begin recoupment procedures in January 2010. The remainder of the recommendations are being implemented.

NYCERS reported that all recommendations have been implemented and all overpayments have been recouped or are in the process of being recouped.

BERS did not provide follow-up information.

RETIREMENT SYSTEMS

New York City Pensioners Working as Consultants for the City after Retirement; January 1, 2007–December 31, 2007

Audit #FL09-122A

Comptroller's Audit Library #7961

Issued: June 30, 2009

Monetary Effect: Potential Savings: \$103,820

Introduction

This audit determined whether any New York City pensioners returned to public service as consultants and illegally collected a pension from New York City, and quantified the amounts of improper pension payments to any individuals who appeared to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during calendar year 2007.

Results

Five New York City pensioners working as consultants for the City obtained \$103,820 in pension payments that appeared to violate applicable sections of State and City laws.

The report made four recommendations, specifically that officials of the five New York City retirement systems:

- Investigate those individuals identified as receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement systems officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.
- Forward to the Department of Investigation, if the circumstances warrant such action, the names of individuals found to be illegally collecting pensions.
- Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators.”
- Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

Officials of the New York City retirement systems generally agreed to implement or stated that they were already in the process of implementing the audit’s recommendations.

Audit Follow-up

TRS reported that it is in full compliance with all of the audit recommendations.

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

POLICE reported that the audit recommendations are being implemented.

NYCERS reported that all recommendations have been implemented and all overpayments have been recouped or are in the process of being recouped.

BERS did not provide follow-up information.

DEPARTMENT OF SMALL BUSINESS SERVICES

Audit Report on the Financial and Operating Practices of the Jerome-Gun Hill Business Improvement District

Audit #MG08-105A

Comptroller's Audit Library #7929

Issued: February 25, 2009

Monetary Effect: None

Introduction

This audit determined the extent to which the Jerome-Gun Hill Business Improvement District (BID) has adequate internal controls over its funds, provided services called for in its District Plan, and complied with key terms of its contract with the Department of Small Business Services (DSBS).

The Jerome-Gun Hill BID includes a business district in the Bronx along Jerome Avenue between Mosholu Parkway and East Gun Hill Road, and East Gun Hill Road between Jerome and Webster Avenues. The Jerome-Gun Hill BID is funded by special assessments levied against district property owners and uses these monies to enhance and promote the district. DSBS supervises and oversees the Jerome-Gun Hill BID. In 1996, the BID entered into its first contract with DSBS. The contract was most recently renewed in 2004, for five years. The BID is governed by a Board of Directors consisting mainly of property and business owners within the district and is managed by a not-for-profit corporation, the Mosholu Preservation Corporation (MPC). In Fiscal Year 2008, the BID received assessments amounting to \$209,000, in addition to supplemental income of \$34,473 from its annual street fair (\$19,473) and a grant receivable (\$15,000), for total revenues of \$243,473.

Results

The audit found that the BID's internal controls over funds appear to be adequate. The BID also provided the services stated in its District Plan and complied with most terms of its DSBS contract. However, the audit found that the BID did not adequately separate its funds from those of the MPC, did not adequately communicate with members, lacked the required number of members on its Board of Directors, had inadequate oversight of contracts, and often did not make prompt payments for purchases.

To address these issues, the audit recommended, among other things, that the Jerome-Gun Hill BID ensure that:

- Funds are adequately separated between the BID and the MPC so that BID purchases are paid for with BID funds and MPC purchases are paid for with MPC funds.
- Members are fully informed of BID meetings, promotions, and advertising.
- Recruitment efforts are increased to encourage members to join its Board of Directors.
- At least two elected officers of the corporation review and sign all agreements.
- Payments to vendors are made within 30 days of receipt of the vendor's invoice.

In their response, Jerome-Gun Hill BID officials generally agreed with the audit’s findings and recommendations.

Audit Follow-up

The Jerome-Gun Hill BID reported that it has either implemented or is in the process of implementing all of the audit recommendations.

TAXI AND LIMOUSINE COMMISSION

Audit Report on the Taxi and Limousine Commission's Controls Over Taxi Medallions

Audit #FM08-075A

Comptroller's Audit Library #7919

Issued: November 7, 2008

Monetary Effect: Potential Revenue: \$79,820

Introduction

This audit determined whether the Taxi and Limousine Commission (TLC) maintains adequate controls over the issuance, renewal, replacement, and transfer of existing taxi medallions.

TLC was created in 1971 by Local Law 12 to regulate and improve the taxi and livery services in New York City. TLC licenses and regulates medallion taxicabs, for-hire vehicles (community-based liveries and black cars), commuter vans, paratransit vehicles, and certain luxury limousines. In addition, TLC licenses and regulates the businesses that manufacture, install, and repair meters used in taxicabs, agents that operate taxicab medallions on behalf of owners, and brokers that assist buyers and sellers of taxicab medallions.

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. Chapter 5 of the New York City Administrative Code, Transportation of Passengers For Hire By Motor Vehicles, requires TLC approval for transfers of medallions, and maintains the appropriate proportion of owners of one taxicab to owners of multiple taxicabs. Additional medallions may be sold only through enactment of a local law. Since 2000, the City Council and state legislature have authorized an additional 1,050 medallions, which TLC sold through auction.

Currently, TLC classifies a medallion as "independent or "mini-fleet." During Fiscal Year 2007, the average prices for an independent and mini-fleet medallion were \$411,083 and \$518,875, respectively. TLC licensed 13,085 yellow taxicabs during that period—5,506 independent and 7,579 mini-fleet.

Results

TLC maintains adequate controls over its cash receipts for renewal fees, and the receipt and storage of medallions. TLC also ensures that waiver letters are obtained from Department of Finance (DOF) prior to the transfer of a medallion below fair market value. However, TLC should improve its controls over the issuance of temporary and replacement medallions by segregating duties that mutually pose potential risk or error, using prenumbered temporary medallions, and improving its monitoring activities. Additionally, TLC should segregate employee responsibilities over the transfer of medallions. Further, TLC should require medallion owners to satisfy outstanding summonses at renewal. If it had done so previously, it could have collected an additional \$79,820 in summons payments.

Finally, a review of medallion transfers revealed the possible misuse of a power-of-attorney privilege which led to the continuing operation of a taxicab six years after the death of a medallion owner.

The audit made 10 recommendations, including that TLC should:

- Separate the responsibilities for authorizing, processing, recording, and safeguarding temporary and replacement medallions.
- Order prenumbered temporary medallions.
- Amend its rules to require medallion owners to resolve summonses before medallions are renewed.
- Prepare standard operating procedures for Licensing personnel to ensure medallions with outstanding summonses are not renewed.
- Require medallion owners to periodically update power-of-attorney agreements with agents or personally sign renewal cards.

Audit Follow-up

TLC reported that six recommendations have been implemented or are in the process of being implemented, two recommendations have been partially implemented, and the remaining two recommendations have not been implemented. TLC stated that it cannot require medallion owners to resolve an open summons before medallions are renewed or require medallion owners to update power of attorney agreements with agents.

DEPARTMENT OF TRANSPORTATION

Audit Report on Department of Transportation Efforts to Address Sidewalk Defect Complaints

Audit #MJ08-054A

Comptroller's Audit Library #7926

Issued: February 24, 2009

Monetary Effect: None

Introduction

This audit assessed the adequacy of Department of Transportation (DOT) efforts to address non-emergency sidewalk defect complaints. The DOT Sidewalk and Inspection Management Division is responsible for promoting pedestrian safety through its various organizational units, including the Sidewalk Management Unit (SMU). The SMU is responsible for responding to complaints about sidewalk defects, inspecting properties, and issuing and serving violations to property owners when sidewalk defects are observed.

For Fiscal Years 2002 through 2006, an average of 3,120 personal injury claims related to defective sidewalks and other hazardous conditions (i.e., snow and ice) were filed with the City each year. For the same period, the City paid out an average of \$63.5 million annually in personal injury settlements and judgments for claims related to sidewalk defects. The audit covered the period July 1, 2006, through September 30, 2007.

Results

The audit determined that DOT's efforts to address non-emergency, sidewalk defect complaints could be improved. The audit identified weaknesses that, if appropriately addressed, could improve the SMU's operational effectiveness and efficiency in assuring that defective sidewalk conditions are identified and appropriately addressed.

The SMU did not inspect 20 percent of sampled complaints for which an inspection was required, based on DOT criteria. Of the remaining 80 percent, the SMU responded with an inspection in a timely manner only 63 percent of the time. Further, evaluation of complaint data showed that the SMU did not have procedures in place to ensure that the 311 Service Center is promptly and accurately updated with complaint status and resolutions.

In addition, violations were not consistently processed in a timely manner. While the SMU aims to issue violations (when warranted) no later than 14 days after an inspection is performed, for 50 sampled violations issued in September 2007, the SMU issued violations in a timely manner only half the time. Weaknesses were also found in the SMU's follow-up of long outstanding violations. Further, the SMU lacks coordination with the Department of Design and Construction (DDC) regarding the closing out of violations for repairs performed by City contractors.

Other weaknesses included the SMU's lack of clearly defined performance and productivity measures to gauge the effectiveness and efficiency of its operations, and a comprehensive procedures manual to address all aspects of its operations. Further, the MOSAICS and SDW databases, which are used by the SMU to process and track the status of violations, lack adequate entry controls to ensure the completeness and accuracy of manually entered data. Even though

these weaknesses did not significantly or adversely affect the reliability of either MOSAICS or SDW for audit testing, if left uncorrected they could in time pose problems.

To address disclosed weaknesses the audit made 19 recommendations. Some of the major recommendations include that DOT should:

- Inspect those properties not inspected.
- Reassess its procedures and staffing levels to identify and implement needed improvements to ensure that inspections, when required, are carried out and performed in a timely manner.
- Ensure that violations are processed and issued promptly.
- Require that violations be reviewed and compared to corresponding inspections reports by an independent reviewer or supervisor to ensure the accuracy of defective conditions appearing on the violations.
- Develop a program to follow up with and encourage property owner compliance with City regulations and make the necessary sidewalk repairs.
- Develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the SMU and distribute the manual to appropriate personnel. The manual should be updated periodically to address newly implemented or revised procedures.

In their response, DOT officials generally agreed with 14 recommendations, partially agreed with one, and disagreed with the remaining four.

Audit Follow-up

DOT reported that of the 19 audit recommendations it had implemented five, partially implemented one, and was in the process or planning to implement nine others. DOT continued to disagree with the remaining four recommendations.

DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT

Audit Report on the Department of Youth and Community Development Transitional Independent Living Program

Audit #ME09-072A

Comptroller's Audit Library #7947

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Department of Youth and Community Development (DYCD) effectively monitored the Transitional Independent Living (TIL) program. DYCD's Division of Runaway and Homeless Youth Services (RHY) provides funding to community-based organizations to operate runaway and homeless services programs for youths under the age of 21. Those programs offer youths alternatives to living in the streets by placing them in a safe environment or endeavoring to achieve family reunification. In Fiscal Year 2008, DYCD's TIL program provided homeless youths with support and shelter services at nine locations through DYCD contracts with six community-based organizations. According to the Fiscal Year 2008 RHY Statistical Data Report on TIL Programs, TIL contractors provided direct services to 244 youths. Funding for the TIL program was \$5,168,505.

Results

The audit concluded that DYCD did not adequately monitor the contract compliance of its TIL vendors. This finding was based primarily on inadequate documentation of reviews conducted by contract managers during site visits, as well as limited evidence of follow-up when problem areas were identified. These monitoring weaknesses, however, did not result in contract noncompliance; the audit's examination of certain key contract provisions found that TIL vendors generally complied with their contract.

Although DYCD contract managers made an adequate number of site visits to TIL facilities, they often did not document what they found or follow up to determine whether vendors took action to correct deficiencies. As a result, DYCD could not assure (1) the accuracy and completeness of its site visits and assessments or (2) that TIL vendors corrected noted deficiencies. In addition, the audit's data reliability assessment concluded that DYCD did not maintain an accurate list of TIL clients.

To determine whether the monitoring weaknesses cited resulted in TIL vendors failing to meet the terms of their contracts, the audit assessed the vendors' compliance with certain key contractual provisions. The analysis revealed that: TIL vendor client files generally contained adequate supporting documentation relative to client assessments, individual service plans, and discharge services; TIL vendor personnel files generally contained evidence that employees' backgrounds were verified and that training and annual performance evaluations were provided; and TIL vendors' claims for reimbursement were adequately supported. However, the audit found serious unsanitary and unsafe conditions at some TIL facilities during unannounced visits.

To address these issues, the audit made 10 recommendations, including that DYCD should:

- Improve its monitoring of TIL vendors by preparing site-visit reports that provide a detailed account of what the contract manager reviewed, a detailed listing of findings, and a corresponding set of recommendations. Such site-visit reports should also require TIL vendors to prepare corrective action plans to address findings.
- Conduct follow-up visits when deficiencies are identified to ensure that they are corrected.
- Implement stronger controls (e.g., increase the number of unannounced visits) to ensure that TIL vendors consistently provide clean and safe environments at their facilities.

In its response, DYCD generally agreed with seven recommendations, disagreed with two, and did not respond to one.

Audit Follow-up

DYCD reported that eight recommendations are being implemented, but disagreed with two recommendations. It does not believe that including performance-based measures in future TIL vendor contracts or assessing penalties on TIL vendors are practical incentives for contracts with not-for-profit vendors of critical residential services for youth, but uses other means, such as withholding payments and Vendor Information Exchange System (VENDEX) ratings as ways to improve contractor performance.

DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT

Audit Report on the Department of Youth and Community Development's Monitoring of Criminal History and Child Abuse and Maltreatment Checks by Out-of-School Time Programs.

Audit # MH09-075A

Comptroller's Audit Library #7949

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the Department of Youth and Community Development (DYCD) is adequately monitoring criminal-history checks and child-abuse and maltreatment clearances for employees hired by Out-of-School Time (OST) programs. DYCD provides youth and family programs by entering into contracts with community-based organizations that provide these programs.

The OST program offers academic-skills and cultural-enrichment programs, sports, recreation, community engagement, and leadership development to children and young people throughout the City. There are three types of OST programs, each with different background check requirements for their employees: the School-Age Child Care (SACC) programs serving groups of seven or more children under the age of 13, the school-based programs operating at a Department of Education (DOE) site serving high school students (over the age of 13), and the

high-school-oriented programs not operating at DOE sites, as well as those operated by religious organizations that receive “No Permit Required” (NPR) status from New York State.

During Fiscal Year 2008, DYCD oversaw a total of 639 OST contracts valued at approximately \$107 million and employed 16 Program Managers who performed visits to the OST sites. The period covered by this audit was July 1, 2007, through January 22, 2009.

Results

The audit found that DYCD is not adequately monitoring OST programs to ensure that State Central Register for Child Abuse and Maltreatment (SCR) clearances are obtained and criminal background checks are conducted. While DYCD and the OST Program Directors are not primarily responsible for the entire clearance process—they are not the approving authorities for the clearances—the audit concluded that they must do more to improve the monitoring of criminal-history and child-abuse and maltreatment checks. Moreover, DYCD’s contracts with OST providers do not include a requirement that programs follow up with relevant City and state agencies on the status of SCR and criminal history clearances.

During site visits at the 15 sampled OST programs, auditors found that at the time of the site visit SCR clearance was not obtained, nor was an SCR application even completed, for one of the 98 sampled employees requiring them. There was no evidence that SCR clearances were obtained for another 10 (10 percent) employees as well, although there were SCR applications on file. Also, fingerprinting was not conducted, nor were criminal-history checks completed, for 8 (7 percent) of the sampled 112 employees requiring them at the time of the site visit. Nor was there evidence that criminal-history clearances were obtained for another three (4 percent) employees, although they were fingerprinted. Also, contrary to requirements of the Memorandum of Understanding between DYCD and DOE, no criminal history clearances were obtained for 59 (62 percent) of the 95 employees working at school-based DOE sites prior to their starting employment. In addition, 122 of the 639 OST providers monitored by DYCD do not require that employees undergo any type of child-abuse and criminal-history clearances.

The audit made ten recommendations, including that DYCD should:

- Ensure that the OST providers that employ the individuals cited in this report for not being fingerprinted make certain that these persons are fingerprinted promptly and that the results are forwarded to DOHMH (for the SACC program) and DOE (for the programs operating at DOE sites) so that criminal history checks can be conducted.
- Ensure that OST providers immediately follow up on all individuals cited in this report for lacking either SCR or criminal-history clearances to ensure that clearances are obtained in a timely manner.
- Require that Program Managers review all employee files and check for SCR and criminal-history clearances during their site visits and when monitoring and reviewing OST contracts.
- Consult its legal department and explore the feasibility of requiring that NPR and community-based center facilities obtain the same level of SCR and criminal-history clearances for its personnel as do the other OST programs.

In their response, DYCD officials agreed with the ten recommendations and stated that DYCD has upgraded the OST on-line database, and that this will permit and further enhance their ability to track contract agency staff with respect to required clearances.

Audit Follow-up

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

SECTION II
NON-GOVERNMENT AUDITS

CLAIMS

During Fiscal Year 2009, reports of analyses were issued on claims filed against the City. The analyses accepted amount for those claims totaled \$3,463,294. This resulted in a potential cost avoidance of \$35,526,191 as shown below:

Total Claim Amount	\$ 38,989,485
Less: Analyses Accepted Amount	\$ 3,463,294
Potential Cost Avoidance	\$ 35,526,191 *

*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 claim 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 claim process.

A listing of the 14 claims follows:

REPORT NUMBER	CLAIMANT	DATE ISSUED	CLAIM AMOUNT	ANALYSES ACCEPTED AMOUNT	DISPOSITION SETTLEMENT AMOUNT
FP08 – 124S	Claim Knights Collision Experts Inc.	07/09/08	*	*	*
FP08 – 125S	Claim Gotham Per Diem Inc.	07/23/08	*	*	*
FP09 – 095S	Claim Gotham Per Diem Inc.	10/08/08	*	*	*
FP09 – 069S	Claim Spherion Atlantic Enterprises LLC	11/07/08	*	*	*
FP09 – 103S	Claim Global Model Forms LLC	11/20/08	*	*	*
FP09 – 098S	Claim Classroom, Inc.	11/25/08	*	*	*
FP09 – 102S	Claim American Cancer Society	01/07/09	*	*	*
FP09 – 111S	Claim Root Hill Café Inc.	01/07/09	*	*	*
FP09 – 123S	Claim APSCO Sports Enterprises Inc.	01/08/09	*	*	*
FP09 – 112S	Claim ICP Inc.	02/02/09	*	*	*
FP09 – 084S	Claim Women’s Interart Center Inc.	02/17/09	*	*	*
FP08 – 100S	Claim Schiavone Construction Co. Inc.	04/03/09	*	*	*
FP09 – 131S	Claim Verizon New York Inc.	04/15/09	*	*	*
FP09 – 094S	Claim Helping Involve Parents Inc.	04/20/09	*	*	*
	FISCAL YEAR 2009 TOTALS		\$38,989,485	\$3,463,294	\$35,526,191

FRANCHISE, CONCESSION, AND LEASE AUDITS

Franchise, concession, and lease agreements between various City agencies and private organizations result in revenues to the City, based on formulas defined in the agreements. City agencies that enter into such agreements include the Department of Citywide Administrative Services (DCAS), Economic Development Corporation (EDC), Department of Information Technology and Telecommunications (DoITT), and the Department of Parks and Recreation (Parks), 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 2009 audits resulted in collecting actual revenues totaling \$12,076,526 and potential revenues totaling \$587,585. 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>
FL08-088A	7917	DCAS–Quinn Restaurant Corporation	11/6/08	\$163,487	0
FN08-091A	7921	EDC–P&O Ports North America, Inc.	12/16/08	\$152,621	0
FN09-064A	7942	DoITT–TW Telecom	6/25/09	\$327,286	\$587,585
FK08-097A	7928	Parks–Sweet Concessions	2/26/09	0	0
FK09-090A	N/A	Parks–Concert Foods	3/30/09	0	0
FN08-090A	7918	Parks–New York Yankees	11/6/08	\$11,388,155	0
FP08-096A	7930	Parks–Central Park Tennis Center, Inc.	3/10/09	\$44,977	0
MH09-085A	7940	DOT – Delancy and Essex Street Municipal Parking Garage	6/25/09	0	0
	TOTAL			\$12,076,526	\$587,585

DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES

Audit Report on the Compliance of Quinn Restaurant Corporation (Water's Edge Restaurant) with Its Lease Agreement and Payment of Rent Due the City

Audit #FL08-088A

Comptroller's Audit Library #7917

Issued: November 6, 2008

Monetary Effect: Actual revenue: \$163,487

Introduction

This audit determined whether the Quinn Restaurant Corporation (Quinn) accurately reported its total gross receipts, properly calculated the rent due the City, paid the rent on a timely basis; and complied with certain non-revenue-related requirements of its lease agreement with the Department of Citywide Services (DCAS) to construct, operate, and maintain a restaurant on the Nott Avenue Pier at the foot of 44th Drive and the East River in Queens. Quinn constructed a restaurant, Water's Edge, at the site.

For the period under audit, October 1, 2006, through September 30, 2007, Quinn reported a total of \$7,053,614 in gross receipts.

Results

The audit found that Quinn was not in compliance with major provisions of its lease. Quinn was unable to demonstrate that it had accurately reported its total gross receipts to DCAS and paid the appropriate rent due the City, since it did not issue pre-numbered banquet contracts; lacked banquet invoices; and lacked or had canceled checks. As a result, the auditors were unable to reach a determination about the accuracy of Quinn's reported gross receipts and payment of appropriate rent to the City.

Quinn improperly deducted \$507,249 in service charges from its gross receipts as "gratuities" to its employees; did not include \$604,620 in gross receipts from the sales of its florist, photographer, and musicians in the gross receipts it reported to DCAS; did not remit rent payments to DCAS on time; owes \$77,453 in water and sewer charges and \$43,506 to ConEdison; failed to remit the full amount of its required security deposit; and failed to maintain the pier (public access area) to such an extent that it is hazardous and closed to the public. At a minimum, Quinn therefore owes the City \$86,034.

The audit made eight recommendations, including that Quinn should:

- Pay the City the additional \$69,309 in rent and \$16,725 in late charges assessed in this audit report.
- Exclude from gross receipts reported to DCAS only the amounts for gratuities as defined in the terms of the lease agreement, its amendments, and the Stipulation of Settlement agreement.
- Establish and implement adequate internal controls over the financial operations of the restaurant, the bar, and banquets. These controls should include accounting for all banquet contracts, banquet invoices, and guest checks at the restaurant and the bar.

- Report to DCAS the gross receipts for all transactions that transpired at the leased premises, including those for the florist, photographer, and musicians who provided services to Quinn banquet patrons and for which Quinn received a commission.
- Repair the pier and public access area to a state of good condition

The audit made eight recommendations, including that DCAS should:

- Ensure that Quinn management takes only those deductions from gross receipts that are allowable under the terms of the lease agreement, its amendments, and the Stipulation of Settlement agreement.
- Issue a Notice to Cure mandating that Quinn management establish and implement an adequate system of internal controls over the financial operations of the restaurant, the bar, and banquets.
- Issue a Notice to Cure for the cost to repair the pier and public access area to a state of good condition.
- Enforce its outstanding Notice of Default against Quinn and terminate the lease agreement if Quinn does not abide by the findings and the recommendations contained in this audit report.

In its response, Quinn agreed with six recommendations and stated that it would work to resolve the issues related to the remaining recommendations. In its response, DCAS generally agreed with the report's recommendations and described the actions it would take to address them.

Audit Follow-up

DCAS reported that all of the audit recommendations have either been implemented or are in the process of being implemented. DCAS stated that Quinn has paid the outstanding \$86,034 in full. DCAS also reported that it is working with the Department of Parks and Recreation and the Department of Environmental Protection to correct the repairs needed for the pier reconstruction.

Moreover, in March 2009 the assets and stock of the Quinn Restaurant Corp. were transferred to a new owner, H & R Restaurant and Catering Corp.

ECONOMIC DEVELOPMENT CORPORATION

Audit Report on the Compliance of P&O Ports North America, Inc. with its Operating and Reimbursement Agreement; January 1, 2004, through December 31, 2006

Audit #FN08-091A

Comptroller's Audit Library #7921

Issued: December 16, 2008

Monetary Effect: Actual Revenue: \$152,621

Introduction

This audit determined whether P&O Ports North America paid the City's Economic Development Corporation (EDC) the fees due in accordance with the provisions of its Operating and Reimbursement Agreement, made its payments on time, and complied with certain other agreement requirements (i.e., maintaining required insurance and paying appropriate utility charges).

Since 1997, P&O has been the exclusive operator of terminal management services for the Manhattan Cruise Terminal (MCT) on the Hudson River between 46th and 54th Streets. On January 1, 2007, a new 10-year agreement was signed, expiring December 31, 2011, with an option to renew for one additional five-year period ending on December 31, 2016.

Under the agreement, P&O is responsible for billing and collecting all fees from the cruise lines. P&O is required to remit to EDC revenue from a per-passenger fee charged for each passenger embarking on or disembarking from a cruise vessel. P&O is allowed to keep revenues from parking and other facility use. P&O is responsible for pier repair costs up to an annual maximum of \$275,000 and for other expenditures, such as insurance and utility charges, in connection with the operations of the MCT. Capital improvements at the piers are funded by EDC.

Results

P&O improperly calculated the per-passenger fee amount for calendar year 2005 and as a result underpaid a total of \$74,826 in fees to EDC. Also, P&O has not paid the City \$77,795 in outstanding water and sewer charges from October 2006 through August 2008.

With the exception of the above two findings, we concluded that P&O remitted to EDC the fees due on a timely basis and complied with the other major requirements of its agreement. P&O properly charged EDC the repair and security-service expenses, and carried the necessary insurance coverage.

The audit made two recommendations to P & O and four recommendations to EDC, including that,

P & O should:

- Pay EDC an additional per-passenger fee of \$74,826.

EDC should:

- Monitor P & O compliance with all the agreement terms.

Audit Follow-up

P&O reported that all outstanding fees have been paid.

EDC reported that it will continue to monitor P&O's compliance with its contract agreement.

DEPARTMENT OF INFORMATION, TECHNOLOGY AND TELECOMMUNICATIONS

Audit Report on the Compliance of TW Telecom with City Franchise Agreement; January 1, 2006–December 31, 2009

Audit #FN09-064A

Comptroller's Audit Library #7942

Issued: June 25, 2009

Monetary Effect: Actual Revenue: \$327,286
 Potential Revenue: \$587,585

Introduction

This audit determined whether TW Telecom, under a 15-year franchise agreement with the City through the Department of Information Technology and Telecommunications (DoITT), accurately reported its gross revenue and properly calculated and paid the appropriate fees due the City on time. It also determined whether TW Telecom complied with certain non-revenue-related requirements of its agreement (i.e., maintained the required insurance and maintained the proper letter of credit and surety bond).

TW Telecom is a leading provider of managed network services, including data, Internet access, and local and long distance telephone services. Under the franchise agreement, TW Telecom is required to pay the City a franchise fee consisting of the greater of either \$200,000 or five percent of its annual gross revenue from telecommunication services. In addition, TW Telecom is required to maintain a minimum combined amount of \$50 million in insurance for bodily injury and property damage, and maintain an unconditional letter of credit and surety bond deposit totaling \$1 million.

Results

TW Telecom failed to report to the City a total of \$10,120,278 in additional gross revenue and did not make all its payments on time, as required in the agreement. It therefore owes the City an additional \$914,871 (during the audit TW Telecom paid \$58,104, leaving a balance of \$856,767) in franchise fees and related late interest charges. Specifically, TW Telecom did not report to the City \$6,777,471 in revenue it collected by charging a five percent franchise fee to its customers from January 1, 2003, through December 31, 2007, did not report \$1,162,083 for its third and fourth quarters of calendar year 2007, and inappropriately excluded \$2,180,724 from the gross revenue amount it reported to the City. TW Telecom, however, complied with the other non-revenue-related requirements of its agreement with the City, such as maintaining the required \$50 million property and liability insurance that named the City as an additional insured party, and maintained an unconditional letter of credit and surety bond deposit totaling \$1 million.

The audit made five recommendations.

TW Telecom should:

- Pay the City \$856,767 in additional franchise fees and late charges.
- Report to the City all revenue generated from franchise fees charged to customers.

- Submit the calculations of franchise fees in sufficient detail to the City.

DoITT should:

- Ensure that TW Telecom pays the \$856,767 in additional franchise fees and late charges recommended in this report and complies with the report's other recommendations.
- Ensure that franchise fee calculations and other financial reports are properly submitted and reviewed in a timely manner, and establish proper guidelines to monitor TW Telecom's compliance with its City agreement.

In their response, TW Telecom officials stated that "we believe compensation paid under our Franchise Agreement does constitute a tax and should be excluded from gross revenue." They also argued that revenue from new products should not be reported to the City. DoITT officials agreed with the audit assessment and stated that "DoITT has reviewed the underpayment and late charges identified in the draft report, and will seek TW Telecom's compliance with this financial determination." However, DoITT officials took exception to the report's other issue regarding DoITT's improper oversight.

Audit Follow-up

Both DoITT and TW Telecom reported that in addition to the \$58,104 paid during the audit, an additional \$269,182 was reassessed. Both DoITT and TW Telecom also reported that the \$587,585 will be addressed in the new franchise agreement by September 30, 2010.

DEPARTMENT OF PARKS AND RECREATION

Audit Report on the Compliance of Sweet Concessions with its Department of Parks and Recreation Contract

Audit # FK08-097A

Comptroller's Audit Library #7928

Issued: February 26, 2009

Monetary Effect: Unable to Determine

Introduction

This audit determined whether Sweet Concessions accurately reported its total gross receipts, properly calculated the rent due the City, paid the rent on a timely basis; and complied with certain non-revenue related requirements of its agreement.

Sweet Concessions manages, operates, and maintains two snack bars near the model boat pond in Central Park under a contract with the Department of Parks and Recreation (Parks). The agreement covers the seven-year period March 31, 2001 to March 31, 2008. The agreement requires Sweet Concessions to pay the higher of \$172,897 or 24 percent of gross receipts and \$180,912 or 25 percent of gross receipts for the years ending March 31, 2007, and March 31, 2008, respectively. Sweet Concessions must submit specified documentation to Parks to substantiate reported gross receipts. During operating years 2007 and 2008, Sweet Concessions paid the minimum permit fees of \$172,897 and \$180,912.

Additionally, the permit agreement requires Sweet Concessions to spend a minimum of \$75,000 on capital improvements, sell only authorized items at Parks-approved prices, and maintain snack bars, restrooms, and the surrounding area. It must also post a security deposit of \$45,228 with the City, maintain certain types and amounts of insurance coverage, pay utility charges, and return equipment to Parks or replace it upon the expiration of its agreement. The audit covered the period April 1, 2006, to March 31, 2008.

Results

Sweet Concessions generally paid its minimum annual fees on time, performed capital improvements, maintained the required security deposit and liability insurance, paid utility charges, and returned equipment to Parks upon the expiration of its agreement. However, Sweet Concessions had significant internal control weaknesses over the collecting, recording, and reporting of revenues. As a result of these weaknesses, the audit could not ascertain whether all of the revenue earned by Sweet Concessions was in fact recorded in its cash registers and books and records, and accurately and completely reported to Parks. Nor could it determine whether Sweet Concessions paid all fees due Parks. Furthermore, the internal control weaknesses and lack of records are red flags that were so extensive as to raise the question of potential fraud.

The audit also revealed that Sweet Concessions sold unauthorized items, charged customers more than amounts approved by Parks, and did not maintain the snack bars and restrooms in a sanitary manner. Sweet Concessions did not comply with and fulfill these contractual obligations, and Parks failed to adequately monitor Sweet Concessions' performance and enforce the terms and conditions of its agreement, as required by the City Charter, Chapter 14, §365.

Since the Sweet Concessions permit expired and was not awarded again, the audit addressed recommendations solely to Parks. The audit made one recommendation with regard to Sweet Concessions and five recommendations with regard to future snack bar concessions, including that Parks should:

- Ensure that future snack bar concession agreements with fees based on gross receipts clearly stipulate that concessionaires maintain adequate systems of internal control and keep complete and accurate records as well as books of account and data, including daily sales and receipt records that show in detail the total business transacted by the concessionaire and the gross receipts derived therefrom.
- Monitor concessionaires' performance and enforce the terms and conditions of their agreements, as required by the City Charter, Chapter 14, §365.
- Consider issuing Advices of Caution in the City's Vendor Information Exchange System (VENDEX) regarding concessionaires that do not comply with or fulfill agreement provisions.

Parks agreed with five and partially agreed with one of the audit's six recommendations.

Sweet Concessions took exception to the audit findings, most notably that the internal control weaknesses and lack of records were so extensive as to raise the question of fraud. Further, Sweet Concessions maintained that it performed its obligations to Parks in the manner and fashion agreed upon.

Audit Follow-up

Parks reported that it is implementing the audit recommendations and has increased its efforts to educate and monitor park concessionaires to ensure that they meet City requirements.

DEPARTMENT OF PARKS AND RECREATION

Letter Report on the Compliance of Concert Foods with its Department of Parks and Recreation Contract for the period April 1, 2006 through March 31, 2008

Report #FK09-090A

Comptroller's Audit Library #N/A

Issued: March 30, 2009

Monetary Effect: None

This report was distributed on a limited basis and was not issued as a public document. We conducted a separate audit of the compliance of Concert Foods with its Department of Parks and Recreation contract for the period April 1, 2008 through March 31, 2009. The results of that audit are covered in a separate report (Audit # FK09-129A).

DEPARTMENT OF PARKS AND RECREATION

Audit Report on the Compliance of the New York Yankees with Their Lease Agreement; January 1, 2003, through December 31, 2006

Audit #FN08-090A

Comptroller's Audit Library #7918

Issued: November 6, 2008

Monetary Effect: Actual Revenue: \$11,388,155

Introduction

This audit determined whether the New York Yankees Partnership (Yankees) complied with their 30-year lease agreement with the New York City Department of Parks and Recreation (Parks). In 1972, the Yankees and Parks entered into a 30-year lease agreement for the rental and exclusive use of Yankee Stadium during the baseball season. In March 1973, New York Yankees, Inc. assigned its interest to the Yankees. The lease has been extended to December 31, 2005, with five one-year renewal options to be exercised thereafter at the discretion of the Yankees. In 2007, the Yankees exercised the third of these renewal options extending the lease to December 31, 2008.

The agreement requires the Yankees to pay the City the greater of either an annual minimum rent of \$200,000 or a percentage of revenues from gross admission, concessions, and wait service. The Yankees are also required to pay the City fees from a portion of cable television receipts and prepaid parking. The agreement allows the Yankees to deduct payments to Major League Baseball and all sales taxes before calculating rent payments to the City. It also allows the Yankees to deduct from their rent payments new-stadium-planning costs incurred up to \$5 million each year for eight years (2001 to 2008) and 25 percent of property insurance premiums for Yankee Stadium. For the audit period, January 1, 2003, to December 31, 2006, the Yankees reported gross revenues to the City totaling \$1.03 billion and made related rent payments of \$17.1 million.

This audit determined whether the Yankees accurately reported gross receipts and paid the appropriate fees due the City on time in accordance with the lease agreement, submitted the appropriate allowable new-stadium-planning costs under the eight and tenth amendments of the lease, and complied with certain other lease requirements (i.e., maintained the required insurance and reimbursed the City for its utility use).

Results

The audit found that the Yankees owe the City \$11,388,155 in additional rent resulting from the inappropriate deduction of \$9,035,636 in new-stadium-planning costs from their 2006 rent payment to the City; a total of \$2,352,519 consisting of the improper inclusion of \$860,595 in the new-stadium-planning costs submitted to the City in 2005; and, the understatement of \$27,900,230 in gross revenue reported to the City from 2003 through 2006 that resulted in additional fees of \$1,491,924. At the conclusion of our audit fieldwork, the Yankees agreed to pay Parks the \$9,035,636 identified in this audit. Of this amount, the Yankees paid \$5,635,132 (\$5,000,000 in principal and \$635,132 in interest), and agreed to pay the remaining \$4,035,636 on March 10, 2009.

The Yankees submitted their Rent Statements and related payments to the City on time and generally adhered to the other non-revenue requirements of their lease agreement with the City, such as maintaining the required property and liability insurance that named the City as an additional insured party and reimbursing the City for their annual electricity, water, and sewer use. In addition, the Yankees paid the prior audit assessment of \$3,559,575.

The audit recommended that the Yankees:

- Pay the City the balance of \$6,388,155 representing the difference between the \$11,388,155 assessed by our audit and the \$5,000,000 in principal paid on March 10, 2008.
- Ensure that revenue from gross admissions, cable television, concessions, and wait-service is accurately reported to the City and that all appropriate fees are paid.
- Correctly allocate payments to Major League Baseball that relate to gross admission receipts and local cable television receipts in their calculation of rent due the City.
- Submit only appropriate and allowable credits for new-stadium-planning costs that are deducted from rent due.

The audit also recommended that Parks:

- Ensure that the Yankees pay the remaining \$6,388,155 in additional fees recommended in this report and comply with the audit's other recommendations.
- Ensure that the Yankees submit the proper documentation in support of any credit claim against rent payment to the City.

The Yankees agreed with the audit report findings. They stated that a check for \$2,352,519 will be issued in the coming weeks, and that the balance owed in the amount of \$4,035,636 plus interest will be paid by March 10, 2009, as agreed to earlier.

Audit Follow-up

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

DEPARTMENT OF PARKS AND RECREATION

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

Audit # FP08-096A

Comptroller's Audit Library #7930

Issued: March 11, 2009

Monetary Effect: Actual Revenue: \$44,977

Introduction

This audit determined whether Central Park Tennis Center (CPT) accurately reported total gross receipts, properly calculated the license fees, paid its license fees to the City on time, and complied with other major provisions of the agreement. CPT operates the tennis center at Central Park under a license agreement with the Department of Parks and Recreation (Parks). The scope of the audit was January 1, 2006, through December 31, 2007.

Results

CPT had significant internal control weaknesses over its financial operations of the tennis center that prevented the audit from determining whether all the revenue received by CPT was in fact recorded, accurate, and completely reported to Parks. However, the audit was able to determine that CPT owed additional license fees and late charges totaling \$110,347. In that regard, CPT incorrectly deducted wages paid to tennis instructors and did not report all the revenue received. Additionally, CPT did not pay utility charges associated with its operations and underreported \$24,116 in taxable sales, resulting in an underpayment of \$2,065 of sales tax. CPT maintained the required security deposit but did not maintain proper insurance coverage required in the license agreement. However, CPT made capital improvements approved by Parks.

Parks failed to adequately monitor CPT's performance and enforce the terms and conditions of its agreement.

The audit made 10 recommendations to CPT and 4 recommendations to Parks including the following. CPT should:

- Pay the City \$110,347 in additional license fees and late charges for underreporting gross receipts.
- Implement a system of internal controls and keep complete and accurate records as well as books of account and data, including daily sales and receipt records that show in detail the total business transacted by CPT and the gross receipts derived therefrom.

Parks should:

- Issue a Notice to Cure to CPT requiring that it pay \$110,347 in additional license fees and late charges for underreporting gross receipts.
- Require CPT to comply with the terms and conditions of the license agreement.

In their response, CPT officials described the steps they have taken or will take to implement the report's recommendations. In its response Parks stated that it will require CPT to implement the

recommendations and will closely monitor CPT to comply with the terms and conditions of the agreement.

Audit Follow-up

Parks reported that all of the audit recommendations have either been implemented or are in the process of implementation. Parks has reduced the total amount owed by CPT to \$44,977 (\$43,276 for underreported gross receipts, late charges, and undocumented loans and deductions, and \$1,701 for past utility use.) Parks reported that CPT paid \$44,977.

DEPARTMENT OF TRANSPORTATION

Audit Report on the Compliance of Parking System Plus, Inc., with its Department of Transportation Contract To Operate the Delancey and Essex Street Municipal Parking Garage

Audit #MH09-085A

Comptroller's Audit Library #7940

Issued: June 25, 2009

Monetary Effect: None

Introduction

This audit determined whether Parking Systems Plus, Inc., (PSP) was in compliance with key provisions of its contract with the Department of Transportation (DOT) to operate the Delancey and Essex Street Municipal Parking Garage (Manhattan garage).

In June 2005, DOT started a three-year contract with PSP to manage and operate the Manhattan garage. The contract required that PSP be compensated monthly for all services rendered that are part of the Basic Management Fee of \$40,209. PSP could also earn annual incentive fees if Manhattan garage's revenues exceeded the established revenue targets, which could total a maximum of \$345,000 for the three-year contract. During Fiscal Year 2008, the Manhattan garage collected \$1.5 million in parking fees for the City and DOT paid PSP a total of \$602,235, which represents \$457,349 in basic management fees (less retainage), \$72,980 in incentive fees and \$71,906 for retainage that was withheld (the initial contract expired at the end of Fiscal Year 2008). The scope of this audit was July 1, 2007, to December 1, 2008.

Results

The audit found that PSP was in compliance with the key provisions of its contract with DOT to operate the Manhattan garage. Controls over the parking fees collected were adequate, the facilities of the Manhattan garage were well maintained, and documentation provided to DOT by PSP generally supported the revenue collected and DOT payments for operating the Manhattan garage. In addition, DOT reviews the documentation and performs regular inspections of the facility. However, DOT makes an allowance for a percentage of security guard patrols that are not performed. This allowance is not in the contract.

The audit made one recommendation. DOT should incorporate all unwritten agreements with PSP into its contract, including the 15 percent allowance for patrols not performed, the requirement that at least 7 of the 13 sensors need to be activated, and the \$5 fine for each patrol not performed.

DOT officials generally agreed with the audit's findings and recommendation.

Audit Follow-up

DOT reported that the provisions stated in this recommendation will be implemented in the next contract.

AUDIT OF RENTAL CREDITS SUBMITTED BY THE NEW YORK YANKEES

According to the terms of their lease with the City, the Yankees are responsible for the care and upkeep of Yankee Stadium and the costs incurred by the Yankees for maintaining the stadium are offset against any rental income due the City from the Yankees. The Comptroller's Office performs audits of labor and material expenses based on the terms of the lease and on the time-sheets, invoices, canceled checks, payroll reports, and union contracts submitted by the Yankees and their maintenance contractors. Thus, every approved dollar spent and accounted for as a rental credit for the maintenance of the stadium results in a dollar-for-dollar decrease in the rent due the City.

In Fiscal Year 2009, we disallowed \$338,796 in rental credits for insufficient documentation, ineligibility of expenses, and errors in calculations. The Yankees accepted \$338,796 of these disallowances.

Audit No.	Period Covered	Date Issued	Actual Revenue	Potential Revenue	Total
FR09-053A	4th Qtr. 2007	10/30/08	\$90,292	\$0	\$90,292
FR09-089A	1st Qtr. 2008	02/02/09	\$65,511	\$0	\$65,511
FR09-114A	2nd Qtr. 2008	04/21/09	\$67,575	\$0	\$67,575
FR09-126A	3rd Qtr. 2008	06/24/09	\$115,418	\$0	\$115,418
TOTAL			\$338,796	\$0	\$338,796

WELFARE FUNDS

Audit Report on the Financial and Operating Practices of the United Probation Officers Association Welfare Fund

Audit #FL08-076A

Comptroller's Audit Library #7962

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the United Probation Officers Association Welfare Fund (Active Fund) complied with applicable procedures and reporting requirements, as set forth in Comptroller's Directive #12, "Employee Benefit Funds—Uniform Reporting and Auditing Requirements."

Under the provisions of a Fund Agreement between the City and the United Probation Officers Association (the Union) and a Declaration of Trust, the Active Fund receives City contributions and provides health and welfare benefits to eligible City employees, their spouses, and dependents. During the audit period—July 1, 2005, to June 30, 2006—the Active Fund reported \$1,422,214 in contributions from the City of New York and net assets of \$1,934,518.

Results

The audit disclosed that the Trustees of the Active Fund may have breached their fiduciary responsibilities to the Active Fund and its members. For example, the Active Fund spent a significantly larger percentage of its City Contributions on administrative expenses—especially the high administrative fees paid to its third party administrator (KingCare) of \$436,790—when compared to similarly-sized welfare funds. Specifically, the Active Fund:

- Materially misstated its City contributions, total assets, expenses, and Net Assets Available for Plan Benefits on its financial statements.
- Misstated revenue, benefit, and administrative expenses on its Directive #12 filing.
- Spent a significantly larger percentage of its City contributions on administrative expenses when compared to other, similarly-sized funds.
- Paid for capital equipment and other operating expenses of its third-party administrator.
- Did not select a Certified Public Accountant who appears to be independent to audit its financial statements, as required by Directive #12.
- Paid \$10,652 for other questionable expenses.
- Reportedly paid \$181,626 for Health and Wellness benefits that may not exist.
- Paid \$10,995 for the nonexistent Second Dental Opinion Program.
- Has poor controls over payments to its third-party administrator.
- Provided us minutes of Board of Trustee meetings that appear to be fictitious.

- Made improper benefit payments totaling \$6,180.
- Paid claims for dependents whose eligibility was not documented.
- Is owed \$34,850 by the Retiree Fund.

The audit recommended that the Board of Trustees for the Active Fund should:

- Evaluate how the Active Fund resources could be used to reach its ultimate goal of providing maximum benefits to its members while minimizing administrative costs.
- Consider replacing the Fund Manager based on the extensive problems cited in this report and for denying us access to important records and assets.
- Develop policies and procedures that would ensure that the Active Fund is achieving its ultimate goal and that it is in compliance with Comptroller's Directive #12. These policies and procedures should include a system of internal controls addressing the issues cited in this report.
- Closely monitor Active Fund operations to ensure that the issues cited in this report have been eliminated, and address any new issues that arise in the future.

In their response, Active Fund officials generally disagreed with the audit findings and recommendations.

Audit Follow-up

The Active Fund reported that as of December 1, 2009, its third party administrator, KingCare, was terminated. The Active Fund also stated that it has immediately begun self administering the fund and is in the process of implementing most of the audit recommendations.

WELFARE FUNDS

Audit Report on the Financial and Operating Practices of the United Probation Officers Association Retirement Welfare Fund

Audit #FL08-077A

Comptroller's Audit Library #7963

Issued: June 30, 2009

Monetary Effect: None

Introduction

This audit determined whether the United Probation Officers Association Retirement Welfare Fund (Retiree Fund) complied with applicable procedures and reporting requirements, as set forth in Comptroller's Directive #12, "Employee Benefit Funds—Uniform Reporting and Auditing Requirements."

Under the provisions of a Fund Agreement between the City and the United Probation Officers Association (the Union) and a Declaration of Trust, the Retiree Fund receives City contributions and provides health and welfare benefits to eligible City retirees, their spouses, and dependents. During the audit period—July 1, 2005, to June 30, 2006—the Retiree Fund reported \$658,213 in contributions from the City of New York and net assets of \$619,230.

Results

The audit disclosed that the Trustees of the Retiree Fund may have breached their fiduciary responsibilities to the Retiree Fund and its members. For example, the Retiree Fund spent a significantly larger percentage of its City Contributions on administrative expenses—especially the high administrative fees paid to its third party administrator (KingCare) of \$171,384—when compared to similarly-sized welfare funds. Specifically, the Retiree Fund:

- Materially misstated its City contributions, total assets, expenses, and Net Assets Available for Plan Benefits on its financial statements.
- Misstated revenue, benefit, and administrative expenses on its Directive #12 filing.
- Spent a significantly larger percentage of its City contributions on administrative expenses when compared to other, similarly-sized funds.
- Paid for capital equipment and other operating expenses of its third-party administrator.
- Did not select a Certified Public Accountant who appears to be independent to audit its financial statements, as required by Directive #12.
- Paid \$3,928 for other questionable expenses.
- Reportedly paid \$117,420 for apparently nonexistent Health and Wellness benefits.
- Paid \$4,736 for the nonexistent Second Dental Opinion Program.
- Has poor controls over payments to its third-party administrator.
- Provided us minutes of Board of Trustees meetings that appear to be fictitious.
- Is in violation of its Trust Agreement.
- Made improper benefit payments totaling \$11,396.
- Paid claims for dependents whose eligibility was not documented.

The audit recommended that the Board of Trustees for the Retiree Fund should:

- Evaluate how the Retiree Fund resources could be used to reach its ultimate goal of providing maximum benefits to its members while minimizing administrative costs.
- Consider replacing the Fund Manager based on the extensive problems cited in this report and for denying us access to important records and assets.
- Develop policies and procedures that would ensure that the Retiree Fund is achieving its ultimate goal and that it is in compliance with Comptroller’s Directive #12. These policies and procedures should include a system of internal controls addressing the issues cited in this report.

- Closely monitor Retiree Fund operations to ensure that the issues cited in this report have been eliminated, and address any new issues that arise in the future.

In their response, Retiree Fund officials generally disagreed with the audit findings and recommendations.

Audit Follow-up

The Active Fund reported that as of December 1, 2009 its third-party administrator, KingCare, was terminated. The Active Fund also stated that it has immediately begun self administering the fund and is in the process of implementing most of the audit recommendations.

WELFARE FUNDS

Analysis of the Financial and Operating Practices of Union-Administered Benefit Funds Whose Fiscal Years Ended in Calendar Year 2006

Report #FM08-081S

Comptroller's Audit Library #7965

Issued: June 30, 2009

Monetary Effect: None

Introduction

Union-administered benefit funds were established under collective bargaining agreements between the unions and the City. They provide City employees, retirees, and dependents with a variety of supplemental health benefits not provided under City-administered health insurance plans. Certain other benefits are also provided at the discretion of the individual funds (e.g., annuity accounts, life insurance, disability, and legal benefits). This report contains a comparative analysis of 90 welfare, retiree, and annuity funds whose fiscal years ended in calendar year 2006. These funds received approximately \$1.04 billion in total City contributions for the fiscal year.

Results

This is the 27th report by the Comptroller's Office that reviewed the financial data submitted by the funds. As in previous reports, there were differences in the amounts spent by the funds for administrative purposes. In addition, several funds maintained high reserves while expending lower-than-average amounts for benefits—a possible indication that excessive reserves were accumulated at the expense of members' benefits. Further, some Funds did not comply with various parts of Comptroller's Directive #12 requirements and of fund agreements with the City.

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

- Trustees of funds with high administrative expenses and low benefits should reduce administrative expenses to improve their levels of benefits to members.

- Trustees of funds with low reserve levels should ensure that their funds maintain sufficient reserves to guard against insolvency.

Report Follow-Up

Not Applicable

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