



City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



FINANCIAL AUDIT

Marjorie Landa

Deputy Comptroller for Audit

Audit Report of the Business Integrity
Commission's Billing and Collection of
Licensing and Registration Fees

FK16-090A

June 28, 2016

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
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NEW YORK, NY 10007

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June 28, 2016

To the Residents of the City of New York:

My office has audited the New York City Business Integrity Commission's (BIC's) billing and collection of licensing and registration fees. We audit entities such as BIC to ensure that they charge applicants seeking to conduct business in City-regulated industries appropriate fees, collect all fees due the City, and safeguard them prior to deposit in the bank.

The audit found that BIC generally charged and collected appropriate application fees for trade waste and public wholesale market licenses and registrations. However, BIC did not adequately safeguard application fees that it received because it did not deposit cash receipts in a timely manner, properly secure cash receipts pending deposit, and separate the duties for receiving cash receipts and recording them in its accounting system. Consequently, application fees were susceptible to misappropriation or loss.

The audit makes nine recommendations, including that BIC electronically scan and deposit all funds received in the bank on at least a daily basis. The audit also recommends that BIC place restrictive endorsements on incoming checks and money orders as soon as they are received, and secure checks and money orders awaiting deposit in a locked safe that has a combination that is changed periodically and known to few individuals. Finally, the audit recommends that BIC separate the responsibilities for collecting license and registration application fees and accounting for them in its accounting system.

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

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report of the Business Integrity Commission's Billing and Collection of Licensing and Registration Fees

FK16-090A

EXECUTIVE SUMMARY

The Business Integrity Commission (BIC) is the law enforcement and regulatory agency that oversees the private sanitation (trade waste) industry and public wholesale markets in New York City. BIC's mission is to eliminate organized crime and other forms of corruption and criminality from these industries so that businesses can operate in a fair, competitive, and open environment.

BIC is responsible for investigating applicants who seek to conduct business in the trade waste industry and public wholesale markets and issuing them licenses or registrations to operate, which must be renewed every two to three years. Application fees range from \$1,000 to \$7,500, and may be paid by check, money order, or credit card. BIC uses the NIMBUS system (NIMBUS) to track license and registration applications and account for associated fees.

The objectives of this audit were to determine whether BIC: (1) charged applicants license and registration fees in accordance with the New York City Administrative Code and the Rules of the City of New York; (2) collected appropriate license and registration fees; and (3) properly safeguarded license and registration fees.

Audit Findings and Conclusions

BIC generally charged and collected appropriate application fees for trade waste and public wholesale market licenses and registrations. However, BIC did not adequately safeguard application fees that it received because it did not: deposit cash receipts in a timely manner, properly secure cash receipts while they were awaiting deposit, and separate the duties for receiving cash receipts and accounting for them in NIMBUS. Consequently, application fees were susceptible to misappropriation or loss.

Audit Recommendations

To address these issues, we make nine recommendations including that BIC should:

- Electronically scan and deposit all funds received in the bank on at least a daily basis.

- Place restrictive endorsements on incoming checks and money orders as soon as they are received.
- Secure checks and money orders awaiting deposit in a locked safe which has a combination that is changed periodically and known to few individuals.
- Separate the responsibilities for collecting license and registration application fees and accounting for them in NIMBUS.

Agency Response

In its response, BIC generally agreed with the report's findings and stated that it "recognizes the importance of internal controls and considers our response to the audit recommendations to reflect that principle by noting achievable improvements to be implemented, while keeping within the means of the agency and maintaining effectiveness and efficiency." Further, BIC stated that "[s]taffing constraints of the Licensing and Budget & Finance Units, as well as the limited size of the agency as a whole, is a key factor in our determination of achievable improvements in response to the audit recommendations."

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

AUDIT REPORT

Background

BIC is the law enforcement and regulatory agency that oversees the trade waste industry and public wholesale markets in New York City. BIC's mission is to eliminate organized crime and other forms of corruption and criminality from these industries so that businesses can operate in a fair, competitive, and open environment. BIC consists of a Chair and the Commissioners of the Police Department, the Department of Investigation, the Department of Sanitation, the Department of Consumer Affairs, and the Department of Small Business Services. The BIC Chair has administrative management responsibility for the agency.

BIC is responsible for investigating applicants who seek to conduct business in the trade waste industry and public wholesale markets and issuing them licenses or registrations to operate which must be renewed every two to three years.¹ The Rules and Regulations of the City of New York establish license and registration application fees which range from \$1,000 to \$7,500. Application fees may be paid by check, money order, or credit card and are due upon submission of an application either in-person or by mail.²

BIC uses NIMBUS to, among other things, track license and registration applications and account for associated fees.³ According to NIMBUS, BIC received 1,095 trade waste and 74 public wholesale market license and registration applications during Fiscal Year 2015 for which it reported license, registration, and other fees totaling \$5.1 million in the Comptroller's Fiscal Year 2015 Comprehensive Annual Financial Report.

Objectives

To determine whether the Business Integrity Commission:

- charged applicants license and registration fees in accordance with the New York City Administrative Code and the Rules of the City of New York,
- collected appropriate license and registration fees, and

¹ Commercial businesses operating within the City are required to have their waste removed by trade waste companies licensed by BIC. Alternatively, commercial businesses may obtain a self-hauler registration from BIC. Similarly, food wholesalers and businesses located or operating within designated City public wholesale markets must be registered with BIC. The designated City public wholesale markets include: the New York City Terminal Market (Hunts Point Produce Market); the Hunts Point Cooperative Market, Inc. (Hunts Point Meat Market); New Fulton Fish Market at Hunts Point; the Hunts Point Adjacent Area; the Gansevoort Meat Market; and the Brooklyn Wholesale Meat Market.

² The Rules and Regulations of the City of New York Title 17, Chapter 1, Subchapter B, Section 2-07(a) establishes trade waste license and registration application fees. Additionally, the Rule and Regulations of the City of New York Title 17, Chapter 2, Subchapter A, Section 11-03(b) establishes public wholesale market registration initial and renewal application fees. Finally, the Rules and Regulations of the City of New York Title 17, Chapter 2, Subchapter B, Sections 12-03(a)(2) establishes license and registration initial application and extension fees for seafood distribution areas; the Rule and Regulations of the City of New York Title 17, Chapter 2, Subchapter C, Section 13-03(b) establishes registration fees for distribution outside seafood distribution areas; and Subchapter D, Section 14-08(b) establishes registration fees for Market businesses, labor unions and labor organizations operating in seafood distribution areas..

³ NIMBUS is a proprietary software system developed by Salesforce that was customized to meet BIC's business and operational needs. BIC uses NIMBUS to track license and registration applications and account for associated fees. In addition, BIC uses NIMBUS for other agency operational needs, including tracking vendor background investigations and accounting for violation fines.

- properly safeguarded license and registration fees.

Scope and Methodology Statement

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

The scope of this audit covers Fiscal Year 2015. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with BIC officials during and at the conclusion of this audit. A preliminary draft report was sent to BIC on May 20, 2016, and discussed at an exit conference held on June 2, 2016. On June 10, 2016, we submitted a draft report to BIC with a request for comments by June 24, 2016. In its response, BIC generally agreed with the report's findings and stated that it "recognizes the importance of internal controls and considers our response to the audit recommendations to reflect that principle by noting achievable improvements to be implemented, while keeping within the means of the agency and maintaining effectiveness and efficiency." Further, BIC stated that "[s]taffing constraints of the Licensing and Budget & Finance Units, as well as the limited size of the agency as a whole, is a key factor in our determination of achievable improvements in response to the audit recommendations. A future goal of BIC is to move from paper applications and process to on-line electronic applications and consequently on-line payments. Nevertheless, BIC is resolute to strengthen any current areas potentially susceptible to misappropriation or loss and submits this response to the Comptroller's audit recommendations."

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

FINDINGS AND RECOMMENDATIONS

BIC generally charged and collected appropriate application fees for trade waste and public wholesale market licenses and registrations. However, BIC did not adequately safeguard application fees that it received because it did not: deposit cash receipts in a timely manner, properly secure cash receipts while they were awaiting deposit, and separate the duties for receiving cash receipts and accounting for them in NIMBUS. Consequently, application fees were susceptible to misappropriation or loss.

BIC Did Not Deposit Cash Receipts in a Timely Manner

BIC did not deposit license and registration application fees in a timely manner. Comptroller's Directive # 11 states that the "inordinate accumulation of in-office cash receipts is not acceptable and, generally, all funds received must be deposited in the bank on at least a daily basis." In its Directive #1 Checklist for Calendar Year 2015, BIC stated that cash receipts were not deposited daily because the agency was small and staff resources were limited. Therefore, BIC stated that it deposited cash receipts twice a month. BIC added that mitigating controls stated in Comptroller's Directive #11 were followed.

However, we found that mitigating controls BIC claimed, such as the use of restrictive endorsements and safes, were not properly or consistently utilized. These issues are discussed in detail below. Moreover, NIMBUS data reflects that BIC did not adhere to its modified policy of bi-monthly deposits. Rather, based on a NIMBUS report of trade waste and public wholesale market application and other associated fees, we found instead that BIC held cash receipts for 30 days on average and, in some instances, for 70 days.⁴ During the audit period, BIC had to go to the bank to deposit checks and money orders. However, since December 2015, BIC has the ability to electronically scan and deposit checks. Given that BIC now has the ability to remotely deposit cash receipts from its office and that trade waste and public wholesale market application and other associated fees deposits ranged from between \$20,600 to \$630,554, BIC should safeguard cash receipts by depositing them on at least a daily basis.

Recommendations:

The BIC should:

1. Electronically scan and deposit all funds received in the bank on at least a daily basis.

BIC Response: "BIC agrees that cash receipts require timely depositing, however, the recommendation of a daily deposit is not practical due to staffing constraints. . . . BIC's previous policy of bi-monthly depositing will be improved upon and staff will work to better ensure there are no delays with making deposits. BIC has begun testing a weekly deposit schedule and expects it to be implemented as the new policy."

⁴ As part of one deposit, BIC held 239 checks and money orders for trade waste and public wholesale market application and other associated fees totaling \$524,758 for between 18 and 70 days. Four of these 239 checks and money orders totaling \$8,351 were held for 70 days.

Auditor Comment: BIC collects substantial amounts of fees and has the ability to remotely deposit cash receipts from its office. Therefore, we reiterate that BIC should safeguard cash receipts by depositing them on at least a daily basis.

2. Consider entering into a lockbox arrangement with a local bank.⁵

BIC Response: “As recommended by the Comptroller, BIC contacted the NYC Department of Finance (DOF) for further information regarding this type of arrangement. Based on our communication with DOF, BIC has concluded that a lockbox arrangement would not suit the trade waste or market application process.”

BIC Did Not Properly Secure Cash Receipts

BIC did not restrictively endorse checks and money orders as soon as they were received and did not always secure cash receipts awaiting deposit in a locked safe. Comptroller’s Directive # 1 provides that,

[a]n agency must establish physical control to secure and safeguard vulnerable assets. Examples include security for and limited access to assets such as cash, securities, inventories, computers and other equipment, which might be vulnerable to risk of loss or unauthorized use.

Additionally, Comptroller’s Directive # 11 requires that

[c]ash and checks received too late to be included in the daily deposit must be stored overnight in an agency safe. Safes should also be used for temporary security of cash receipts awaiting the daily deposit.

In its Calendar Years 2014 and 2015 Agency Evaluation of Internal Controls Directive #1 Checklist, BIC represented that restrictive endorsements were placed on incoming checks as soon as they were received and that cash on-hand was properly secured in a locked safe. However, during the audit, BIC informed us that it did not place restrictive endorsements on incoming checks and money orders as they were received which stated that the checks and money orders were to be deposited only in a specified BIC bank account.

BIC Licensing Specialists are responsible for accepting license and registration applications, collecting associated fees, and recording application fee charges and payments in NIMBUS. At the end of each week, Licensing Specialists submit the checks and money orders that they collected during the week to the Licensing Unit Supervisor. In the beginning of the following week, the Licensing Unit Supervisor compares NIMBUS transaction ledgers detailing checks and money orders recorded by BIC Licensing Specialists to checks and money orders submitted by Licensing Specialists, and then submits the checks and money orders to the Finance Unit, which is responsible for depositing them.

However, BIC did not restrictively endorse checks and money orders when they were received by Licensing Specialists. Prior to December 2015, the Licensing Unit Supervisor restrictively

⁵ Under a lockbox arrangement, an entity directs its payees to send payments to a bank-controlled mailing address. Upon receiving the incoming mail, the bank deposits all payments in the entity’s bank account and scans payments and any associated paperwork. The scanned images are posted to a secure website which may be accessed by the entity’s accounting staff.

endorsed checks and money orders manually using a rubber stamp. However, this was not done until after he reviewed them the following week.

In December 2015, BIC entered into a new banking agreement which allowed it to electronically scan and deposit checks. According to BIC officials, the Department of Finance (DOF) advised BIC that checks and money orders would be endorsed electronically when they were scanned and, therefore, BIC no longer had to endorse checks and money orders manually upon receipt. However, as previously noted, BIC held cash receipts for 30 days on average and, in some instances, for as long as 70 days.

Further, BIC did not always secure checks and money orders awaiting deposit in a locked safe. Checks and money orders received by BIC's Licensing Unit were initially secured in a locked safe. However, once these checks and money orders were submitted to the BIC Finance Unit, they were no longer secured in a locked safe. Instead, the Finance Unit stored checks and money orders in a locked desk drawer until they were deposited.

Recommendations:

The BIC should:

3. Accurately represent BIC's internal control structure in its Directive #1 Checklist.

BIC Response: "BIC is now aware that we misinterpreted the checklist and going forward will provide an explanation citing partial compliance and reference specific occurrences or situations of impact (i.e. electronic endorsements, staffing constraints). BIC will also seek clarification from the Comptroller as needed on any areas of Directive # 1 which are unclear to us."

4. Place restrictive endorsements on incoming checks and money orders as soon as they are received.

BIC Response: "BIC was manually placing restrictive endorsements on incoming checks and money orders, but discontinued the practice as advised by DOF during a training session in November of 2015. At that time, BIC was instructed that City's new bank, Wells Fargo, would only allow electronic endorsements of deposited checks. BIC reconfirmed this information verbally with DOF on June 13 2016, but DOF is unwilling to memorialize this in writing. DOF has advised BIC that the Comptroller's Office has been made aware of Wells Fargo's policy on check endorsements. In an effort to safeguard checks and money orders from further vulnerability, BIC Licensing Specialists now submit to the Director of Licensing on a daily basis all checks and money orders which have been recorded in NIMBUS. The Director secures these checks and money orders in a separate locked safe with a combination lock."

Auditor Comment: DOF provided the Comptroller's Office with a Wells Fargo Desktop Deposit Service User Guide which states "[p]ayee endorsements are recommended on all checks deposited, and on the check images submitted through the Desktop Deposit service. . . . Endorsements can be stamped or written on the original item prior to scanning. You may also enroll in our Virtual Endorsement feature, which will electronically overlay a preformatted endorsement on the back of each image."

DOF did not advise the Comptroller's Office or provide it with additional documentation which states that Wells Fargo allows only electronic endorsements. Therefore, BIC should obtain written clarification from DOF and Wells Fargo about the use of manual and electronic endorsements. If manual endorsements are prohibited on electronically deposited checks, it is even more important for BIC to deposit them on at least a daily basis.

5. Secure checks and money orders awaiting deposit in a locked safe which has a combination that is changed periodically and known to few individuals.

BIC Response: "BIC has immediately made adjustments and implemented this recommendation. At all times, all checks and money orders awaiting deposit are now secured in a locked safe with a combination lock to be changed periodically and known to few individuals."

BIC Did Not Segregate the Duties for Receiving and Recording Cash Receipts

BIC did not segregate the duties for receiving and recording license and registration application fees. Comptroller's Directive # 1 states that,

[k]ey duties and responsibilities need to be divided or segregated among different staff members to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.

In its Directive #1 Checklists for Calendar Years 2014 and 2015, BIC represented that the responsibilities for billing, collecting, depositing, and accounting for cash receipts were performed by different individuals. Further, BIC reported that it independently accounted for all cash receipts in two ways. First, BIC represented that incoming checks were listed when received by someone separate from the accounting unit and that this list was independently reviewed and compared to cash receipts and deposit slips. Second, BIC represented that pre-numbered receipts were provided to payers, these receipts were issued in numerical sequence and accounted for numerically (including voided receipts), and matched to collection reports on a daily basis. However, based on our review, none of these controls were in place.

We found that BIC did not appropriately segregate duties because BIC Licensing Specialists were responsible for both collecting application fees and recording application fee charges and payments in NIMBUS. Further, BIC did not establish effective mitigating controls because it did not in fact perform independent reviews such as those described above—maintaining lists of incoming checks and independently reviewing them, and issuing pre-numbered receipts and accounting for related cash receipts—to ensure that all cash receipts are accounted for and deposited in the City's general fund. Instead, BIC simply compared NIMBUS transaction ledgers detailing checks and money orders recorded by BIC Licensing Specialists to checks and money orders submitted by Licensing Specialists.

Recommendations:

The BIC should:

6. Separate the responsibilities for collecting license and registration application fees and accounting for them in NIMBUS.

BIC Response: “The BIC Licensing Unit is currently appropriately staffed to receive and efficiently process the current volume of application submissions. The application and associated fees are collected and processed concurrently by the four Licensing Specialists. Once deemed complete, applications and the corresponding fees are recorded in NIMBUS as one process. It is not feasible to separate these duties, as the Licensing Unit does not have the staff resources to do so. However, we believe the internal controls cited in response to recommendations 7 and 8 below to be sufficient.”

7. Have an independent party (i.e., someone who does not record charges and payments in NIMBUS and deposit cash receipts) record a list of checks and money orders that are received each day.

BIC Response: “With limited resources, our remedy for this recommendation is to utilize the agency receptionist to record receipt of all checks and money orders related to applications into a NIMBUS log separate from the tracking system utilized by the Licensing Specialists. BIC believes this process sufficiently addresses this concern.”

8. Compare the list of checks and money orders that are received each day to those recorded in NIMBUS and deposited.

BIC Response: “The BIC Licensing Unit has implemented this recommendation. The Director of the Licensing Unit compares the NIMBUS mail log list of checks and money orders as recorded by the agency receptionist to the entries made in NIMBUS by the Licensing Specialists. On a weekly basis, the Director will continue to confirm that all fees entered into NIMBUS are physically accounted for and then pass them onto the Budget & Finance Unit for deposit.”

9. Issue pre-numbered receipts to payers in numerical sequence, account for all receipts, and compare them to cash receipts reports on a daily basis.

BIC Response: “The majority of BIC applications and corresponding fees are sent via mail, FedEx, UPS, etc. to BIC. When a BIC applicant does appear in person to submit an application and fee, on occasion the applicant will request a receipt and the Licensing Unit staff will provide a timestamped photocopy of the check or money order as such. Again, due to staffing constraints, BIC does not have the resources to issue receipts for each fee and compare them to reports.”

Auditor Comment: Since only a limited number of applicants make payments in-person, we reiterate that BIC should issue pre-numbered receipts to payers in numerical sequence, account for all receipts, and compare them to cash receipts reports on a daily basis.

DETAILED SCOPE AND METHODOLOGY

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

The issues with BIC are fully disclosed in the Findings and Recommendations section of this report. The scope of this audit covers Fiscal Year 2015.

To obtain an understanding of the policies, procedures, and regulations governing BIC, we reviewed: Title 16-A, Chapter 1 of the New York City Administrative Code; Title 22, Chapter 1-A and 1-B of the New York City Administrative Code; and Title 17, Chapter 1 and Chapter 2 of the New York City Rules and Regulations. We also reviewed the New York City Comptroller's Internal Control and Accountability Directives #1, "Principles of Internal Control," and #11, "Cash Accountability and Control, and BIC's Directive #1 Checklist responses for Calendar Years 2014 and 2015. These Comptroller's Directives were used as criteria in evaluating BIC's controls over cash receipts.

Additionally, we reviewed the prior New York City Comptroller's *Follow-up Audit Report on the Monitoring of the Private Carting and Public Wholesale Markets by the Business Integrity Commission (MD12-078F)* issued on December 17, 2012.

To gain an understanding of BIC's procedures for processing license and registration applications and applicable fees and assess BIC's internal controls, we interviewed officials from BIC's Licensing, Finance, Audit, and Information Technology Units. We also requested and reviewed BIC's formal written policies and procedures.

We observed BIC personnel generate and extract a report of all applications and other forms such as principal disclosures, subcontractor applications, and photo IDs initiated during Fiscal Year 2015. From this report, we compiled a list of Trade Waste and Market license and registration applications initiated Fiscal Year 2015. We determined that there were a total of 1,169 applications (1,095 Trade Waste applications and 74 Public Wholesale Market applications) initiated during Fiscal Year 2015. To ensure that this list was complete, we selected a sample of 50 vendor files from BIC's file room and pulled the latest application or application renewal from these files and checked to see if they were recorded in NIMBUS. For all 50 files, the application or application renewal that we selected was recorded in NIMBUS.

To assess the most current procedures, we selected to a targeted sample of all applications for licenses and registrations initiated in the last half of June 2015 (i.e., from June 16, 2015, to June 30, 2015). This resulted in a sample of 57 applications—51 Trade Waste applications and 6 Public Wholesale Market applications. This represents approximately five percent of all applications. While the results of our tests for these applications cannot be projected, it does provide sufficient and appropriate evidence for our conclusions.

To determine whether BIC charged sampled applicants appropriate license and registration fees, we first identified the type of license or registration that an individual or entity was applying for by reviewing applications, notification letters, and issued licenses and registrations. We then reviewed NIMBUS ledgers and payment records (i.e., copies of checks, money orders, and credit card charges) to determine the fees that were charged and paid, and compared these amounts to fees established in the Rules and Regulations of the City of New York. We also determined whether the check and money order amounts, received dates, and deposit dates were accurately entered into NIMBUS. Lastly, we reviewed bank statements and deposit records to ensure that checks were deposited in BIC bank accounts.

To determine whether BIC deposited cash receipts on a timely basis, we obtained a NIMBUS report of checks and money orders received for trade waste and public wholesale market fees during Fiscal Year 2015, which indicated check numbers, amounts, and received and deposited dates. We then compared these dates to calculate the length of time that deposits were held. Further, we calculated the amount of money that was held by BIC, i.e. the total amount of each BIC batch deposit.

We obtained and reviewed BIC's bank statements, bounced check notifications, and Bounced Check Log for FY 2015 to ensure all bounced checks were properly recorded. We obtained documentation of the replacement payment and traced these payments to the bank statements. We also ensured that licenses or registrations were not issued for transactions where a replacement payment was not received.



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Daniel D. Brownell
Commissioner and Chair

June 24, 2016

By Email and Hand Delivery

Ms. Marjorie Landa
Deputy Comptroller for Audit
City of New York Office of the Comptroller
1 Centre Street, Room 1100
New York, NY 10007

Re: Draft Audit Report on the Business Integrity Commission's Billing and Collection of Licensing and Registration Fees FK16-090A

Ms. Landa,

Thank you for providing the draft audit report and allowing us the opportunity to respond. As per the New York City Administrative Code and the Rules of the City of New York, the Business Integrity Commission (BIC) charges and collects application fees from commercial trade waste and public wholesale market businesses which operate in the City of New York. It is BIC's duty to the public and customers to ensure that these industries operate in a fair, competitive, and open environment without organized crime, corruption, or other forms of criminality.

As noted in the draft audit report, there were no instances of misappropriation or loss of license and registration application fees, which speaks to BIC's staff dedication to the mission of the Agency. BIC recognizes the importance of internal controls and considers our response to the audit recommendations to reflect that principle by noting achievable improvements to be implemented, while keeping within the means of the agency and maintaining effectiveness and efficiency.

Please find BIC's response following. We are available should you wish to further discuss these matters.

Regards,

A handwritten signature in black ink that reads "Daniel D. Brownell". The signature is written in a cursive style.

Daniel D. Brownell
Commissioner/Chair
NYC Business Integrity Commission
212-437-0500

cc: Peggy Tierney, Deputy Commissioner of Operations/Chief of Staff, NYC Business Integrity Commission
Alison Bonfoey, Executive Director – Licensing Unit and Background Investigations, NYC Business Integrity Commission
Jennifer Hoo, Director of Budget & Finance, NYC Business Integrity Commission
Maryanne Mullany, Assistant Director, Bureau of Audit, City of New York Office of the Comptroller

Response to Comptroller Audit FK16-090

The New York City Business Integrity Commission (BIC) is an agency of seventy nine (79) City employees, which includes all levels of staff as well as the Commissioner/Chair. This Comptroller audit covered the fee processes of primarily two BIC units: the Licensing Unit, as the point of collection of application fees, and the Budget & Finance Unit, as the point of depositing application fees. For the scope of this audit, Fiscal Year 2015 (FY15), the Licensing Unit was comprised of one (1) agency Receptionist, four (4) Licensing Specialists, a Deputy Director, and a Director. For FY15, the Budget & Finance Unit was a total of one (1) Administrative Coordinator and a Director. As of March 2016 (unrelated to this audit), the Budget & Finance Unit incurred staffing changes by which the Administrative Coordinator is now shared with the BIC General Services Unit and an Accounting Specialist has moved from the BIC Audit Unit to Budget & Finance. Due to these recent staffing changes, the Budget & Finance Unit is in transition as tasks are reassigned and tested, the Accounting Specialist learns the unit tasks, and the Administrative Coordinator adjusts his schedule and duties between units.

Staffing constraints of the Licensing and Budget & Finance Units, as well as the limited size of the agency as a whole, is a key factor in our determination of achievable improvements in response to the audit recommendations. A future goal of BIC is to move from paper applications and process to on-line electronic applications and consequently on-line payments. Nevertheless, BIC is resolute to strengthen any current areas potentially susceptible to misappropriation or loss and submits this response to the Comptroller's audit recommendations.

A. Depositing cash receipts in a timely manner

1. Recommendation: Electronically scan and deposit all funds received in the bank on at least a daily basis.

Response: BIC agrees that cash receipts require timely depositing, however, the recommendation of a daily deposit is not practical due to staffing constraints of both units – Licensing and Budget & Finance. The additional time needed to process and deposit funds received on a daily basis would negatively impact each unit by causing delays of all other duties. This would reduce productivity in both areas. BIC's previous policy of bi-monthly depositing will be improved upon and staff will work to better ensure there are no delays with making deposits. BIC has begun testing a weekly deposit schedule and expects it to be implemented as the new policy.

2. Recommendation: Consider entering into a lockbox¹ arrangement with a local bank.

Response: As recommended by the Comptroller, BIC contacted the NYC Department of Finance (DOF) for further information regarding this type of arrangement. Based on our communication with DOF, BIC has concluded that a lockbox arrangement would not suit the trade waste or market application process. Application fee payments are required upfront with license and registration application submissions. Fees are non-refundable regardless of the outcome of the application (i.e. approval, denial). In order for BIC to accept and process a license or registration application, the proper fee payment must accompany an original and complete application submission. In a lockbox arrangement, the submission would be disconnected from BIC and thus creating a host of inefficiencies and issues including the need to allocate staff time to reconcile applications and payments made to a lockbox account, delays in processing applications deemed incomplete which are returned, create a work process prone to errors, and overall less productive.

¹Under a lockbox arrangement, an entity directs its payees to send payments to a bank-controlled mailing address. Upon receiving the incoming mail, the bank deposits all payments in the entity's bank account and scans payments and any associated paperwork. The scanned images are posted to a secure website which may be accessed by the entity's accounting staff.

B. Properly securing cash receipts

3. Recommendation: Accurately represent BIC's internal control structure in its Directive #1 checklist.

Response: BIC had understood its response to Directive #1 to be complete. BIC is now aware that we misinterpreted the checklist and going forward will provide an explanation citing partial compliance and reference specific occurrences or situations of impact (i.e. electronic endorsements, staffing constraints). BIC will also seek clarification from the Comptroller as needed on any areas of Directive #1 which are unclear to us. BIC wishes to express to the Comptroller that some Directives may not be appropriate for agencies with limited staff and resources and request consideration of accommodations for small agencies.

4. Recommendation: Place restrictive endorsements on incoming checks and money orders as soon as they are received.

Response: BIC was manually placing restrictive endorsements on incoming checks and money orders, but discontinued the practice as advised by DOF during a training session in November of 2015. At that time, BIC was instructed that City's new bank, Wells Fargo, would only allow electronic endorsements of deposited checks. BIC reconfirmed this information verbally with DOF on June 13 2016, but DOF is unwilling to memorialize this in writing. DOF has advised BIC that the Comptroller's Office has been made aware of Wells Fargo's policy on check endorsements. In an effort to safeguard checks and money orders from further vulnerability, BIC Licensing Specialists now submit to the Director of Licensing on a daily basis all checks and money orders which have been recorded in NIMBUS. The Director secures these checks and money orders in a separate locked safe with a combination lock.

5. Recommendation: Secure checks and money orders awaiting deposit in a locked safe which has a combination that is changed periodically and known to few individuals.

Response: BIC has immediately made adjustments and implemented this recommendation. At all times, all checks and money orders awaiting deposit are now secured in a locked safe with a combination lock to be changed periodically and known to few individuals.

C. Segregate duties for receiving and recording cash receipts

6. Recommendation: Separate the responsibilities for collecting license and registration application fees and accounting for them in NIMBUS.

Response: The BIC Licensing Unit is currently appropriately staffed to receive and efficiently process the current volume of application submissions. The application and associated fees are collected and processed concurrently by the four Licensing Specialists. Once deemed complete, applications and the corresponding fees are recorded in NIMBUS as one process. It is not feasible to separate these duties, as the Licensing Unit does not have the staff resources to do so. However, we believe the internal controls cited in response to recommendations 7 and 8 below to be sufficient.

7. Recommendation: Have an independent party (i.e. someone who does not record charges and payments in NIMBUS and deposit cash receipts) record a list of checks and money orders that are received each day.

Response: With limited resources, our remedy for this recommendation is to utilize the agency receptionist to record receipt of all checks and money orders related to applications into a NIMBUS log separate from the tracking system utilized by the Licensing Specialists. BIC believes this process sufficiently addresses this concern.

8. Recommendation: Compare the list of checks and money orders that are received each day to those recorded in NIMBUS and deposited.

Response: The BIC Licensing Unit has implemented this recommendation. The Director of the Licensing Unit compares the NIMBUS mail log list of checks and money orders as recorded by the agency receptionist to the entries made in NIMBUS by the Licensing Specialists. On a weekly basis, the Director will continue to confirm that all fees entered into NIMBUS are physically accounted for and then pass them onto the Budget & Finance Unit for deposit.

9. Recommendation: Issue pre-numbered receipts to payers in numerical sequence, account for all receipts, and compare them to cash receipts reports on a daily basis.

Response: The majority of BIC applications and corresponding fees are sent via mail, FedEx, UPS, etc. to BIC. When a BIC applicant does appear in person to submit an application and fee, on occasion the applicant will request a receipt and the Licensing Unit staff will provide a timestamped photocopy of the check or money order as such. Again, due to staffing constraints, BIC does not have the resources to issue receipts for each fee and compare them to reports. BIC does accommodate any applicant requesting a receipt of their fee payment. Please be aware, that BIC is moving toward an electronic application process, which will include on-line fee payments for all application submissions. This process will generate appropriate confirmation receipts.