



City of New York

OFFICE OF THE COMPTROLLER

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FINANCIAL AUDIT

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Deputy Comptroller for Audit

Audit Report on the Department of
Finance's Efforts to Collect Outstanding
Parking Fines from Participants in Its
Regular Fleet Program

FM13-081A

June 25, 2013

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
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June 25, 2013

To the Residents of the City of New York:

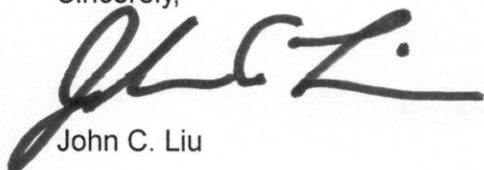
My office has audited the New York City Department of Finance (DOF) to determine whether DOF has effectively collected fines for outstanding parking summonses issued to vehicles with license plates enrolled in the Regular Fleet Program. We audit City agencies such as DOF as a means of ensuring they operate efficiently and are accountable for resources and revenues in their charge.

DOF is responsible for collecting and processing payments for all parking tickets. DOF has a Commercial Fleet Program (Regular Fleet Program) allowing commercial vehicle owners to save time and money in resolving parking summonses. The Regular Fleet Program follows the provisions contained in Chapter 39 of Title 19 of the Official Compilation of Rules of the City of New York. Companies enrolled in this Program receive a weekly Fleet Summons Issuance Report listing new summonses issued to vehicles with plates registered in the program. These parking fines are penalty-free for a period of 45 days within which the companies can either pay or contest the summonses. Vehicles registered in the Program are not subject to tow for unpaid parking fines.

The audit found that DOF does not effectively collect fines for outstanding parking summonses issued to owners of commercial vehicles with license plates enrolled in the Regular Fleet Program. DOF does not hold companies accountable to the terms of their Fleet Program Enrollment Agreement, which may result in the City losing millions in potential revenue. Although most fleet companies voluntarily pay their summonses, certain companies have been allowed to continue in the Program even though they have accumulated unpaid parking fines for years and little, if any, enforcement actions have been taken against them. DOF does not effectively pursue actions against Regular Fleet Program companies with judgment debt, and there may be a potential revenue loss as these amounts may eventually be deemed uncollectible and be written off. In addition, DOF did not monitor or resolve discrepancies between its Summons Tracking Accounts Receivable System database and Department of Motor Vehicles records, resulting in inestimable revenue loss for the City.

The results of the audit have been discussed with DOF officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov.

Sincerely,



John C. Liu

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the Department of Finance's Efforts to Collect Outstanding Parking Fines from Participants in Its Regular Fleet Program

FM13-081A

AUDIT REPORT IN BRIEF

The New York City Department of Finance (DOF) is responsible for collecting and processing payments for all parking tickets or fines. DOF has several programs to make it easier for commercial vehicle owners to save time and money resolving parking fines. One such program is the Commercial Fleet Program (Regular Fleet Program), which was created to help commercial vehicle owners track and manage their parking fines. A company with one or more vehicles registered or leased under the company's name and address is eligible to participate in the Regular Fleet Program.

The Regular Fleet Program follows the provisions contained in Chapter 39 of Title 19 of the Official Compilation of Rules of the City of New York (RCNY). The Tax and Parking Program Operations Division of DOF enrolls companies into the Regular Fleet Program. Once enrolled, companies receive a weekly Fleet Summons Issuance Report listing new summonses issued to vehicles with plates registered in the program. These parking fines are penalty-free for a period of 45 days within which the companies can either pay or contest the summonses. Vehicles registered in the Program are not subject to towing for unpaid parking fines.

DOF can solicit payment on judgment debt by suspending or denying the renewal of vehicle registrations for unpaid parking fines and processing bank restraints and property seizures against vehicle owners. Companies can also be terminated from the Program. Once companies are terminated, DOF can then take the additional enforcement action of towing the vehicles of the former Regular Fleet Program participants.

As of December 2012, there were 1,711 companies actively enrolled in the Regular Fleet Program of which 1,124 had outstanding ticket amounts totaling \$5,324,946. Out of the total outstanding fine amount, 316 companies have a total of \$1,293,480 in outstanding parking tickets older than nine months.

Audit Findings and Conclusion

DOF does not effectively collect fines for outstanding parking summonses issued to owners of commercial vehicles with license plates enrolled in the Regular Fleet Program. DOF's failure to hold companies accountable to the terms of their Fleet Program Enrollment Agreement may result in the City losing millions in potential revenue. Although most fleet companies voluntarily pay their summonses, certain companies have been allowed to continue in the Program even though they have accumulated unpaid parking fines for years and little, if any, enforcement actions have been taken against them. DOF did not effectively pursue actions against Regular Fleet Program companies with judgment debt, and there may be a potential revenue loss as these amounts may eventually be deemed uncollectible and be written off. In addition, DOF did not monitor or resolve discrepancies between its Summons Tracking Accounts Receivable System (STARS)¹ database and Department of Motor Vehicles (DMV) records resulting in inestimable revenue lost for the City.

Audit Recommendations

DOF should:

- Remove companies that are not abiding by the terms of the Program according to the RCNY, §39-03.1 and reinstitute towing of their vehicles.
- Establish formal written policies with specific time lines of when enforcement actions should be taken against non-compliant companies. The written policies should include timeframe requirements as to when enforcement actions, such as, bank restraints and property seizures should be initiated, and when the company should be terminated from the program.
- Review reports showing discrepancy between information contained in STARS and DMV records and update the STARS database accordingly to avoid such conflicts.

Department Response

DOF, in its response, has in substance agreed to implement our three recommendations. While there appears to be disagreement over the intent of the audit objective, the presentation of our findings, and the sampling methodology, there is agreement over the appropriate courses of action to take to improve DOF's effectiveness in collecting unpaid fines.

¹ STARS is an online database system that allows DOF to track the issuance, payment, and adjudication of all parking summonses issued in New York City.

INTRODUCTION

Background

DOF is responsible for collecting and processing payments for all parking tickets or fines. DOF has several programs to make it easier for commercial vehicle owners to save time and money resolving parking fines. One such program is the Commercial Fleet Program (Regular Fleet Program), which was created to help commercial vehicle owners track and manage their parking fines. A company with one or more vehicles registered or leased under the company's name and address is eligible to participate in the Regular Fleet Program.

The Regular Fleet Program follows the provisions contained in Chapter 39 of Title 19 of the Official Compilation of Rules of the City of New York (RCNY). The Commissioner of DOF adopted RCNY to prescribe the internal procedures and organization of the Parking Violations Bureau, the manner and time of entering pleas, the conduct of hearings, the amount, and the manner of payment of penalties.

The Tax and Parking Program Operations Division of DOF enrolls companies into the Regular Fleet Program. Once enrolled, companies receive a weekly Fleet Summons Issuance Report listing new summonses issued to vehicles with plates registered in the program. These parking fines are penalty-free for a period of 45 days within which the companies can either pay or contest the summonses. Vehicles registered in the Program are not subject to towing for unpaid parking fines.

DOF has the authority to docket parking summonses (parking tickets) that are left unpaid for approximately 180 days (six months) as a default judgment in the records of the Civil Court of the City of New York.² The Collections Division of DOF is responsible for pursuing collection on judgment debt. Every two months, companies receive the Fleet 550 Judgment report, which includes a list of all summonses in judgment. DOF has Standard Operating Procedures (SOP) to handle companies that refuse to pay outstanding parking fines in judgment. Companies that do not resolve the summonses listed on the Fleet 550 Judgment report are transferred to "Executions."³

DOF can solicit payment on judgment debt by suspending or denying the renewal of vehicle registrations for unpaid parking fines and processing bank restraints and property seizures against vehicle owners. Companies can also be terminated from the Program. Once companies are terminated, DOF can then take the additional enforcement action of towing the vehicles of the former Regular Fleet Program participants. Towing is a strong enforcement technique to induce the payment of judgment debt. If a vehicle is towed, that company loses the services of that vehicle.

Based on the provisions of RCNY, DOF has the right to terminate a company's enrollment in the Regular Fleet Program if the company fails to pay its parking fines which enter judgment status within three months. Since it takes about six months for unpaid parking tickets to enter judgment and companies have three months to make payment on judgment summonses,

² When a company fails to answer a parking ticket within 180 days, a decision (or judgment) is entered in the Civil Court of the City of New York upholding the parking ticket and any interest and penalties assessed.

³ When a company is routed to Executions, DOF commences enforcement proceedings including, but not limited to, restraint of and levy on assets including bank accounts and docketing liens against real property.

companies have approximately nine months to make payment on unpaid parking tickets or face termination from the program.

On October 18, 2012, we issued a related audit report entitled “Audit Report on the Department of Finance’s Efforts to Collect Outstanding Parking Fines from Participants in its Stipulated Fine and Commercial Abatement Programs.” This audit focused on DOF’s enforcement actions against delinquent companies enrolled in the alternative Commercial Fleet Program- Stipulated Fine and Commercial Abatement Programs.

As of December 2012, there were 1,711 companies actively enrolled in the Regular Fleet Program of which 1,124 had outstanding ticket amounts totaling \$5,324,946. Out of the total outstanding fine amount, 316 companies have a total of \$1,293,480 in outstanding parking tickets older than nine months. Table I shows the top five debtors on the December 2012 report that have outstanding debt older than nine months.

Table I

Top Debtors in the Regular Fleet
Program as of December 2012

Company Name	Amount Outstanding Over 9 Months
Mcquay New York	\$161,240
Aztec Metal Maintenance Corporation	60,647
Drain King LLC	57,168
Crosslands Transportation	49,776
Cintas Corporation	48,793
Total	\$377,624

These five top debtors represent 29 percent of the total outstanding debt older than nine months owed by participants in the Regular Fleet Program.

Objective

The objective of this audit was to determine whether the Department of Finance has effectively collected fines for outstanding parking summonses issued to commercial vehicles with license plates enrolled in the Regular Fleet Program.

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 covered the collection of outstanding parking fines from DOF's Regular Fleet Program as of January 2013. 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 DOF officials during and at the conclusion of this audit. A preliminary draft report was sent to DOF officials and discussed at an exit conference held on May 20, 2013. On May 23, 2013, we submitted a draft report to DOF officials with a request for comments. We received a written response from DOF officials on June 7, 2013.

DOF Response: "This audit does not provide useful or actionable information to DOF, and contains many errors of facts and method. We have great respect for the audit process, and welcome thorough analysis and useful recommendation. However, this report does not meet the Comptroller's typical high standard for audits. We respectfully request that it be reviewed and re-drafted in light of our comments."

Auditor Comment: The alleged "errors of facts" that DOF cites are based on information that DOF itself provided. Each finding within the report is supported by evidence provided by the agency. By making this assertion, DOF is in effect stating that evidence it provided to auditors is factually inaccurate.

As an example, DOF states in its response, "The report states in several places that as a benefit of the program vehicles enrolled in the regular fleet program are not subject to towing. This is incorrect." However, in an email dated February 1, 2013, sent by a DOF official in response to this very question, a DOF official confirmed that "it is agency policy not to tow plates registered in the program. Once plates or participants are terminated they become eligible for both towing and OCA [Outside Collection Agency] assignment." It is unclear why DOF would in writing tell auditors that it did not tow participants enrolled in the program and then in a response written by its Director of Internal Audit a few months later state that auditors are "incorrect" when they report information that multiple DOF program officials had previously confirmed both verbally and in writing. It is particularly baffling because the Director of Internal Audit was included on the February email and did not correct what she now states is incorrect information.

DOF Response: DOF officials also responded that "The Comptroller describes the audit as being intended to assess the overall effectiveness of efforts to collect fines for summonses issued to vehicles enrolled in DOF's commercial vehicle fleet program. However, the Comptroller only sampled unpaid tickets. This by definition cannot yield any measure of collection rates or the effectiveness of the program as a whole."

Auditor Comment: DOF misunderstands the objective of this audit. The audit objective is to examine collection of outstanding parking summons. Looking at paid tickets would, therefore, not make sense. In its response, DOF itself states that it is not satisfied with the percentage of open tickets and that is seeking to "close this gap." This audit provides recommendations that may help DOF accomplish this. We do not have an opinion related to DOF's overall effectiveness in its efforts to collect fines because we did not audit this issue.

DOF Response: DOF further commented that "The Comptroller completely ignores the steps DOF has taken to identify and rectify issues in the fleet program. Specifically, the Comptroller fails to acknowledge that DOF is in the process of rolling out new terms and conditions for the

fleet program, which require companies to clear up all tickets in judgment before being allowed to continue in the program. Despite being given many detailed briefings on these changes during this audit (as well as during the prior audit of the Commercial Abatement and Stipulated Fine programs), the Comptroller repeats misstatements about the lack of repercussions for companies that fail to clear up all their tickets.”

Auditor Comment: DOF itself states it “is in the process of rolling out new terms and conditions.” However, as of yet, it has not implemented these changes and, therefore, we cannot render an opinion on these proposed changes.

The full text of the written comments from DOF is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

DOF does not effectively collect fines for outstanding parking summonses issued to owners of commercial vehicles with license plates enrolled in the Regular Fleet Program. DOF's failure to hold companies accountable to the terms of their Fleet Program Enrollment Agreement may result in the City losing millions in potential revenue. Although most fleet companies voluntarily pay their summonses, certain companies have been allowed to continue in the Program even though they have accumulated unpaid parking fines for years and little, if any, enforcement actions have been taken against them. DOF did not effectively pursue actions against Regular Fleet Program companies with judgment debt, and there may be a potential revenue loss as these amounts may eventually be deemed uncollectible and be written off. In addition, DOF did not monitor or resolve discrepancies between its Summons Tracking Accounts Receivable System (STARS) database and Department of Motor Vehicles (DMV) records resulting in inestimable revenue lost for the City.

Failure to Effectively Pursue Companies in the Regular Fleet Program with Outstanding Parking Tickets

As of December 2012, there were 1,711 companies actively enrolled in the Regular Fleet Program of which 1,124 had outstanding ticket amounts totaling \$5,324,946. Of these 1,124 companies, 316 of them had a total of \$1,293,480 in outstanding parking tickets older than nine months and in judgment. DOF does not have a systematic way of pursuing Regular Fleet judgment debt and does not utilize the termination provision of the Program agreement to enhance collection efforts. Consequentially, these companies are able to continue business and accumulate more debts without any repercussions.

During the audit, we found six out of 10 sampled companies had accumulated outstanding judgment debt for years, even as far back as eight years, without being terminated. According to the provisions of RCNY: "Failure to satisfy summonses which enter judgment status within three months of the date of entry or comply with the procedural requirements of this §39-03 may result in termination of the company's enrollment in the Fleet Program." If a company was terminated from the Regular Fleet Program, its vehicles would be subject to towing. When the vehicles of a company are towed, the company loses the services of those vehicles. Towing is a strong enforcement technique to induce the payment of judgment debt.

If DOF does not aggressively pursue the collection of outstanding tickets, it may continue to lose potential revenue as these tickets are older than nine months. As time passes, there is a greater chance the debt will become harder, if not impossible, to collect.

Besides terminating delinquent companies from the Regular Fleet Program, DOF has other enforcement actions that it can take such as bank restraints, property seizures, and suspension of vehicle registrations. The enforcement actions taken are haphazard and do not always prove effective. The following sections will discuss DOF's ineffective efforts and poor response time to the collection of judgment debt from Regular Fleet companies.

Ineffective Collection Efforts Made to Pursue Outstanding Judgment Debt

Our review of outstanding debt owed by companies in the Regular Fleet Program as of May 2012 showed that 1,509 companies owed a total outstanding fine amount of \$12,885,116. We randomly selected 10 companies with outstanding amounts greater than \$10,000 (totaling \$1,133,361) as of May 2012. We obtained detailed reports listing outstanding summonses for these 10 companies and found that seven had a total outstanding amount of \$430,944 in judgment debt as of May 2012.

We also obtained and analyzed detailed reports from November 2012 of outstanding summonses issued to the 10 companies. We found that seven of the 10 companies owed a total of \$418,180 in judgment debt as of November 2012. One of the companies had paid the majority of its judgment debt by adhering to the terms of the program. The other six companies each had judgment debt over nine months greater than \$5,000 with little or no enforcement actions taken against them.

Insufficient Collection Efforts

DOF can take enforcement actions such as bank restraints, property seizure, suspension of vehicle registrations, and termination from the Fleet Program.⁴ For the six companies with judgment debt greater than \$5,000, our review found that, as of November 2012, DOF only performed some of the possible enforcement actions at their disposal. Table II shows '✓' where a particular enforcement action was taken and '✗' where the action was not taken.

Table II

Enforcement Actions Taken Against
Six Delinquent Companies in the
Regular Fleet Program

Company	Amount of Judgment Debt Accumulated	Bank Restraints/ Property Seizure	Suspension of Vehicle Registrations	Terminated from Program	Towing
Company A	\$24,224	✗	✗	✓	✗
Company B	124,269	✓	✗	✗	✗
Company C	185,687	✓	✓	✓	✗
Company D	28,451	✓	✗	✓	✗
Company E	47,346	✗	✓	✗	✗
Company F	7,517	✗	✓	✗	✗
Total	\$417,494				

As shown above, DOF unsystematically applied the different types of possible enforcement actions. For example, DOF prepared bank restraints for only three of the six companies. As of April 15, 2013 the bank restraint for Company B has not been served, Company C's bank account was not found and Company D's bank account was overdrawn. Even though DOF

⁴ Towing of delinquent company vehicles can only be done once companies are terminated from the Regular Fleet Program.

attempts at bank restraints proved unsuccessful, in some cases it failed to take other actions that may have resulted in the collection of the debt of these companies.

For instance, DOF also can request that DMV suspend registration on the vehicles of the companies that have five or more parking tickets placed into judgment during any 12-month period. However, DOF did not suspend the registration for any of the vehicles belonging to Companies A, B, or D even though they had incurred five judgment summonses in a 12-month period. Even when DOF did suspend registrations as it did for Companies C, E, and F, DOF did not fully utilize this enforcement action as it did not suspend all of the vehicles that were subject to suspension.

Finally, there are no procedures outlining steps to be taken once attempts at bank restraints or suspension of vehicle registration fail to prompt payment of judgment debt. DOF does not terminate companies from the program due to non-payment which would allow these companies' vehicles to be towed for unpaid fines. While DOF did terminate Companies A, C, and D from the Program, termination was due to reasons unrelated to unpaid fines. Moreover, even though these three companies were terminated from the Regular Fleet Program, DOF did not initiate the process that would allow their vehicles to be towed for unpaid fines.

DOF does not consistently apply all available enforcement actions to participants in the Program. Further as DOF does not terminate Program participants for non-payment, these companies are not subject to having their vehicles towed for unpaid fines.

Delayed Collection Process

DOF has a Standard Operating Procedure (SOP) detailing how the Collections Unit handles the collection of judgment debt. However, DOF's SOP does not clearly specify time limits for collectors to perform the various enforcement action steps for unpaid judgment debt. The SOP states, "Assigned employee contacts the company if no response within the allotted time of the cover letter. If the company does not respond within (30) days the case will be transferred to Executions." Of the 10 sampled companies, we found that while collectors may or may not be in contact with the company, they did not route companies to Executions in a timely manner, which would have facilitated enforcement actions such as bank restraints.

For the six companies that had more than \$5,000 in judgment debt, the time it took DOF to take enforcement action to pursue the outstanding debt varied greatly. For example, Table III shows how long the judgment debt the six companies we sampled accumulated and when DOF routed these companies to Executions.

TABLE III

Judgment Debt Accumulation for
Sampled Companies in Regular
Fleet Program as of November 2012

Company	Amount of Judgment Debt Accumulated	Oldest summons since:	Company Routed to Executions
Company A	\$24,224	2004	Never
Company B	124,269	2004	2011
Company C	185,687	2004	2012
Company D	28,451	2006	2007
Company E	47,346	2005	Never
Company F	7,517	2005	Never
Total	\$417,494		

According to the New York Vehicle and Traffic Law Section 241 (3), a judgment shall remain in effect for eight years. Therefore, summonses that have been in judgment for more than eight years may be written off. Because of these time restrictions, the debt of some of these companies only goes back as far as 2004. A review of older summonses found that summons for Companies A, B, C, E, and F have already been written off. For example, Company B had \$9,312 in write-offs between May 2012 and November 2012.

Much of the debt for these companies may eventually be written off because of the lack of timely enforcement action. For example, Company A is already out of business and Company C was terminated from the Program due to DOF's inability to contact the company.

Due to the unique nature of each case, it is understandable that the collection of judgment debt varies on a case to case basis. However, if DOF does not make diligent efforts in a timely manner to collect on judgment debt, many companies in this Program may fail to make payment on their judgment debt.

DOF Does Not Monitor and Update the Vehicle Information in STARS to Match DMV records for Unverified Summonses Causing Potential Loss for the City

From the November 2012 detailed summons reports, we found that one of the 10 sampled companies had \$168,160 in outstanding debt. However, none of its summonses eligible for judgment were in judgment even though the oldest issued summons was from December 2010. We also noted that the summonses of this company were written to license plates that were registered outside of New York State.

According to DOF officials, this company's summonses could not be verified because the company's vehicle information written on the summonses could not be exactly matched to the information contained in the Summons Tracking and Accounts Receivable System (STARS), a database utilized by DOF.

Information contained in STARS may not be complete or up to date with the various state DMV records. DOF receives a weekly record from the NYS DMV through an automated file which shows any changes to DMV's vehicle information. DOF also receives electronic information from DMVs in other states. This file is uploaded into STARS, and the STARS database identifies whenever there is a discrepancy between the information contained in STARS and the information received from DMV. However, DOF does not use this information to resolve the discrepancies in STARS.

During our review, we identified that the make of the vehicle recorded on DMV's database did not match the make recorded in the STAR system for hundreds of summonses written to certain vehicles for one of our sampled companies. These "unverified summonses" did not enter judgment and are likely to be dismissed if disputed by the company at a hearing. Some of the tickets go as far back as 2010.

The New York Vehicle and Traffic Law Section 241 (2) states, "In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two years after the expiration of the time prescribed for entering a plea." Therefore, DOF's policy dictates that any summons that does not go into judgment within two years can be written off. A write-off schedule obtained from DOF listing summonses written off in 2011 and 2012 showed that \$1,055 in outstanding summonses had already been written off for this particular sampled company.

We are uncertain how many unverified summonses of other companies have been written off due to similar STARS database problems. If DOF does not actively monitor and take actions to rectify discrepancies it finds between STARS and DMV records, tickets will continue to be written but not enforceable and may eventually be dismissed, thus resulting in lost revenue to the City.

Recommendations

DOF should:

1. Remove companies that are not abiding by the terms of the Program according to the RCNY, §39-03 and reinstitute towing of their vehicles.

DOF Response: “DOF agrees since DOF already holds all companies to the requirements of the Fleet program. To specifically address gaps in the towing of the enrolled vehicles, DOF is modifying its computer systems, as the Comptroller is aware.”

Auditor Comment: As previously discussed, it’s been DOF’s policy to not tow the vehicles of Regular Fleet company participants that have judgment debt. Since DOF plans on modifying its computer systems, we urge DOF to work diligently to change its internal policy and also put forth actual effort to modify their computer system to enable it to utilize stronger enforcement action and enhance the collection effort.

2. Establish formal written policies with specific time lines of when enforcement actions should be taken against non-compliant companies. The written policies should include timeframe requirements as to when enforcement actions, such as, bank restraints and property seizures should be initiated, and when the company should be terminated from the program.

DOF Response: “DOF partially agrees and has already established enforcement processes and guidelines as part of the roll-out of the new rules and procedures for the fleet program. Suspension of registration is an automated process that is triggered by a plate incurring five unpaid summonses within a 12-month period. Because the other enforcement actions can and do occur in parallel, it is not appropriate to construct a specific timeline for their application.”

Auditor Comment: Although DOF has established criteria for suspension of registrations that includes a timeframe of when it is applied, DOF needs to consider establishing similar guidelines (including specific timeframes) as to when other enforcement actions such as bank restraints and property seizures should be initiated.

3. Review reports showing discrepancy between information contained in STARS and DMV records and update the STARS database accordingly to avoid such conflicts.

DOF Response: “DOF agrees since there is an automated data-match process between STARS and DMV’s systems. This already results in corrections to information in STARS being made routinely. In addition, DOF reviews exception reports on a sample basis.”

Auditor Comment: Contrary to its response, DOF’s Director of Finance Information Technology Unit informed us that DOF does not review exception reports since there is a massive volume of summonses received each day and it would be impossible to check each one of them. Instead, DOF’s IT unit will only update information when other STAR system users bring license plates issues to their attention. We urge DOF to take the necessary action to review exception reports.

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 scope of this audit covered the collection of outstanding parking fines from DOF's Regular Fleet Program as of January 2013.

To obtain an understanding of DOF's procedures in the reporting and collecting of outstanding parking summonses, we reviewed the relevant provisions of the Parking Violations of the Official Compilation of Rules of the City of New York, Title 19, Chapter 39, the previous and updated Enrollment Agreements for the Regular Fleet Program, the Penalty Processing Cycle for outstanding summonses, and the Standard Operating Procedures from DOF's Collections Division. We interviewed key personnel from DOF's Tax and Parking Program Operations, Collections Division, and Finance Information Technology (FIT) Unit to understand DOF's enrollment, processing of summonses, and enforcement procedures. We documented our understanding of the processes by means of flowcharts that were reviewed and confirmed by DOF officials we interviewed.

We reviewed and analyzed DOF's Regular Fleet Program's participants' summons reports generated from STARS. We also reviewed information in the Computer Assisted Collections System (CACS)⁵ utilized by the Collections Division of DOF. We obtained an outstanding summons summary aging report from STARS as of May 2012 and December 2012. We also obtained the Fleet Judgment Billing Report from STARS (SMRPT550), which lists all outstanding summonses in judgment for May 2012 and January 2013.

To determine whether the reports generated from STARS and the information in CACS were complete and accurate, we requested that DOF provide an example of a company enrolled in the Regular Fleet Program. We requested a detailed outstanding summons report list (SLRPT442) as of May 2012 and information on efforts made to collect on outstanding summonses issued to this company. From the SLRPT442 Report, we determined which summonses were in judgment. We reviewed the images of the 38 actual summonses on the New York City Electronic Service Payment System (NYSERV), a web-based summonses imaging system. We then traced the 38 outstanding judgment summonses on the:

- Detailed Summons Report (SLRPT442) to the Fleet Judgment Billing Report (SMRPT550);
- Detailed Summons Report (SLRPT442) for completeness to the Violation Status Details on the web-based payment service (NYSERV) that shows images of actual summonses;
- Detailed Summons Report (SLRPT442) to the STARS database; and
- Detailed Summons Report (SLRPT442) to the CACS database.

⁵ The Collections Division utilizes CACS, which maintains complete, up-to-date case collection information on its database and communicates directly with the host accounting system STARS.

To determine whether DOF effectively collected fines for parking summonses issued to vehicles in its Regular Fleet Program, we randomly selected 10 participants (which owed \$1,133,361) of the 199 participants (which owed \$10,604,605) on the summary aging report as of May 2012 that had \$10,000 or more in outstanding summonses. (The 199 participants had not voluntarily paid their outstanding summonses in accordance with the terms of their fleet agreements.) We requested all relevant information on the selected Program participants and examined the following reports:

- Fleet summary aging report of outstanding parking summonses as of May 2012 and December 2012;
- Each sampled participant's detailed summons report of outstanding parking summonses as of May 2012 and November 2012;
- Write-off schedule for calendar years 2011 and 2012;
- Fleet Judgment Billing Reports (SMRPT550) as of May 2012 and January 2013; and
- Information from CACS.

We compared the May 2012 and November 2012 detailed reports and noted the changes in total outstanding summonses including judgment debt. We obtained a write-off schedule to determine the total amount of summonses that were written off from the detailed May 2012 reports to the detailed November 2012 reports.

To determine the effectiveness of DOF's efforts to collect fines for unpaid parking summonses in judgment, we compared judgment debt by year on the November 2012 report with collection efforts recorded in CACS for each sampled participant. We noted any collection efforts made by the Collections Division to collect on the judgment debt of the sampled participants.

The results of the above tests, while not projected to the respective populations from which the samples were selected, provided a reasonable basis for our conclusions.



David M. Frankel
Commissioner

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June 7, 2013

H. Tina Kim
Deputy Comptroller for Audit
NYC Office of the Comptroller
One Centre Street, 11th Floor
New York, NY 10007

Re: Draft Audit Report on the Department of Finance's Efforts to Collect Outstanding Parking Fines from Participants in its Regular Fleet Program – FM13-081A

Dear Deputy Comptroller Kim:

Introduction

The Comptroller describes the audit as being intended to assess the overall effectiveness of efforts to collect fines for summonses issued to vehicles enrolled in DOF's commercial vehicle fleet program. However, the Comptroller only sampled unpaid tickets. This by definition cannot yield any measure of collection rates or the effectiveness of the program as a whole.

Data that was easily available to the Comptroller shows that in FY 2012, 692,611 summonses were issued to vehicles enrolled in the commercial fleet program. 661,550 (96%) were resolved. While we are not satisfied that 4% remain open, and are working to close this gap even further, a program with a 96% collection rate cannot reasonably be described as ineffective.

We ask that the Comptroller withdraw their conclusions about the program as a whole and properly align the report's objectives, methods and findings.

Collection Efforts

Inappropriate treatment of outstanding receivables

As to the narrower conclusions the report does draw, there are significant errors of fact, method, and understanding. The report states:

As of December 2012, there were 1,711 companies actively enrolled in the Regular Fleet program of which 1,124 had outstanding ticket amounts totaling \$5,324,946. Of these 1,124 companies, 316 of them had a total of \$1,293,480 in outstanding parking tickets older than nine months and in judgment. DOF does not have a systematic way of pursuing regular Fleet judgment debt and does not utilize the termination provision of the Program agreement to enhance collection efforts. Consequentially, these companies are able to continue business and accumulate more debts without any repercussions.

With respect to companies having outstanding balances, it is the nature of the program that this be the case. It is not a “finding” or a matter of any note or importance that some companies owe money, since there are always lags between summons issuance, invoicing, and payment, and because some tickets are contested. To the extent that there are delinquent balances, the balance is a moving target, which changes daily. A collection program will by definition always have collections to pursue.

Misstatements about Enforcement Practices

Termination

It is deeply misleading to state as an absolute that DOF does not terminate non-compliant enrollees. As we informed the Comptroller at the audit’s start we have begun to use termination as an enforcement tool and wrote to all Fleet registrants informing them of this change. We provided the Comptroller’s staff with a copy of this letter.

Towing

The report states in several places that as a benefit of the program vehicles enrolled in the regular fleet program are not subject to towing. This is incorrect. The rules of the program have never protected enrollees from towing. The Comptroller was given copies of the program’s rules, and was briefed several times on this subject. It is true that *DOF is currently not able* to tow vehicles that are part of large fleets, but this is a result of a computer system limitation that DOF is working to correct. We ask that the Comptroller correct their statements about tow eligibility to reflect that fleet enrollees are subject to towing and that DOF is working to re-program the system limitation that has made it difficult to target fleet enrollees for towing.

Enforcement Actions against Specific Enrollees

The Comptroller cites six companies that have outstanding summonses in judgment and states that “DOF only performed some of the possible enforcement actions at their disposal.” This assessment is misleading. In each of these company’s cases, DOF performed all the enforcement actions available (except for towing, which has been explained). The table below explains the circumstances of each company.

Company	Amount of Judgment Debt Accumulated	Bank Restraint/Property Seizure	Suspension of Vehicle Registrations	Terminated From Program	Towing	DOF Response
Company A	\$24,224	x	x	✓	x	This company was terminated from the program in 2007 and has been out of business since 2006. The company stopped paying its summonses in 2005; attempts to identify and seize assets were not

						successful. At the time this company's summonses were issued, the law did not allow DOF to suspend registrations.
Company B	\$124,269	✓	x	x	x	This company and all its vehicles are registered in New Jersey. DOF has no authority to restrain its assets (though we tried), or suspend its vehicle registrations. No summonses have been issued to this company since 2007, and we do not believe this company is active in New York anymore. Some of its plates were terminated from the program in 2007. The remaining plates are now being terminated as part of the roll-out of the new program.
Company C	\$185,687	✓	✓	✓	x	All practical enforcement measures were taken. The company has been terminated from the program, and when the system modifications are complete, its vehicles will be subject to towing.
Company D	\$28,451	✓	x	✓	x	This company is located outside of New York State. Consequently, attempts to restrain assets were not successful. Because its vehicles are not registered in New York, DOF has no authority to suspend its registrations. All evidence indicates that this company is out of

						business. However, when the system modifications are complete, if its vehicles can be identified as active in New York City, they will be subject to towing.
Company E	\$47,346	x	✓	x	x	Changes in the ownership and name of the company and changes in the registration of its vehicles have made it difficult to take enforcement actions. Nevertheless, DOF has succeeded in bringing the current owners to the table to address debt incurred during their ownership. We have been advised by legal counsel that there are no legal enforcement options available to address debt incurred by the prior owners.
Company F	\$7,517	x	✓	x	x	This company is currently active in the program and is paying off its debt. To the extent that any of their debt is delinquent, this is a consequence of it being an owner with thousands of vehicles. They are acting diligently to resolve all of their debt and we do not think it is appropriate to pursue actions other than automatic registration suspensions against them.

Failure to Acknowledge DOF's Leadership in Program Improvements

The Comptroller completely ignores the steps DOF has taken to identify and rectify issues in the fleet program. Specifically, the Comptroller fails to acknowledge that DOF is in the process of rolling out new terms and conditions for the fleet program, which require companies to clear up all tickets in judgment before being allowed to continue in the program. Despite being given many detailed briefings on these changes during this audit (as well as during the prior audit of the Commercial Abatement and Stipulated Fine programs), the Comptroller repeats misstatements about the lack of repercussions for companies that fail to clear up all their tickets. We ask that this be corrected to indicate that DOF:

- Identified deficiencies in enforcement against fleet tickets in judgment
- Re-wrote the rules for its fleet programs
- Modified internal procedures
- Developed new systems for enrolling companies in the program that are consistent with the program requirements
- Is now in the midst of a roll-out of these changes, which will be completed by the end of 2013.
- Is modifying its two summons tracking systems (STARS and CACS) to better support towing of vehicles that are part of large fleets
- Has begun targeting Fleet owners for termination and enforcement actions.

Response to Recommendations

1. Remove companies that are not abiding by the terms of the Program according to the RCNY, §39-03.1 and reinstitute towing of their vehicles.

DOF Response:

DOF agrees since DOF already holds all companies to the requirements of the Fleet program. To specifically address gaps in the towing of enrolled vehicles, DOF is modifying its computer systems, as the Comptroller is aware.

2. Establish formal written policies with specific time lines of when enforcement actions should be taken against non-compliant companies. The written policies should include timeframe requirements as to when enforcement actions, such as, bank restraints and property seizures should be initiated, and when the company should be terminated from the program.

DOF Response:

DOF partially agrees and has already established enforcement processes and guidelines as part of the roll-out of the new rules and procedures for the fleet program. Suspension of registration is an automated process that is triggered by a plate incurring five unpaid summonses within a 12-month period. Because the other enforcement actions can and do occur in parallel, it is not appropriate to construct a specific timeline for their application.

3. Review reports showing discrepancies between information contained in STARS and DMV records and update the STARS database accordingly to avoid such conflicts.

DOF Response:

DOF agrees since there is an automated data-match process between STARS and the DMV's systems. This already results in corrections to information in STARS being made routinely. In addition, DOF reviews exception reports on a sample basis.

Summary

This audit does not provide useful or actionable information to DOF, and contains many errors of fact and method. We have great respect for the audit process, and welcome thorough analysis and useful recommendation. However, this report does not meet the Comptroller's typical high standard for audits. We respectfully request that it be reviewed and re-drafted in light of our comments.

Sincerely,



Celia Carino

cc: Elizabeth Botwin, Deputy Commissioner, Administration & Planning
Andrew Salkin, Deputy Commissioner, Operations
George Davis III, Mayor's Office of Operations