



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

MARJORIE LANDA  
DEPUTY COMPTROLLER FOR  
AUDIT

BUREAU OF AUDIT

October 08, 2020

**By Electronic Delivery**

Michael McSweeney  
City Clerk and Clerk of the City Council  
Office of the City Clerk  
141 Worth Street  
New York, NY 10013

**Re: Letter Report on the Cash Controls over Fees Collected by the Lobbying Bureau of the Office of the City Clerk and Clerk of the Council (FP20-099AL)**

Dear Mr. McSweeney:

This Letter Report concerns the New York City (City) Comptroller's audit of the cash controls over fees collected by the Lobbying Bureau of the Office of the City Clerk and Clerk of the Council (City Clerk). The objective of the audit was to determine whether the City Clerk's Lobbying Bureau complied with Comptroller's Directive #11, *Cash Accountability and Control*, the New York City Administrative Code, and the Rules of the City of New York when calculating and collecting fees.

**Background**

The City Clerk serves as both the Clerk of the City of New York and the Clerk of the City Council and provides a range of services to the public. In particular, the City Clerk attests to laws enacted by the City Council; keeps transcripts of City Council proceedings; and attests to leases and deeds of City property, grants, agreements, bonds, tax notes, and other forms of obligations of the City. The City Clerk also operates the Lobbying Bureau and the Marriage Bureau.

The City Clerk's Lobbying Bureau, officially established in 2006, works with lobbyists and clients to ensure compliance with the NYC Administrative Code and the Rules of the City of New York and to promote transparency in government. Lobbying in the City of New York is governed by NYC Administrative Code §§ 3-211 through 3-223 (the "Lobbying Law") and Chapter 1 of Title 51 of the Rules of the City of New York.<sup>1</sup> The Lobbying Bureau's responsibilities also include the

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<sup>1</sup> The Lobbying Law provides among other things that: (1) a lobbyist is every person or organization retained, employed, or designated by a client to engage in lobbying; (2) a client is every person or organization who retains, employs, or designates any person or organization to carry on lobbying activities on its behalf; and (3) lobbying is any attempt by individuals or organizations to influence the decisions of government (e.g., Mayor, City Council, Boards and Commissions, City officials).

registration of lobbyists and clients, the receipt of periodic reports from lobbyists on their lobbying activities, and the audit of those reports.

A lobbyist must complete and file with the City Clerk a Statement of Registration if the lobbyist's combined compensation and expenses for lobbying activities exceeds \$5,000 in a calendar year; for architects, engineers, and architecture or engineering firms that engage in lobbying, the registration threshold is when the amount exceeds \$10,000. After the first filing, bimonthly reports are due to the City Clerk from each lobbyist detailing the lobbyist's reportable activities for the prior two months.

Both lobbyists and clients must enroll and file reports in the electronic filing system. In addition, each client that cumulatively spends over \$5,000 annually in reportable compensation and expenses combined for lobbying in New York City must file an annual report, but if the lobbyist is an architect or engineer, or an architecture or engineering firm, the client's reporting threshold is above \$10,000. Unlike lobbyists, clients are not required to file bimonthly reports.

Additionally, both the lobbyists and clients must report the termination of a lobbying relationship to the City Clerk. The Lobbying Bureau monitors and enforces this reporting process by imposing fees for lateness and noncompliance with lobbying law. The Lobbying Bureau uses two systems to receive, process, and manage the documents that lobbyists and clients file: e-lobbyist, an electronic online application filing system, where lobbyists and clients submit their applications and certify reports pursuant to the Lobbying Law; and OpenKM, a document management software that tracks, manages, and stores documents.

The Lobbying Bureau charges each lobbyist registration fees of \$150 for the first client registered in a calendar year and \$50 for each additional client registered within that year. In addition, the Lobbying Bureau issues notices of violation and, after giving the person or firm charged an opportunity for a hearing, imposes penalties for Lobbying Law violations, such as failing to register or submit reports, late filings, failing to provide accurate information, or failing to pay required fees or penalties. The Lobbying Bureau imposes civil penalties of up to \$30,000, and late filing fees of \$10 per day for each first-time late filer and \$25 per day for each repeat late filer. Fees can be paid by check, credit card, or money order.

According to the Comptroller's Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2018, the City Clerk reported revenues of \$6,226,182, composed of \$3,198,740 for administrative services, \$2,763,903 in marriage licensing fees, and \$263,539 in fines.<sup>2</sup>

## **Audit Findings**

Our audit found based on our review of a sample of transactions that the City Clerk's Lobbying Bureau adequately complied with certain cash control procedures set forth in Comptroller's Directive #11 in that it: (1) charged correct registration and administration fees to the persons and

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<sup>2</sup> Lobbying registration fees and penalties are reported in the CAFR as part of administrative services and fines. The CAFR did not provide a breakdown of the various fees that compose administrative services and fines. However, based on our review of deposit slips and other documents provided by the City Clerk for Fiscal Year 2018, the Lobbying Bureau collected \$460,839 in lobbying fees consisting of \$197,750 in fees for registration and \$263,089 in late fees.

organizations required to file; and (2) enforced the filing requirements by imposing fees for lateness and noncompliance as provided by the Lobbying Law and the related rules. The Lobbying Bureau also used a log to monitor and record daily the fees it received through the mail and those paid in-person. In addition, the Lobbying Bureau created registration and late-fee logs to track lobbyists’ and clients’ registrations and reporting activities. Moreover, the fees collected and entered into the City Clerk’s Venus system were reconciled to the amounts recorded in the City’s Financial Management System (FMS), and late filing fees were calculated accurately in accordance with the Lobbying Law.<sup>3</sup> However, our audit found that the Lobbying Bureau did not deposit the fees it collected on a daily basis. That finding is detailed below.

**Lobbying Bureau Did Not Deposit Cash Receipts on a Daily Basis**

Comptroller’s Directive #11, § 4.4, states, “Accumulation of in-office cash receipts is not acceptable and all funds received must be deposited in the bank on at least a daily basis, except under extraordinary circumstances.”<sup>4</sup> However, we found that the Lobbying Bureau did not ensure that staff complied with the directive’s requirement of daily deposit of the fees the bureau collected, which constitute cash receipts under the directive. We selected February 2018, the month with the highest dollar amount of receipts during Fiscal Year 2018, and found that the Lobbying Bureau held \$47,185 of \$89,051 (53 percent) in money orders and checks collected in February 2018 for more than 6 days before depositing them in the bank. Specifically, the Lobbying Bureau held on to the deposits for periods that ranged from 7 to 18 days as described below:

**Table I**  
Time Lapse between Dates Fees Were Collected in February 2018 and Deposited

<b>Number of Days between Collection and Deposit</b>	<b>Number of Checks and Money Orders</b>	<b>Total Dollar Amount</b>
15 days ≥ 18 days	98	\$12,811
10 days ≥ 14 days	167	\$28,260
7 days ≥ 9 days	61	\$ 6,114
Total	326	\$47,185

The City Clerk explained that due to limited staffing and the large number of registrations received in January and February it is difficult to make daily deposits. Although the Lobbying Bureau holds the fees collected in a locked safe, the risk that the funds could be lost or stolen increases the longer they remain in its custody. This risk can be mitigated by making daily bank deposits. Further, Citywide adherence to the daily deposit rule, which applies to all City agencies, enables the City to

<sup>3</sup> The Venus system is a computer system developed by the New York City Department of Information Technology and Telecommunications (DOITT) for the City Clerk’s office. The primary function of Venus is to track fees collected from customers for services provided by the City Clerk’s office.

<sup>4</sup> “Cash receipts, for the purposes of this Directive, encompass all payments and deposits received in the form of cash or cash equivalents, including currency, coins, checks, money orders, credit card payments, and electronic fund transfers.” Comptroller’s Directive #11, §4.

promptly earn interest on its cash and optimize the availability of funds needed for immediate use. Conversely, delays in the City's deposits diminish those opportunities.

## **Recommendations**

The City Clerk's Lobbying Bureau should:

1. Deposit fees on a daily basis in accordance with Comptroller's Directive #11.

***The City Clerk Response:*** "The City Clerk will implement this recommendation. However, while our office remains in this COVID-19 mode of operation this may be difficult, if not impossible, to achieve. We expect daily deposit of fees will be achieved on the sooner of a return to normalcy in our daily operations or the obtaining of the remote deposit device discussed below."

2. Consider using a Remote Deposit device to facilitate and ensure daily bank deposits of fees collected.

***The City Clerk Response:*** "The City Clerk will implement this recommendation. Emmanuel Michalos, the agency Director of Administration, has spoken to Michael Coulombre, the Director of the Department of Finance's (DOF) banking unit about obtaining scanners from DOF after New York City reopens so that checks received by the lobbying bureau can be deposited on a daily basis."

## **Audit Scope and Methodology**

The scope of this audit covers Fiscal Year 2018 (July 1, 2017 to June 30, 2018).

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.

To obtain an understanding of cash control procedures at the City Clerk's Lobbying Bureau, we reviewed the City Clerk's internal policies, procedures, and reports, as well as criteria from Comptroller's Directive #11, *Cash Accountability and Control*. We also reviewed the Comptroller's prior *Audit Report on the Cash Controls at the New York City Clerk's Manhattan Office* (MD08-073A, issued June 23, 2008) for any issues that might require follow-up during our current audit.

To gain an understanding of the responsibilities of the Lobbying Bureau, we conducted walkthrough meetings with Lobbying Bureau officials including the Director of Finance & Administration, Director of the Lobbying Bureau, Deputy City Clerk, and Chief of Staff. Specifically, to gain an understanding of the process of depositing fees into the City's Treasury account, we conducted a walkthrough with the Chief of Staff who reconciles the fees daily and then deposits the

Manhattan office fees collected into the bank account. In addition, we obtained and reviewed the Rules of the City of New York, Title 51, Chapter 1, Lobbying, and NYC Administrative Code, Title 3, Chapter 2, Subchapter 2, Regulation of Lobbying.

To gain an understanding of how transactions are recorded into FMS and how reconciliations of the deposits to the bank statement are completed, we conducted a walkthrough at the Manhattan office with an official who enters the records into FMS. Since the City Clerk does not perform the bank reconciliation process, and it is done by the Comptroller's Office, in order to test the accuracy and validity of the data, we independently obtained the FMS Schedule of Receivables for Fiscal Year 2018 with a total receivables of \$6,247,682 and categorized the FMS report by deposit code (Code 0201, Code 0476, and Code 0600).<sup>5</sup> We then obtained and reviewed the borough offices' Monthly Money Order Deposit reports generated from the City Clerk's Venus system, along with supporting documents for Fiscal Year 2018. Then we traced each deposit from the Summary Money Order Deposits report to FMS by each category to ensure that all the cash receipts collected were accurately deposited into the bank account and recorded in FMS. To test the completeness, we compiled Fiscal Year 2018 deposit slips for each month then traced them back to the Summary Money Order Deposits report. Based on our review of the Summary Monthly Money Order Deposit reports for Fiscal Year 2018, the Lobbying Bureau collected \$460,839 in lobbying fees. We judgmentally selected the month with the highest dollar amount collected by the Lobbying Bureau during Fiscal Year 2018 for detailed testing, which was February 2018, with a total of \$91,896 (\$89,051 in money orders/checks and \$2,845 in credit cards) in collected fees. We obtained and reviewed the February 2018 Mail Log and bank deposit slips and traced each check and money order posted on the mail log back to the bank deposit for February 2018 to ensure that all the fees collected were deposited into the bank account. Then, we obtained and reviewed the Summary Money Order Deposits report for the same month, February 2018. We traced each money order and check received as listed on the deposit slips to the Summary Money Order Deposits report to determine whether all cash receipts deposited were inputted correctly into the system. In addition, we compared the date that fees were collected to the date that fees were deposited to verify whether they were deposited in a timely manner.

To determine whether the Lobbying Bureau maintains proper controls over lobbying registration fees and accurately calculates penalties for late filings and noncompliance with City lobbying rules, we reviewed the Rules of the City of New York, Title 51, Chapter 1, Lobbying, and the NYC Administrative Code, Title 3, Chapter 2, Subchapter 2, Regulation of Lobbying, which the Lobbying Bureau uses as criteria for purposes of enforcing the registration and filing requirements of lobbyists and clients and for calculating late filing fees. We conducted a walkthrough of the Lobbying Bureau and interviewed the Deputy City Clerk regarding the Lobbying Bureau's processing of fees and the City Clerk's fiscal operations. We obtained and reviewed the Registration Log and Late Fees Log, and bank deposit slips for Fiscal Year 2018, and traced the transactions posted on the register log and late fees log to bank deposit slips to ensure that all fees collected were deposited into the City's bank account. In addition, to determine whether the Lobbying Bureau accurately calculated

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<sup>5</sup> Code 0201: Marriage Fees; Code 0476: Lobbying Fees, Commissioner of Deeds Fees, and Administrative Fees; Code 0600: Penalties.

City Clerk Michael McSweeney

October 08, 2020

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the late filing fees in accordance with the Lobbying Law, we recalculated the late fees charged for all of Fiscal Year 2018 by multiplying the number of late days times late charges per day.

The results of the above tests, though not projectable to their respective populations, provide a reasonable basis to assess and to support our findings and conclusions about the City Clerk's Lobbying Bureau's cash controls.

The matters covered in this letter report were discussed with City Clerk officials during and at the conclusion of this audit. A preliminary draft letter report was sent to the City Clerk and was discussed at an exit conference on September 18, 2020. On September 24, 2020, we submitted a draft letter report to the City Clerk with a request for written comments. We received a written response from the City Clerk on October 1, 2020. In its response, the City Clerk agreed with both recommendations and stated that its staff was greatly impressed by the professionalism, diligence, and hard work of our staff during this audit.

The full text of the City Clerk's response is included as an addendum to this letter report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marjorie Landa', with a long horizontal flourish extending to the right.

Marjorie Landa

c: Emmanuel Michalos, Director of Finance and Administration of the City Clerk's Office  
Damaris Acosta, Director of Lobbying Bureau & Deputy City Clerk of the City Clerk's Office  
Alisa Fuentes, Deputy City Clerk of the City Clerk's Office  
Jeff Thamkittikasem, Director, Mayor's Office of Operations  
Brady Hamed, Chief of Staff, Mayor's Office of Operations  
Florim Ardolli, Associate Director for Audits, Mayor's Office of Operations



THE CITY OF NEW YORK  
OFFICE OF THE CITY CLERK  
141 WORTH STREET  
NEW YORK, N.Y. 10013

MICHAEL McSWEENEY  
CITY CLERK, CLERK OF THE COUNCIL

October 1, 2020

Ms. Marjorie Landa  
Deputy Comptroller for Audit  
Office of the Comptroller  
One Centre Street  
New York, New York 10007-2341

RE: DRAFT REPORT  
Audit Report on the Cash Controls over Fees Collected by the  
Lobbying Bureau of the Office of the City Clerk and Clerk of the Council  
(FP20-099AL)

Dear Ms. Landa:

I am in receipt of the draft of the above-captioned audit report.

I have attached my response to the recommendations contained in the draft audit report with the understanding that this response will be attached to the final audit report. I must express my gratitude to you and your staff for the efforts extended on behalf of this office. We were greatly impressed by the professionalism, diligence and hard work of your staff during this audit.

If there are any further questions, please do not hesitate to contact me at 212-669-8898.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael McSweeney".

Michael McSweeney  
City Clerk  
Clerk of the Council

Enclosure

## **RESPONSE TO FINDINGS AND RECOMMENDATIONS**

The Office of the City Clerk ("City Clerk") has reviewed the draft Audit Report Dated - September 24, 2020 and prepared this response.

### **1. Deposit fees on a daily basis in accordance with Comptroller's Directive #11.**

The City Clerk will implement this recommendation. However, while our office remains in this COVID-19 mode of operation this may be difficult, if not impossible, to achieve. We expect daily deposit of fees will be achieved on the sooner of a return to normalcy in our daily operations or the obtaining of the remote deposit device discussed below.

### **2. Consider using a Remote Deposit Device to facilitate and ensure daily bank deposits of fees collected.**

The City Clerk will implement this recommendation. Emmanuel Michalos, the agency Director of Administration, has spoken to Michael Coulombre, the Director of the Department of Finance's (DOF) banking unit about obtaining scanners from DOF after New York City reopens so that checks received by the lobbying bureau can be deposited on a daily basis.