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BUREAU OF AUDIT

June 30, 2014

Commissioner Polly Trottenberg
New York City Department of Transportation
55 Water Street, 9th floor
New York, NY 10041

Re: **Letter Report on the New York City Department of Transportation's Controls over the Processing of Notices of Violations by the Highway Inspection Quality Assurance Unit (Audit Number MD13-129AL)**

Dear Commissioner Trottenberg:

I am sending this Letter Report to provide you with the results of the audit regarding the Department of Transportation's ("DOT's") controls over the processing of Notices of Violation ("NOVs") by the Highway Inspection Quality Assurance ("HIQA") unit. The audit's objectives were to determine whether HIQA has adequate controls in place to ensure that NOVs are properly processed and whether the unit has made adequate efforts to identify and eliminate deficiencies in its issuance process that may contribute to NOV dismissals.

On May 23, 2014, an exit conference was held and the preliminary draft letter report, dated May 12, 2014, was discussed. In advance of public release of this report, we provided DOT officials the opportunity to respond to matters discussed herein. DOT officials opted not to formally respond in writing; consequently, we consider this letter report final.

Background

DOT oversees one of the most complex urban transportation networks in the world. NOVs are issued when there are violations of laws, rules, regulations, specifications, or stipulations. DOT NOVs are issued by two units, HIQA and the Sidewalk Management Unit. HIQA enforces the rules that govern the way utilities, plumbers, contractors, home owners and governmental agencies work on the City's streets and highways.¹ The Sidewalk Management Unit issues NOVs to private and commercial property owners for defective sidewalks. NOVs issued by HIQA carry penalties that range from \$50 to \$5,000 depending upon the violation and fall under the jurisdiction of the Environmental Control

¹ The Commercial Bike Unit (CBU) and Newsrack Unit also fall under HIQA. CBU inspects businesses using bicycles for commercial purposes and the Newsrack Unit enforces compliance with City rules regarding news racks.

Board (ECB), an administrative tribunal, which is a division of the Office of Administrative Trials and Hearings. NOVs issued by the Sidewalk Management Unit carry no fines and are not adjudicated by ECB. Rather, a lien is placed on the property and the NOV is filed with the County Clerk, where it remains until the Clerk receives official notification from the City that satisfactory repairs have been made.

HIQA accounts for 70 percent of the NOVs issued by DOT and the Sidewalk Management Unit accounts for the remaining 30 percent. The focus of this audit was on ECB-adjudicated NOVs--namely, NOVs issued by HIQA in Fiscal Year 2013. According to information provided by DOT, HIQA issued 28,165 NOVs during Fiscal Year 2013.

Conclusion

The audit found that HIQA has adequate controls in place to process NOVs. The audit identified only minor weaknesses which we found resulted mainly from data entry errors and issues with the timely processing² and supervisory review for a small number of NOVs. DOT officials have begun working on a system to electronically issue NOVs, which is intended to reduce the data entry errors. The audit also found that DOT has reasonable controls in place to identify and eliminate deficiencies in its issuance process that may contribute to NOV dismissals. Specifically, HIQA officials review all "Decisions and Orders" received from ECB and provide instruction to HIQA personnel at DOT borough offices regarding conditions that need to be addressed to avoid possible dismissals in the future.³ In addition, HIQA has a training program for new inspectors and provides refresher training for all inspectors on NOV issuance. According to ECB records, only 157 (0.6 percent) of the 28,165 NOVs issued by DOT during Fiscal Year 2013 were dismissed because they were defective or improperly served.

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 period of this audit was Fiscal Year 2013.

To obtain an understanding of HIQA's policies and procedures for processing NOVs, we reviewed HIQA's Administrative Standard Operating Procedures, ECB's The Green Book and DOT's

² "Timely processing" refers to the periods of time between (1) the violation date and the date DOT enters the NOV in the HIQA database and (2) the violation date and the date the NOV is forwarded to ECB.

³ Decisions and Orders are issued by ECB to inform the parties of the decision of an administrative law judge concerning the infraction(s) cited in the NOV.

2009 internal audit report "NYC Department of Transportation Office of the Auditor General Audit of the HIQA Summons Process and Controls."

To obtain an overview of HIQA unit operations and the NOV issuance process, we conducted walk-through meetings with HIQA officials at the central office, borough offices of Manhattan and Brooklyn, unit supervisors and inspectors of CBU and the director of the News Rack Unit, and the staff inspector at the Upper Manhattan borough office. In addition, to obtain an understanding of how inspections are conducted, we randomly selected a HIQA inspector and accompanied him for a day.

To obtain an understanding of the computer system used in recording, processing, tracking and reporting information pertaining to NOV's, we conducted a systems walk-through of HIQA's ECB system.

We tested the accuracy of the information in HIQA's ECB system to determine whether the listing of NOV's we received was reliable. We randomly selected 50 NOV's from the list of 28,165 NOV's issued in Fiscal Year 2013, located the hard copy NOV and compared the information on the NOV listing with the information recorded on the hard copy NOV's. We then selected 50 NOV's from DOT's filing cabinets and checked that they were included on the list received of the 28,165 NOV's issued in Fiscal Year 2013. We also compared the information recorded on the NOV's with the information on that list. Further, we reviewed "ECB Ticket Finder" to ascertain whether the 100 sampled NOV's were listed there, which indicates that they had been sent to ECB for adjudication. In addition, we tested the data for gaps and duplicates and checked the missing violation numbers against the voided NOV list to see if these NOV's were voided.

To determine whether NOV's are processed according to HIQA's Administrative Standard Operating Procedures (ASOP) we tested the following: 1) whether the inspectors are completing and submitting issuance records; 2) whether issuance records are approved by a supervisor; 3) whether HIQA maintains an inventory list to track blank NOV's distributed to inspectors and compares the inventory list to the actual NOV issuance forms; and 4) whether HIQA maintains complete and approved void request forms.

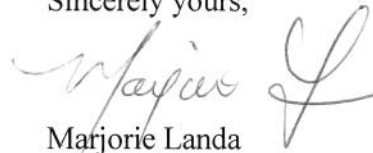
We traced the NOV numbers from the issuance sheets to the list of issued NOV's for 2013 to determine whether all the issued NOV's were recorded in the HIQA system. The NOV numbers that could not be found on the list of issued NOV's were checked against the list of voided NOV's.

We randomly selected 50 NOV's dismissed between July 1, 2012, and September 1, 2013, to determine whether DOT had made adequate efforts to identify and eliminate deficiencies in its issuance process that may contribute to NOV dismissals. We met with HIQA officials to discuss their processing of dismissed NOV's and obtained evidence of their follow-up actions. We also reviewed the 50 dismissed NOV's to determine the most common cause of dismissals and whether there were inspectors who issued an above average number of dismissed NOV's. To verify the steps taken by HIQA to address dismissed cases, we asked HIQA for evidence of training, the list of all appeals for

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Fiscal Year 2013 and the "Decision and Orders" issued by ECB during Fiscal Year 2013. In addition, we asked for any evidence of communication with the inspectors where they were provided feedback and instructions on how to process NOV's to avoid further dismissals due to administrative issues.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Marjorie Landa".

Marjorie Landa

c: Amy Hutner , Auditor General, Department of Transportation
Vincent Maniscalco, Assistant Commissioner HIQA, Department of Transportation
Mindy Tarlow, Director, Mayor's Office of Operations
George Davis, Deputy Director, Mayor's Office of Operations