

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Department of Sanitation's Administration of Its Fiduciary Accounts

FM03-144A

June 27, 2003



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, § 93, of the New York City Charter, my office has conducted an audit to determine whether the Department of Sanitation (the Department) had adequate controls over billing, collecting, and disbursing fiduciary account funds and whether it ensured that all funds were used in accordance with the fiduciary agreements.

The results of our audit, which are presented in this report, have been discussed with officials from the Department, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that City agencies have adequate controls over fiduciary accounts and that moneys in these accounts are used in accordance with all applicable rules and regulations.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/GR

Report: **FM03-144A**
Filed: **June 27, 2003**

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*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on the
Department of Sanitation's
Administration of Its Fiduciary Accounts**

FM03-144A

AUDIT REPORT IN BRIEF

This audit determined whether the Department of Sanitation (the Department) had adequate controls over billing, collecting, depositing, and disbursing of fiduciary account funds and whether the Department ensured that all funds were used in accordance with the fiduciary agreements.

Audit Findings and Conclusions

The Department has adequate controls over the billing, collecting, depositing, and disbursing of funds deposited in the Special Events Clean-Up account. However, because the Department was unaware that the Impoundment and Storage Fees account existed, the account remained dormant, and the Department did not transfer the balance to the City Treasury's general fund (general fund). In addition, the Department did not ensure that funds deposited in the Special Events Clean-Up account were used in accordance with the fiduciary account agreement which called for the transfer of funds to the general fund to reimburse the City for the cost of event clean-ups. Finally, we found that six sponsors were not required to pay for costs incurred by the City to clean up after their events.

Audit Recommendations

To address these issues, we recommend that the Department should:

- Determine how much of the \$210,699 balance in the Special Events Clean-Up Account pertains to events for which the Department has incurred clean-up costs and transfer the appropriate amount to the general fund. Appropriate amounts should be transferred at least annually.
- Seek an opinion from the Law Department on the propriety of transferring funds from the Impoundment and Storage Fees to the general fund. If the Law Department decides that it is appropriate to transfer the funds, the Department should request that

the Comptroller's Bureau of Accountancy close the Impoundment and Storage Fees account and process the transfer.

- Seek an opinion from the Law Department on the propriety of waiving clean-up fees for special events. If the Law Department determines that it is appropriate to waive fees, the Department, in conjunction with the Mayor's Street Activity Permit Office, should establish guidelines for determining which events qualify for such waivers.

INTRODUCTION

Background

Fiduciary accounts are used to record financial resources held and administered in trust by the City of New York, the principal and income of which benefit individuals, private organizations, or other non-City government entities. The strictly custodial nature of these assets prohibits the use of fiduciary funds in the direct support of any of the City's own programs.¹

The New York City Comptroller's Office, in conjunction with the Mayor's Office of Management and Budget, establishes fiduciary accounts at the request of various organizations, including City agencies and public benefit corporations. Each account is maintained and controlled by the entity that requested its establishment. All expenditures from fiduciary accounts must comply with applicable federal, State, and City rules and regulations.

According to the City's Financial Management System (FMS), two fiduciary accounts have been established for the Department of Sanitation (the Department)—the Special Events Clean-Up account and the Impoundment and Storage Fees account.

The Special Events Clean-Up account contains funds received from sponsors of street festivals, fairs, block parties, or other events held on City streets. According to the fiduciary agreement, these funds are to be used to reimburse the City for the Department's costs for providing this service. As of December 31, 2002, \$1.94 million was on deposit in the Special Events Clean-Up account.

Although the Impoundment and Storage Fees account was listed on FMS with a balance of \$19,460 as of May 21, 2003, Department officials were unaware of its existence.

Objectives

Our audit objectives were to determine whether the Department:

- Had adequate controls over billing, collecting, depositing, and disbursing fiduciary account funds; and

¹ City fiduciary accounts were formerly known as "trust and agency" accounts.

- Ensured that all funds were used in accordance with the fiduciary agreements.

Scope and Methodology

The scope of this audit was January 1, 2002, to December 31, 2002. We reviewed financial information pertaining to the Department's two fiduciary accounts that was on file with the City Comptroller's Bureau of Accountancy.

To gain an understanding of the Department's internal controls over billing, collecting, depositing, and disbursing fiduciary account funds, we interviewed Department officials from the Bureaus of Fiscal Services, Cleaning and Collection, and Enforcement. We documented our understanding of these controls in flowcharts and written narratives. In addition, we spoke with the Assistant Commissioner of the Mayor's Street Activity Permit Office, a division of the Mayor's Community Assistance Unit, that is responsible for issuing special event permits.

To determine the number of special events held during calendar year 2002, we obtained lists of events from both the Department and the Mayor's Street Activity Permit Office. We compared the events on those lists and identified 382 special events, of which 161 event sponsors were required to pay for clean up, 212 submitted "guarantee in lieu of deposit" letters, and nine were exempt from paying for clean up.² We selected a random sample of 82 from the 161 events for which sponsors were required to pay for clean up. For each sampled event, we obtained the Department "cost sheets" that contained estimated and actual cost of personnel and equipment needed to clean up after the event. We recalculated the amounts reported on the cost sheets using the Department's personnel and equipment rates to determine whether the sponsors were billed the appropriate amounts. To ensure that each payment was received, properly recorded, and deposited in the appropriate account, we obtained copies of sponsors' checks and traced them to the Department's Automated Log Receipt System, to FMS, and to bank deposit slips.

Furthermore, for those cases in which sponsors' security deposits, paid prior to the event, exceeded the actual cost of clean up, and the sponsors were due refunds, we determined the accuracy of the amounts disbursed and whether the amounts were disbursed from the appropriate account. Similarly, for those cases in which sponsors' deposits were less than the cost of the clean up, we obtained copies of letters notifying the sponsors of the unpaid balance and determined whether payments were received and properly recorded.

Finally, we determined whether sponsors submitted "guaranty in lieu of deposit" letters to the Department in accordance with the Rules of the City of New York.

² Title 16, Chapter 14, §14-02 (c), of the Rules of the City of New York states, "If, in the opinion of the Department, the sponsor adequately cleaned an area in the City during any street event previously sponsored by him or her, or the sponsor does not intend to retain the Department to provide cleaning and collection services, the sponsor shall sign a guaranty agreement in lieu of deposit. . . . Such agreement shall provide that the sponsor will clean and maintain the street event area in a litter-free condition."

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of records and other auditing procedures considered necessary. This audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with Department and the Mayor's Office Community Assistance Unit (CAU) officials during and at the conclusion of this audit. A preliminary draft report was sent to Department and CAU officials and discussed at an exit conference held on June 6, 2003. On June 9, 2003, we submitted a draft report to the Department and CAU with a request for comments. Written responses were received from CAU on June 13, 2003 and from the Department on June 19, 2003.

In their responses, officials from the Department and the CAU agreed with the audit findings and described the steps that have been or will be taken to address the recommendations. The full texts of the responses received are included as addenda to this report.

FINDINGS

The Department has adequate controls over the billing, collecting, depositing, and disbursing of funds deposited in the Special Events Clean-Up account. However, because the Department was unaware that the Impoundment and Storage Fees account existed, the account remained dormant, and the Department did not transfer the balance to the City Treasury's general fund (general fund). In addition, the Department did not ensure that funds deposited in the Special Events Clean-Up account were used in accordance with the fiduciary account agreement which called for the transfer of funds to the general fund to reimburse the City for the cost of event clean-ups. Finally, we found that six event sponsors were not required to pay for costs incurred by the City to clean up after their events.

These issues are discussed in the following sections of this report.

Funds Not Transferred to the General Fund

Special Events Clean-Up Fund

As of June 30, 2002, the Department had not transferred approximately \$1.7 million from the Special Events Clean-Up account to the general fund to reimburse the City for clean-up costs incurred. In a letter dated February 7, 2003, we requested that the Department transfer these funds to the general fund. (See Attachment I for a copy of the February 7 letter.) Based on our request, on March 26, 2003, the Department transferred \$1,788,040 to the general fund. (See Attachment II for the Department's response to the February 7 letter.) As of May 21, 2003, we noted that the Special Events Clean-Up account balance was \$210,699.

Impoundment and Storage Fees Account

As previously stated, the Department was unaware that the Impoundment and Storage Fees account existed.³ This account, which has been dormant for the past few years, had a balance of \$19,460, as of May 21, 2003. These funds should have been transferred to the general fund.

At our June 6, 2003 exit conference, Department officials mentioned that they had begun to take action to transfer the remaining balance from the account.

Clean-up Costs Waived

Six sponsors were not required to pay for costs incurred by the City to clean up after their events. These sponsors held nine events during calendar year 2002. For seven of these events, the Department calculated that the clean-up costs incurred by the City amounted to a total of \$50,295. The Department did not calculate the costs associated with the remaining two events.

³ The Department processes fees collected from individuals whose vehicles were seized for illegal dumping by depositing funds into a City Treasury account called Administrative Services to the Public.

There is no provision in the Rules of the City of New York for the waiving of clean-up fees nor does the City have guidelines for determining which events qualify for the waiving of these fees.

RECOMMENDATIONS

The Department should:

1. Determine how much of the \$210,699 balance in the Special Events Clean-Up Account pertains to events for which the Department has incurred clean-up costs and transfer the appropriate amount to the general fund. Appropriate amounts should be transferred at least annually.

Department Response: “We agree with this recommendation. As indicated in my letter dated February 18, 2003, we plan to submit Payroll Journal Vouchers at the end of every fiscal year to transfer the appropriate amounts from the Special Events Clean-Up account to the general fund as reimbursement for the Department’s personnel costs. It should be noted that the \$1.788 million that was transferred to the general fund in March 2003 (see page 5 of report) was the balance that had accumulated in the account for several fiscal years including FY ‘02. The \$210,699 balance referred to above represents what has accumulated since the beginning of FY ‘03.”

2. Seek an opinion from the Law Department on the propriety of transferring funds from the Impoundment and Storage Fees to the general fund. If the Law Department decides that it is appropriate to transfer the funds, the Department should request that the Comptroller’s Bureau of Accountancy close the Impoundment and Storage Fees account and process the transfer.

Department Response: “We do not believe it is necessary to seek the Law Department’s opinion on the matter because we intend to just close out the above-mentioned account by the end of FY ‘03. At the Exit Conference, the auditors acknowledged that the Impoundment and Storage Fees account already has a zero balance.”

3. Seek an opinion from the Law Department on the propriety of waiving clean-up fees for special events. If the Law Department determines that it is appropriate to waive fees, the Department, in conjunction with the Mayor’s Street Activity Permit Office, should establish guidelines for determining which events qualify for such waivers.

Department Response: “The Mayor’s Community Assistance Unit, Street Activity Permit Office (MCAU-SAPO) explained at the Exit Conference that seven of the nine waived events, mentioned on page 5 of the report, were co-sponsored by the City of New York. That was the reason for their waiving a total of \$50,295 in clean-up fees for those events. On the other two events (both applied for by Boro

Park Volunteer of Hatzolah), no clean-up costs were calculated because DSNY [i.e., the Department] did not have to clean up after each event. As recommended in the report, MCAU-SAPO will consult with the Law Department about establishing guidelines for determining which events qualify for waivers of clean-up costs.”

CAU Response: “The Community Assistance Unit (CAU) has determined that it will consult with the Law Department about establishing guidelines for determining which events shall have DOS [Department] fees waived.”



sanitation

JOHN J. DOHERTY
Commissioner
125 Worth Street, Room 720
New York, New York 10013
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Fax (212) 385-2560

June 18, 2003

Mr. Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
Office of the Comptroller, Executive Offices
One Centre Street, Room 1100
New York, NY 10007-2341

Re: **DRAFT:**
**Audit Report on the Department of Sanitation's
Administration of Its Fiduciary Accounts**
AUDIT NUMBER: FM03-144A

Dear Deputy Comptroller Brooks:

Thank you for the chance to review the above-referenced report. I am pleased to note that the Department has adequate controls over the billing, collecting, depositing and disbursing of funds in the Special Events Clean-Up account, which, I understand, will be the only account that will remain open by the end of fiscal year 2003.

As you requested, I have appended our Agency Implementation Plan (Attachment I) responding to the three recommendations in the report. Please be aware that Recommendation #3, although included in the AIP, will be implemented by the Mayor's Community Assistance Unit because we have never requested, nor do we expect to request, any waivers of clean-up fees. Attachment II is the full text of MCAU's planned course of action.

Please call our audit liaison, Mr. Cris Gonzales, at (212) 442-0512 should you or your staff require further information.



Sincerely,


A handwritten signature in black ink that reads "John J. Doherty".

John J. Doherty

c: George Davis III, Mayor's Office of Operations
Susan Kupferman, Mayor's Office of Operations
Jonathan Greenspun, Mayor's Community Assistance Unit
Lorenzo N. Cipollina, Deputy Commissioner

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ATTACHMENT I
page 1 of 2

AGENCY IMPLEMENTATION PLAN
AUDIT NUMBER: FM03-144A

Recommendations:

The Department of Sanitation should:

1. **Determine how much of the \$210,699 balance in the Special Events Clean-Up Account pertains to events for which the Department has incurred clean-up costs and transfer the appropriate amount to the general fund. Appropriate amounts should be transferred at least annually.**

Response & Implementation Plan:

We agree with this recommendation. As indicated in my letter dated February 18, 2003, we plan to submit Payroll Journal Vouchers at the end of every fiscal year to transfer the appropriate amounts from the Special Events Clean-Up account to the general fund as reimbursement for the Department's personnel costs. It should be noted that the \$1.788 million that was transferred to the general fund in March 2003 (see page 5 of report) was the balance that had accumulated in the account for several fiscal years including FY '02. The \$210,699 balance referred to above represents what has accumulated since the beginning of FY '03.

2. **Seek an opinion from the Law Department on the propriety of transferring funds from the Impoundment and Storage Fees to the general fund. If the Law Department decides that it is appropriate to transfer the funds, the Department should request that the Comptroller's Bureau of Accountancy close the Impoundment and Storage Fees account and process the transfer.**

Response & Implementation Plan:

We do not believe it is necessary to seek the Law Department's opinion on the matter because we intend to just close out the above-mentioned account by the end of FY '03. At the Exit Conference, the auditors acknowledged that the Impoundment and Storage Fees account already has a zero balance.

ATTACHMENT I
page 2 of 2

AGENCY IMPLEMENTATION PLAN
AUDIT NUMBER: FM03-144A

3. **Seek an opinion from the Law Department on the propriety of waiving clean-up fees for special events. If the Law Department determines that it is appropriate to waive fees, the Department, in conjunction with the Mayor's Street Activity Permit Office, should establish guidelines for determining which events qualify for such waivers.**

Response & Implementation Plan

The Mayor's Community Assistance Unit, Street Activity Permit Office (MCAU-SAPO) explained at the Exit Conference that seven of the nine waived events, mentioned on page 5 of the report, were co-sponsored by the City of New York. That was the reason for their waiving a total of \$50,295 in clean-up fees for those events. On the other two events (both applied for by Boro Park Volunteer of Hatzolah), no clean-up costs were calculated because DSNY did not have to clean up after each event. As recommended in the report, MCAU-SAPO will consult with the Law Department about establishing guidelines for determining which events qualify for waivers of clean-up costs.



ATTACHMENT II

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

JONATHAN GREENSPUN
COMMISSIONER
COMMUNITY ASSISTANCE UNIT

100 GOLD STREET-2ND FLOOR
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TTY: (212) 788-7410

June 13, 2003

Mr. Greg Brooks
Office of the Comptroller
One Centre Street
New York, New York 10007

Dear Mr. Brooks:

After reviewing the Comptroller's Department of Sanitation (DOS) Audit, the Community Assistance Unit (CAU) has determined that it will consult with the Law Department about establishing guidelines for determining which events shall have DOS fees waived.

Thank you for your cooperation.

Sincerely,

Jonathan Greenspun
Commissioner
Mayor's CAU

Cc: Mildred Duran, Assistant Commissioner, Mayor's CAU
Chris Gonzalez, DOS Audit Division



ADDENDUM II

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

JONATHAN GREENSPUN
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June 13, 2003

Mr. Greg Brooks
Office of the Comptroller
One Centre Street
New York, New York 10007

Dear Mr. Brooks:

After reviewing the Comptroller's Department of Sanitation (DOS) Audit, the Community Assistance Unit (CAU) has determined that it will consult with the Law Department about establishing guidelines for determining which events shall have DOS fees waived.

Thank you for your cooperation.

Sincerely,

Jonathan Greenspun
Commissioner
Mayor's CAU

Cc: Mildred Duran, Assistant Commissioner, Mayor's CAU
Chris Gonzalez, DOS Audit Division