

AUDIT REPORT

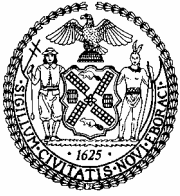


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Human Resources Administration's Efforts to Recover Funds from Certain Recipients of Public Assistance

ME05-137A

June 30, 2006



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 audited the Human Resources Administration (HRA) to determine whether the agency effectively complied with its policies and procedures to recover those assets of public assistance (PA) recipients that can be applied towards program expenditures and to recoup overpayments made to PA recipients.

HRA's Investigation, Revenue and Enforcement Administration is responsible for carrying out these recovery and recoupment efforts. We audit operations such as these to ensure the effectiveness of the City's revenue collection efforts.

The results of our audit, which are presented in this report, have been discussed with HRA officials and their comments have been considered in preparing this report. Their complete written response is attached to this report.

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

Very truly yours,

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

William C. Thompson, Jr.

WCT/ec

Report: ME05-137A
Filed: June 30, 2006

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

**Audit Report on the Human Resources Administration's
Efforts to Recover Funds from Certain
Recipients of Public Assistance**

ME05-137A

AUDIT REPORT IN BRIEF

This report determined whether the Human Resources Administration (HRA) effectively complied with its policies and procedures to recover those assets of public assistance (PA) recipients that can be applied towards program expenditures and to recoup overpayments made to PA recipients. HRA's Investigation, Revenue and Enforcement Administration (IREA) is responsible for such recovery and recoupment efforts. IREA's Division of Liens and Recovery seeks recovery of assistance payments by filing liens and asserting claims on personal injury lawsuit settlements obtained by recipients. IREA's Real Property and Assets unit places liens on real property and cooperative apartments owned by recipients. IREA's Division of Claims and Collections endeavors to recoup money from former public assistance recipients who were overpaid while receiving assistance or who received "one-shot payments" from HRA to help them pay rental or utility bills.

Audit Findings and Conclusions

IREA effectively followed its policies and procedures in recovering funds from recipients who obtained personal injury lawsuit settlements and from recipients who sold their real property. In addition, IREA's Division of Claims and Collections generally followed its procedures for recouping overpayments and one-shot payments made to former public assistance recipients. However, IREA occasionally negotiated recovery amounts from lawsuit settlements that were below its established minimums. In addition, IREA did not consistently collect the full amount of the public assistance provided to recipients in real property lien cases. Furthermore, IREA's case tracking systems did not record all payments collected from recipients in recovery cases, and IREA was unable to determine the total amount of payments it collected from recipients in recoupment cases.

Audit Recommendations

The audit recommended, among other things, that HRA:

- Require explanations in the case files when the minimum amount is not collected on a lawsuit lien case.
- Require that a supervising attorney review any lawsuit lien case in which the recipient is allowed to pay less than the minimum amount.
- Seek guidance from the State on the correct interpretation of Social Services Law § 104-b (13) and govern itself accordingly.
- Provide clear and consistent explanations in the property lien case files for those clients from whom it accepts less than the full recovery of the public assistance provided.
- Ensure that its Division of Claims and Collections properly maintain its case files.

Agency Response

HRA officials disagreed with some of the audit's findings but generally agreed with the audit's recommendations.

INTRODUCTION

Background

The mission of the New York City Human Resources Administration is to enhance the quality of life for all City residents by providing temporary assistance to eligible individuals and families to help them lead independent and productive lives. HRA accomplishes its mission through a wide range of social welfare benefits and services, including public assistance, Medicaid, food stamps, and job training services. HRA provides these services through 29 Job Centers and three specialized service centers.

HRA's Investigation, Revenue and Enforcement Administration is responsible for attempting to recover those assets of PA and Medicaid recipients that can be applied toward program expenditures. As permitted by New York State Social Services Law §104, IREA's Division of Liens and Recovery seeks recovery of assistance payments by filing liens and asserting claims on personal injury lawsuit settlements obtained by recipients. IREA's Real Property and Assets unit places liens on real property and cooperative apartments owned by recipients. IREA's Division of Claims and Collections endeavors to recoup "one-shot payments" HRA made to help recipients pay their rental or utility bills. The recipients must sign repayment agreements in order to receive such payments. Claims and Collections also endeavors to recoup money from former public assistance recipients who were overpaid while receiving assistance.

According to the Division of Accounts Receivable and Billing (DARB) computer system, IREA recovered \$3,633,252 from personal injury lawsuit settlements received by public assistance recipients in Fiscal Year 2005. The Division of Liens and Recovery (DOLAR) computer system reported that the money from personal injury lawsuit settlements was recovered from 1,081 public assistance recipients in Fiscal Year 2005. According to the DARB system, IREA recovered \$2,028,641 from the sale of real property owned by public assistance recipients. The Real Property and Assets unit reported that the recovered money came from the sale of real property owned by 183 public assistance recipients in Fiscal Year 2005. During the same period, Claims and Collections processed 2,511 cases relating to rental and utility payments (one-shot payments) and public assistance overpayments for which a total of \$4,357,776 was owed. IREA was unable to provide us with information on the total amount of one-shot payments and overpayments it recouped in Fiscal Year 2005.

Objective

The objective of this audit was to determine whether IREA effectively complied with its policies and procedures to recover those assets of PA recipients that can be applied towards program expenditures and to recoup overpayments made to PA recipients.

Scope and Methodology

The period covered by this audit was July 1, 2004 through June 30, 2005 (Fiscal Year 2005).

To gain an understanding of IREA policies, procedures, and practices concerning its recovery of public assistance funds, we interviewed IREA officials and conducted walkthroughs at IREA's Division of Liens and Recovery, Real Property and Assets unit, and Division of Claims and Collections. Relevant regulations in the New York State Social Services Law §104, as well as various written policies and procedures used by the two divisions, were reviewed.

To assess the accuracy and completeness of HRA's data on the number and dollar amount of personal injury liens processed and collected, a DOLAR listing of all liens paid in Fiscal Year 2005 was obtained. We assessed the reliability of the data by comparing a random sample of 50 paid liens from the list obtained from DOLAR to documentation found in the hard-copy case files, as well as comparing a separate randomly selected sample of 50 paid liens from the hard-copy case files to the information contained in DOLAR.

From the DOLAR listing, we randomly selected and reviewed 25 cases (with total recoveries of \$49,618) of the 1,081 recoveries in Fiscal Year 2005 totaling \$3,380,525 (per the listing) to determine whether IREA's Liens and Recovery effectively followed its own policies and procedures in the recovery of funds from recipients who received monetary compensation from personal injury lawsuit settlements. These cases were selected from the hard-copy case files.

To assess the accuracy and completeness of HRA's data on the number and dollar amount of real property lien cases, we obtained a listing of all liens paid in Fiscal Year 2005 from IREA's Real Property and Assets unit. This list was provided from an electronic spreadsheet maintained by the Director of the Real Property and Assets unit. We assessed the reliability of this data by comparing 25 randomly selected paid liens from the list to documentation found in the hard-copy case files as well as comparing a separate randomly selected sample of 25 paid liens from the hard-copy case files to the information contained in the above list.

From the Real Property and Assets unit listing, we randomly selected and reviewed 25 cases (with total recoveries of \$351,637) of the 183 recoveries totaling \$1,937,525 (per the listing) to determine whether IREA's Real Property and Assets unit effectively followed its policies and procedures in recovering liens from the sale of real property owned by public assistance recipients. These 25 cases were selected from the list provided by the Real Property and Assets unit.

To determine whether Claims and Collections effectively followed its procedures in the recoupment of outstanding debt owed by former PA recipients, we randomly selected and reviewed 50 cases (with a total outstanding amount of \$15,871) from the population of 2,511 cases totaling \$4,357,776. We selected 25 cases relating to one-shot payments to cover rental

and utilities expenses and 25 relating to overpayments that had been made to former PA recipients. These cases were selected from the Money Owed New York (MONY) system used by Claims and Collections.

The results of the above tests, while not statistically projected to their respective populations, provided a reasonable basis for us to assess HRA's effectiveness in its efforts to recover public assistance funds. It should be noted that our audit addressed IREA collection efforts upon notification that there were amounts that could or should be recouped. Our audit did not address the process by which IREA's units are notified about such potentialities.

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

Discussion of Audit Results

The matters in this report were discussed with HRA officials during and at the conclusion of this audit. A preliminary draft report was sent to HRA officials on April 12, 2006, and was discussed at an exit conference held on May 2, 2006. On May 17, 2006, we submitted a draft report to HRA officials with a request for comments. We received a written response from HRA officials on June 8, 2006. HRA officials disagreed with some of the audit's findings but generally agreed with the audit's recommendations.

The full text of HRA's comments is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

IREA effectively followed its policies and procedures in recovering funds from recipients who obtained personal injury lawsuit settlements and from recipients who sold their real property. In addition, IREA's Division of Claims and Collections generally followed its procedures for recouping PA overpayments and one-shot payments made to recipients to cover rental and utilities expenses.

However, there were some weaknesses in IREA's recovery and recoupment efforts that did not detract from our overall opinion, but which should be addressed. Specifically, IREA occasionally negotiated recovery amounts from lawsuit settlements that were below its established minimums. In these cases, there were neither explanations in the lawsuit lien case files of why the minimum amounts were not collected nor evidence of a review of the handling of the case by a supervising attorney. In addition, IREA did not consistently collect the full amount of the public assistance provided to recipients in real property lien cases. Clear and consistent explanations were not provided in the case files to justify the acceptance of less than the full recovery amount of the real property lien. Furthermore, IREA's case tracking systems did not record all of the payments collected from recipients in lien cases, and IREA was unable to determine the total amount of payments it collected from recipients in recoupment cases. These weaknesses limited IREA's ability to accurately assess the overall effectiveness of its recovery and recoupment efforts.

IREA Collection Efforts on Personal Injury Lawsuit Liens Were Adequate

IREA generally had adequate controls to ensure that it effectively followed its policies and procedures in recovering funds from personal injury lawsuit settlements. Our review of a sample of 25 randomly selected paid lawsuit liens in Fiscal Year 2005 indicated that, with only a few exceptions, IREA followed its own procedures in the collection of these funds.

For the 25 cases, we reviewed documentation on IREA's calculation of the amount of benefits that the PA recipient received after the personal injury incident occurred. IREA's methodology for negotiating how much of the lawsuit settlement amount the recipient was obligated to pay was also reviewed. IREA sometimes does not pursue the full lien amount when doing so would mean that the recipient would likely remain on, or return to, public assistance. In such cases, the recipient's attorney enters into negotiations with IREA's attorneys to effect an acceptable payment. For these cases, we determined whether there were controls in place to ensure that IREA generally collected an amount of funds that fell within the acceptable ranges established by IREA.

For all 25 cases, IREA calculated the correct lien amount that it was due. IREA staff determined the lien amount by calculating the amount of benefits that the PA recipient received from the date of the accident to the date of the lawsuit settlement. (Certain benefits such as food stamps or emergency shelter assistance are excluded from the calculation of the benefits that the PA recipient received.)

In 13 of the 25 cases, the recipient paid the full amount of the lien. For the remaining 12 cases, IREA's staff negotiated a lower amount. We reviewed IREA's procedures for negotiating the amount that the recipient should pay to satisfy the lien. For nine of the 12 negotiated cases, IREA negotiated the correct amount based on their procedures. However, for the three remaining negotiated cases, which had a total lien amount of \$12,489, IREA collected a total of \$1,489 below the minimum required amounts.

Negotiations generally take place between IREA's staff attorneys and the PA recipients' attorneys. For the three cases in which the negotiated amounts fell below IREA's established minimums, there was no explanation in the case files of why the minimum amount was not collected and no indication that an IREA supervising attorney reviewed and approved the sum that was negotiated. There may have been legitimate reasons for not collecting the minimum amounts. For example, the recipient's attorney may have informed IREA's attorney that the recipient had other outstanding liens on the settlement and that, to avoid an undue hardship on the recipient, a lower amount was negotiated. Nevertheless, a written explanation and a review of the case by a supervising attorney would have helped ensure that the case was properly handled.

The audit also concluded that in some lawsuit settlement lien cases IREA should negotiate a higher recovery payment from the recipient than IREA's established minimum amounts. New York Social Services Law §104-b (13) on such cases states:

“[T]he public welfare official may in his discretion release to the injured person an amount not to exceed the cost of two years' maintenance from the lien herein created.”

This provision states that IREA can only allow the recipient to keep up to two years of public assistance benefits in lawsuit settlement lien cases. In one case in our sample, the recipient was allowed to keep about \$2,400 more than the amount of public assistance provided over the preceding two years. HRA officials state that they do not enforce New York State Social Services Law §104-b (13) because they are unsure of its meaning. HRA officials also state that they have not sought guidance from the State on the correct interpretation of this provision.

HRA Response: “HRA disagrees with this finding, and believes that there is some leeway in interpreting the law. Our processing of the cases is consistent with our interpretation. However, as a result of this finding, HRA has asked New York State to clarify, in writing, Social Services Law §104-b section 13, which governs this activity, and will implement recommendations based on their ruling.”

Auditor Comment: We believe that the law is reasonably clear but agree with HRA's plan to obtain clarification from the State.

Recommendations

1. HRA should require explanations in the case files when the minimum amount is not collected on a lawsuit lien case.

HRA Response: “HRA agrees that explanations for lien reductions that fall below the guideline minimums should be documented in writing. IREA is developing a form on which the reasons for these actions will be documented. This will ensure consistent documentation of explanations. The form will be implemented by July 2006.”

2. HRA should require that a supervising attorney review any lawsuit lien case in which the recipient is allowed to pay less than the minimum amount.

HRA Response: “HRA partially agrees with the second recommendation. Currently, the Supervising Attorney, Director, and Deputy Director are all authorized to review and sign off on any lien where less than the recommended minimum is accepted for payment. IREA plans to issue a directive to all pertinent staff which will formalize this policy by June 2006.”

3. HRA should seek guidance from the State on the correct interpretation of Social Services Law §104-b (13) and govern itself accordingly.

HRA Response: “HRA agrees. As a result of this finding, HRA asked New York State to clarify, in writing, Social Services Law §104-b section 13, and will implement a policy and/or procedural change based on the clarification.”

IREA Collection Efforts on Real Property Liens Were Adequate

The IREA Real Property and Assets unit’s efforts to collect on real property claims against PA recipients who sold their property during Fiscal Year 2005 were adequate. Real Property and Assets places liens on real property and cooperative apartments owned by PA recipients, who agree to such liens (by signing bond and mortgage agreements) in order to qualify for public assistance. When the property is ready to be sold, refinanced, or transferred, the recipient’s attorney or title company is required to contact Real Property and Assets in order to pay the lien. Once the amount due is paid, Real Property and Assets contacts the County Clerk’s office so that the lien can be taken off the property.

To determine whether Real Property and Assets followed its procedures in collecting the lien amounts due on property sold by PA recipients, a random sample of 25 of the 183 property liens paid in Fiscal Year 2005 was reviewed. We determined whether 1) a bond and mortgage agreement was signed by the recipient, 2) Real Property and Assets calculated the correct amount of debt owed by the recipient based on the amount of eligible benefits the recipient received, and 3) the recipient paid the full amount of the debt owed. In all 25 cases, there was a signed bond and mortgage agreement in place and Real Property accurately calculated the

amount of the debt owed by the PA recipient based on the eligible benefits the recipient received. In addition, in 23 of the 25 cases, the recipient agreed to pay the full amount of the lien. As for the remaining two cases:

- In one case, Real Property and Assets determined that the client with a property lien had received \$176,428 in public assistance benefits between 1975 and 2000. Reasoning in two July 2004 memorandums that the “statute of limitations” had long since expired on the lien and that the majority of the assistance had been provided before 1994, HRA decided to accept \$110,000 of the \$189,000 the client received, after paying closing costs, for selling the property.
- In the other case, Real Property and Assets determined that the client with a property lien had received \$8,972 in public assistance benefits between 1993 and 1995. Reasoning in a July 2005 memorandum that the “statute of limitation” had long since expired on the lien, HRA decided to accept \$4,486 of the amount owed.

HRA’s reference to the statute of limitations is incorrect in that property liens do not expire after 10 years. In addition, in at least two other cases in the audit’s sample, HRA required clients with property liens to fully repay assistance, even if some of it had been received more than 10 years in the past. In one case, a client who agreed to a property lien in 1989 fully repaid the assistance, \$41,438, on April 14, 2005. This check covered public assistance received as far back as 1987. In another case, a client who agreed to a property lien in 1991 fully repaid the assistance, \$54,474, on January 20, 2005. This check covered public assistance received as far back as 1991. Therefore, HRA has been inconsistent in seeking payment for assistance provided more than 10 years in the past.

In the two cases above in which HRA did not obtain full repayment, it did not provide a clear explanation consistent with its handling of similar cases as to why it accepted less than full recovery of the public assistance provided.

HRA Response: “HRA disagrees with the Comptroller’s interpretation of the 10-year look-back period. HRA will seek further guidance from New York State as to how to proceed. Section 104, which references a 10-year look-back period for PA benefits, is not governing Social Services law for Real Property. The IREA Real Property Unit acts under Sections 360 and 106, which allow IREA to begin procedures up to 10 years from the discovery of an action on the note.”

Auditor Comment: Our finding is based on HRA memorandums on the two cases we discussed above in which HRA did not obtain full repayment. In both cases, HRA memorandums stated that the agency did not seek full repayment because the statute of limitations had expired for these liens, not because more than 10 years had elapsed from the “discovery of an action on the note.” In fact, in each of these cases, HRA took action well within 10 years of discovering an action on the lien. In the first case, the action on the lien that initiated a partial repayment was the sale of the property on December 17,

2003. In the second case, the only indication in the file of an action on the lien was the client's June 29, 2005 partial repayment, which led to the removal of the lien from the property.

Recommendation

4. HRA should provide clear and consistent explanations in the property lien case files for those clients from whom it accepts less than full recovery of the public assistance provided.

HRA Response: "HRA agrees with this recommendation. IREA is developing a form on which the reasons for reducing liens will be documented and explained. The form will be ready for use by July 2006."

IREA's Division of Claims and Collections Generally Followed Its Collection Procedures

The Division of Claims and Collections generally followed its procedures for collecting funds owed by former PA recipients due to overpayments and one-shot payments. The audit reviewed 25 cases where HRA overpaid PA recipients and 25 one-shot payment cases that were referred to Claims and Collections during Fiscal Year 2005. All 50 cases were properly monitored and when necessary, were referred to the Law Department.

There can be many reasons for a PA recipient to have outstanding debts. For example, an overpayment could result from a failure on the part of the recipient to report income or from HRA erroneously paying certain benefits. For current PA recipients, overpayments and one-shot payments are recouped when HRA lowers the recipient's monthly benefits until the entire amount owed is paid.

When a PA recipient is no longer eligible to receive benefits but still has an outstanding debt balance, the case is referred to DARB, which initiates the billing process. If the former recipient misses three consecutive payments, the case is referred to Claims and Collections, which assigns the case to an investigator. The investigator verifies the case status and the debt amount by checking the Welfare Management System and the DARB system. The investigator then creates a case file and monitors the case for any payments the recipient makes. The Claims and Collection administrative staff enters information on correspondence and payment in the case into the Claims and Collections Money Owed New York (MONY) system. If the recipient does not make any payments, the investigator sends a final notice letter to the recipient. If the recipient does not respond to the final notice, Claims and Collections refers the case to the Law Department for legal action.

Our review of a random sample of 25 overpayment and 25 one-shot payment cases that were referred to Claims and Collections during Fiscal Year 2005 revealed that the unit generally followed its procedures in ensuring that each case is properly monitored and, when necessary, referred to the Law Department. Claims and Collections referred 34 of these 50 cases to the

Law Department for further action. The remaining 16 cases were not referred to the Law Department because they were paid in full (10 cases), were active Food Stamp or Supplemental Security Income cases (four cases), were written-off due to a small debt amount (one case), or were determined to involve unsubstantiated debt (one case).

IREA's Division of Claims and Collections Misplaced Some of Its Case Files

Claims and Collections misplaced hard copy case files for 3 of the 25 overpayment cases in our sample. For these three cases, MONY and DARB system screens indicated that all three cases were paid in full, but this could not be confirmed without the case files.

A case file contains information on the client's debt and on actions taken by investigators on the overpayment. Among the documents contained in the case files are the recipients' signed agreements to repay the debt amount owed, printouts from DARB and WMS on debt amounts and recoupment, and referral documents for cases that are transferred to the Law Department.

Claims and Collections found one of the three misplaced case files several weeks after we requested the files, but it could not locate the other two files. Claims and Collections should ensure that it properly maintains its case files so that important documents are not misplaced.

Recommendation

5. HRA should ensure that its Division of Claims and Collections properly maintains its case files.

HRA Response: "HRA agrees with this recommendation. To ensure the physical security of cases, effective March 2006, only C&C Administrative Unit staff assigned to maintain files are authorized to retrieve and return case folders from the file cabinets. Additionally, IREA has augmented its filing protocol to enhance filing efficiencies."

Other Issues

While a review of the information systems IREA uses in collecting payments was outside our audit scope, we noted weaknesses representing areas for improvement.

IREA's DOLAR System Did Not Contain All of the Payments Received

Review of the DOLAR case-management tracking system revealed that Liens and Recovery staff did not always update the system to reflect the monies received from personal injury settlements. Five of the 50 cases we sampled from the hard-copy files were not reflected as paid on DOLAR.

IREA uses the DOLAR system to track its lawsuit-settlement liens against PA recipients and any payments made to satisfy those liens. All payments received to satisfy liens are forwarded to the HRA Division of Accounts Receivable and Billing (DARB). DARB logs the payments on its own system and notifies Liens and Recovery staff, who then update DOLAR.

In our data reliability test, we found that although DOLAR's list of paid liens contained accurate case information, the list itself was incomplete. Lien payment information contained in the hard-copy files for 5 of the 50 lawsuit liens in our sample had not been entered into DOLAR. As a result, the DOLAR list of paid lawsuit liens was incomplete. There was sufficient evidence in the hard copy files (copies of checks and transmittal documents) to reflect the paid liens. However, that information was not reflected on DOLAR. We therefore conclude that DOLAR did not contain all of the lawsuit liens that were paid in Fiscal Year 2005. In fact, the dollar amount of liens collected per the DARB system (\$3,633,252) was approximately \$252,728 more than the amount recorded on DOLAR (\$3,380,525). Since Liens and Recovery relies on DOLAR to track and record the status of liens that are asserted and paid, it is important that the unit maintain current and complete information on the system.

The Director of Liens and Recovery told us that the omissions occurred because the DARB and DOLAR systems are not linked and that as a result, when the DARB administrative staff receives checks to satisfy liens, they have to notify Liens and Recovery for DOLAR to be updated. Errors may occur either when the DARB staff does not notify Liens and Recovery of payments, or when the Liens and Recovery staff does not properly update DOLAR. The Director told the auditors that Liens and Recovery is in the process of developing a system that will automatically update DOLAR when checks are received and logged onto the DARB system.

On a related matter, while the data reliability test of the list obtained from the spreadsheet from Real Property and Assets did not identify any discrepancies, the total value of real property lien payments in Fiscal Year 2005 as recorded on that spreadsheet was different from the amount of real property lien payments recorded on the DARB system. DARB's system recorded \$2,028,641 in such payments, while the spreadsheet recorded only \$1,937,525—a difference of \$91,116.

Recommendation

6. HRA should ensure that all lien payments recorded in DARB are also properly reflected on DOLAR and internal spreadsheets used by Real Property and Assets.

HRA Response: “HRA disagrees with this recommendation. All payments posted at DARB are recorded on DOLAR after they are recorded on the billing system. Real property payments are recorded on the Real Property Program database. When (integrated) DOLAR goes into production, all payments will be entered into the system automatically.”

Auditor Comment: HRA's response that it disagrees with the recommendation is puzzling since earlier in the response it agrees with the corresponding finding. In

addition, HRA states that when an integrated DOLAR is in place, “all payments will be entered into the system automatically,” which is entirely consistent with our recommendation.

IREA’s Claims and Collections MONY System

The Division of Claims and Collections MONY system is unable to report the total amount of payments that the division collected on its recoupment cases. As a result, Claims and Collections could not determine its overall effectiveness in the collection of those funds.

As mentioned earlier, if a former recipient misses three consecutive recoupment payments, the case is referred to Claims and Collections. Claims and Collections then tracks these cases via its MONY system. However, MONY primarily displays balance due information on individual cases. MONY lacks mechanisms whereby it can report for any given period the total number of cases for which the division collected money from recipients, the total amount of money it collected, the total number of cases it referred to the Law Department, and the total amount of money still owed. By modifying MONY, Claims and Collections would be better able to assess its overall effectiveness in collecting funds owed by former PA recipients.

HRA Response: “HRA disagrees with this finding. MONY currently tracks all monies collected by C&C [Claims and Collection].”

Auditor Comment: HRA appears to misunderstand our finding. MONY does track payments on individual Claims and Collection cases. However, MONY currently cannot provide a summary report that indicates for any given period the total number of cases for which the division collected money from recipients, the total amount of money collected by the division, the total number of cases it referred to the Law Department, and the total amount of money still owed. It should be noted that while HRA disagrees with the finding, later in its response it agrees with the recommendation upon which the finding is based.

Recommendation

7. HRA should modify MONY so that it can generate summary information on the payment results of Claims and Collections’s efforts and the status of its recoupment cases.

HRA Response: “HRA agrees with this recommendation. HRA is working with the Management Information Systems group to generate summary reports and expect that they will be in production by October 2006.”



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Executive Deputy Commissioner

June 7, 2006

Mr. John Graham
Deputy Comptroller
The City of New York
Office of the Comptroller
1 Centre Street
New York, NY 100072341

Re: Draft Audit Report on the Human
Resources Administration's Efforts to
Recover Funds from Certain Recipients of
Public Assistance – ME056-137A

Dear Mr. Graham:

We have reviewed the referenced draft report on the Human Resources Administration's (HRA) Efforts to Recover Funds from Certain Recipients of Public Assistance. We appreciate your review which provides the opportunity for HRA to improve its processes.

Following are our responses to the audit's findings and recommendations:

IREA's Collection Efforts on Personal Injury Lawsuit Liens Were Adequate

Auditor's Findings:

For three out of 25 cases reviewed, IREA collected a total of \$1489 below the minimum required amounts. There was no explanation in the case files of why the minimum amount was not collected and no indication that an IREA supervising attorney reviewed and approved the sum that was negotiated.

Agency's Response:

HRA partially agrees with this finding. Settlements are approved by electronic notation. The three cases that the auditors cited were approved electronically by the Division's Group Leaders who, in addition to the Division's Supervising Attorney, can approve settlements. HRA agrees that explanations for lien reductions that fall below the guideline minimums should be documented in writing. IREA is developing a form on which the reasons for approving the

collection of liens below the minimum amounts will be documented in the case files. Use of this form will begin in July 2006.

Auditor's Recommendation:

HRA should require explanations in the case files when the minimum amount is not collected on a lawsuit lien case.

HRA should require that a supervising attorney review any lawsuit lien case in which the recipient is allowed to pay less than the minimum amount.

Agency's Response:

HRA agrees that explanations for lien reductions that fall below the guideline minimums should be documented in writing. IREA is developing a form on which the reasons for these actions will be documented. This will ensure consistent documentation of explanations. The form will be implemented by July 2006.

HRA partially agrees with the second recommendation. Currently, the Supervising Attorney, Director, and Deputy Director are all authorized to review and sign off on any lien where less than the recommended minimum is accepted for payment. IREA plans to issue a directive to all pertinent staff which will formalize this policy by June 2006.

Auditor's Findings:

In some lawsuit settlement lien cases IREA should negotiate a higher recovery payment from the recipient than IREA's established minimum amounts. New York Social Services Law §104-b (13) on such cases states:

“[T] he public welfare official may in his discretion release to the injured person an amount not to exceed the cost of two years' maintenance from the lien herein created.”

This provision states that IREA can only allow the recipient to keep up to two years of public assistance benefits in lawsuit settlement lien cases. In one case in our sample, the recipient was allowed to keep about \$2,400 more than the amount of public assistance provided over the preceding two years.

Agency's Response:

HRA disagrees with this finding, and believes that there is some leeway in interpreting the law. Our processing of the cases is consistent with our interpretation. However, as a result of this finding, HRA has asked New York State to clarify, in writing, Social Services Law §104-b section 13, which governs this activity, and will implement recommendations based on their ruling.

Auditor's Recommendation:

HRA should seek guidance from the State on the correct interpretation of Social Services Law §104-b (13) and govern itself accordingly.

Agency's Response:

HRA agrees. As a result of this finding, HRA has asked New York State to clarify, in writing, Social Services Law §104-b section 13, and will implement a policy and/or procedural change based on the clarification.

IREA's Collection Efforts on Real Property Liens Were Adequate

Auditor's Findings:

HRA's reference to the statute of limitations in two property lien cases is incorrect in that property liens do not expire after 10 years. In addition, in at least two other cases in the audit's sample, HRA required clients with property liens to fully repay assistance, even if some of it had been received more than 10 years in the past. Therefore, HRA has been inconsistent in seeking payment for assistance provided more than 10 years in the past. In the two cases in which HRA did not obtain full repayment, it did not provide a clear explanation consistent with its handling of similar cases as to why it accepted less than full recovery of the public assistance provided.

Agency's Response:

HRA disagrees with the Comptroller's interpretation of the 10-year look-back period. HRA will seek further guidance from New York State as to how to proceed. Section 104, which references a 10-year look-back period for PA benefits, is not the governing Social Services law for Real Property. The IREA Real Property Unit acts under Sections 360 and 106, which allow IREA to begin procedures up to 10 years from the discovery of an action on the note.

Auditor's Recommendation:

HRA should provide clear and consistent explanations in the property lien case files for those clients from whom it accepts less than full recovery of the public assistance provided.

Agency's Response:

HRA agrees with this recommendation. IREA is developing a form on which the reasons for reducing liens will be documented and explained. The form will be ready for use by July 2006.

IREA's Division of Claims and Collections Followed its Collection Procedures

Auditor's Findings:

Claims and Collections misplaced hard copy case files for 3 of the 25 overpayment cases in our sample. For these three cases, MONY and DARB systems indicated that all three cases were paid in full, but this could not be confirmed without the case files. Claims and Collections found one of the three misplaced case files several weeks after we requested the files, but it could not locate the other two files.

Agency's Response:

HRA agrees with this finding.

Auditor's Recommendations:

HRA should ensure that the Division of Claims and Collections properly maintains its case files.

Agency's Response:

HRA agrees with this recommendation. To ensure the physical security of cases, effective March 2006, only C&C Administrative Unit staff assigned to maintain files are authorized to retrieve and return case folders from the file cabinets. Additionally, IREA has augmented its filing protocol to enhance filing efficiencies.

Other Issues

Auditor's Findings:

IREA's DOLAR System Did Not Contain All of the Payments Received.

Agency's Response:

HRA agrees with this finding. All payments are recorded on the Liens and Recovery Billing System. DOLAR Billing System is in testing and is expected to be integrated into DOLAR by July 2006.

Auditor's Recommendation:

HRA should ensure that all lien payments recorded in DARB are also properly reflected on DOLAR and internal spreadsheets used by Real Property and Assets.

Agency's Response:

HRA disagrees with this recommendation. All payments posted at DARB are recorded on DOLAR after they are recorded on the billing system. Real property payments are recorded on spreadsheets and will be recorded on the Real Property Program database. When (integrated) DOLAR goes into production, all payments will be entered into the system automatically.

IREA's Claims and Collections MONY System

Auditor's Findings:

Claims and Collections' MONY system is unable to report the total amount of payments that the division collected on its recoupment cases. As a result, Claims and Collections could not determine its overall effectiveness in the collection of those funds.

Agency's Response:

HRA disagrees with this finding. MONY currently tracks all monies collected by C&C.

Auditor's Recommendation:

HRA should modify MONY so that it can generate summary information on the payment results of Claims and Collections' efforts and the status of its recoupment cases.

Agency's Response:

HRA agrees with this recommendation. HRA is working with the Management Information Systems group to generate summary reports and expect that they will be in production by October 2006.

Should you have any questions concerning this matter, please contact me directly.

Sincerely,



Holly E. Brown

C: Commissioner Eggleston
Maurcen Walsh