

AUDIT REPORT

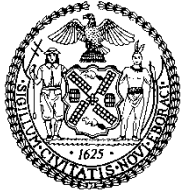


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Compliance of the Health and Hospitals Corporation With the Financial Provisions of the Ambulance and Pre-hospital Emergency Medical Services Memorandum of Understanding

FM08-080A

November 24, 2009



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 New York City Health and Hospitals Corporation's (HHC) compliance the financial provisions of the Ambulance and Pre-hospital Emergency Medical Services Memorandum of Understanding.

A January 19, 1996 Memorandum of Understanding (MOU) between the City and HHC set forth terms and conditions for the transfer of Emergency Medical Services, which performs ambulance and pre-hospital emergency medical services, from HHC to the New York City Fire Department (FDNY). Audits such as this provide a means of ensuring that all parties to City agreements comply with those agreements and that all revenues are appropriately paid to City.

The results of our audit, which are presented in this report, have been discussed with HHC, FDNY, and Office Management and Budget 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/fh

Report: FM08-080A
Filed: November 24, 2009

Table of Contents

AUDIT REPORT IN BRIEF 1

 Audit Findings and Conclusions.....1

 Audit Recommendations.....2

INTRODUCTION.....4

 Background.....4

 Objectives5

 Scope and Methodology5

 Discussion of Audit Results.....7

FINDINGS.....9

 \$2.4 Million in Improper Deductions9

 \$1,454,638 in Improper Rental Payments.....9

 \$947,447 in Improper Bank Charges10

 \$48,493 in Unsubstantiated Expenses Results in Underpayment to the City12

 Untimely Payment for EMS Services13

 Lack of Documentation Supporting Approval of Delayed Medicaid Payments15

 Other Issues.....16

 Payment Delay Results in \$5,052 in Unnecessary Late Fees16

 Inadequate Oversight to Ensure Accountability16

RECOMMENDATIONS.....17

ADDENDUM I HHC Response

ADDENDUM II OMB Response

ADDENDUM III FDNY Response

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

**Audit Report on the Compliance of the
Health and Hospitals Corporation with the
Financial Provisions of the Ambulance and Pre-hospital
Emergency Medical Services Memo of Understanding**

FM08-080A

AUDIT REPORT IN BRIEF

On January, 19, 1996, Mayor Rudolph Giuliani and the President of the New York City Health and Hospitals Corporation (HHC) executed a Memorandum of Understanding (MOU) setting forth the terms and conditions for the transfer of Emergency Medical Services (EMS) from HHC to the New York City Fire Department (FDNY). The transfer of responsibilities sought to improve the effectiveness of ambulance and pre-hospital emergency medical services by combining EMS personnel with the FDNY emergency response system.

The MOU specifies that HHC will bill and receive all amounts arising from EMS's delivery of patients to HHC hospitals pending FDNY's assumption of the billing and collection responsibilities itself. The MOU requires the City Budget Director and President of HHC jointly to project the amount of EMS-anticipated collections (projected collections) prior to each fiscal year. The amount of projected collections must be repaid to the City by HHC in four payments, three at the end of each of the first three quarters, and one final payment within 60 days of the end of the City's fiscal year. The final payment may require adjustment based on differences between actual and projected collections and from adjustments or expenses incurred or paid by HHC on behalf of EMS.

In 2002, FDNY assumed responsibility for billing and collection of non-Medicaid payments—third-party insurance, self-pay patients, and Medicare—for EMS services provided to patients delivered to HHC hospitals. Currently, those payments are sent to a lockbox and transferred daily to an HHC bank account. HHC remits these amounts, less any HHC deductions, as part of its quarterly payments to the City.

Audit Findings and Conclusions

HHC did not adhere to the financial terms of the MOU. Since 2000, HHC improperly deducted \$2,450,578 in offsets against EMS payments due the City. These offsets include \$1,454,638 for use of space to operate the fleet maintenance facility at Sea View, even though an agreement exists between the City and HHC for use of the premises; \$947,447 in bank charges

for its own lockbox account; and \$48,493 in unsubstantiated payments to vendors. Furthermore, HHC and the City did not negotiate a payment schedule once FDNY assumed the responsibilities of billing and collecting of non-Medicaid revenue. As a result, there has been an unwarranted delay in payments by HHC to the City of non-Medicaid revenue. In addition, HHC did not obtain prior written approval from the City when it delayed making quarterly Medicaid payments in 2006. Finally, FDNY made untimely rental payments for a radio transmittal tower resulting in \$5,052 in unnecessary late fees for Fiscal Year 2008.

The City could have prevented these issues through closer oversight, enhanced controls, and better coordination. Although the City may be able to recoup the improper deductions from HHC, the City is at risk of losing potential interest income until the parties establish new due dates and associated late payment penalties.

Audit Recommendations

We make seven recommendations to HHC that it should:

- Pay the City \$2,450,578.
- Abide by the terms of the July 20, 2000 license agreement and cease assessing the City an indirect cost associated with the City's use of Sea View Hospital and surrounding area.
- Cease charging the City bank fees associated with HHC's lockbox account.
- Maintain supporting documentation for any adjustments or credits against the payments made to the City.
- Negotiate with OMB a more expeditious payment schedule, establish a liquidated damages clause for any delayed non-Medicaid revenue payments and formalize any modifications to the MOU accordingly.
- Formally memorialize any modifications to the terms of the MOU as they occur.
- As EMS lease agreements expire, subsequent renewals should be in the name of the FDNY.

We make four recommendations to OMB, on behalf of the City, to ensure that:

- HHC pays the City \$2,450,578.
- HHC adheres to the terms of the MOU and that payments of EMS funds are promptly made to the City.

- An annual reconciliation is performed to verify that all adjustments and credits taken by HHC against the final payment are valid.
- A more expeditious payment schedule, a liquidated damages clause for delayed non-Medicaid revenue payments, and any other revisions are formalized within the MOU.

We make two recommendations to FDNY that it should:

- Ensure that rental payments are processed on time.
- All EMS lease renewals should be in the name of FDNY, and all lease payments processed through the FDNY's normal budgetary process.

INTRODUCTION

Background

The New York City Health and Hospitals Corporation was created by New York State legislation in 1970 as a public benefit corporation to oversee the City's public health care system. On January 19, 1996, Mayor Rudolph Giuliani and the President of HHC executed a Memorandum of Understanding setting forth the terms and conditions for the transfer of Emergency Medical Services, which performs ambulance and pre-hospital emergency medical services, from HHC to the New York City Fire Department. The transfer of responsibilities sought to improve the effectiveness of ambulance and pre-hospital emergency medical services by combining EMS personnel with the FDNY emergency response system. In March 1996, EMS was established as a separate bureau within FDNY.

The MOU specifies that HHC will bill and receive all amounts arising from EMS's delivery of patients to HHC hospitals pending FDNY's assumption of the billing and collection responsibilities itself. The MOU requires the City Budget Director and President of HHC jointly to project the amount of EMS-anticipated collections (projected collections) prior to each fiscal year. The amount of projected collections must be repaid to the City by HHC in four payments, three at the end of each of the first three quarters, and one final payment within 60 days of the end of the City's fiscal year. The final payment may require adjustment based on differences between actual and projected collections and from adjustments or expenses incurred or paid by HHC on behalf of EMS.

In 2002, FDNY assumed responsibility for billing and collection of non-Medicaid payments—third-party insurance, self-pay patients, and Medicare—for EMS services provided to patients delivered to HHC hospitals. Currently, those payments are sent to a lockbox and transferred daily to an HHC bank account. HHC remits these amounts, less any HHC deductions (as noted in Table I), as part of its quarterly payments to the City.

The amount of Medicaid collections allocable to EMS are calculated by HHC using a formula established by New York State (State) that computes the EMS component of a total inpatient payment made by the State to HHC hospitals, regardless of the method of transport (delivery) to the hospital. The Medicaid formula uses a series of variables based on the actual hospital, duration of stay, and diagnosis. HHC includes a projected Medicaid collection amount due EMS as part of its quarterly payments to the City.

The MOU also provided that FDNY would have the use of certain HHC property to carry out emergency services. As a result of the transfer, the City and HHC identified all leases used primarily by EMS and determined the appropriate treatment of each. During Fiscal Years 2006 through 2008, lease and license payments for two EMS stations and two radio transmittal towers were processed through HHC's Other Than Personnel Services (OTPS) accounts-payable system by FDNY personnel.¹ These payments, totaling approximately \$600,000 per year, were deducted by HHC when calculating its final payment due the City. Also, refunds issued to

¹ The EMS stations are in Canarsie and Brownsville, Brooklyn. The transmittal towers are on High Point Road in Staten Island and 5th Avenue in Manhattan.

patients by FDNY for overpayments or billing errors are processed through HHC's OTPS accounts-payable system and netted against gross non-Medicaid collections during the final payment calculation.

In addition to the leases and licenses, HHC deducts other incurred expenses. These expenses include: bank charges, rental space at Sea View Hospital and Rehabilitation Center and Home (Sea View), and the salary for a pharmacist who stocks ambulances with medical supplies at Goldwater Hospital. With respect to Sea View, HHC charges the City an indirect rate (a per-square-foot charge for the premises that includes operation, depreciation, and housekeeping costs). In addition to the indirect rate, there is a separate license agreement between HHC and the City for the same premises. The license agreement states that HHC will provide EMS space for a fleet maintenance facility at Sea View in return for preventative maintenance performed on hospital-owned vehicles.

For Fiscal Years 2006 to 2008, HHC-reported EMS collections and deductions are shown in Table I:

Table I
EMS Revenue and Deductions by Source and Fiscal Year

EMS Collections	FY 2006	FY 2007	FY 2008
Non-Medicaid (Net of Refunds)	\$73,904,794	\$75,760,888	\$92,634,099
Medicaid	<u>58,117,353</u>	<u>56,655,027</u>	<u>56,744,843</u>
Total Collections	\$132,022,147	\$132,415,915	\$149,378,942
Deductions			
Payments from HHC's OTPS Accounts-Payable System	\$575,164	\$664,459	\$628,381
Pharmacist Salary	140,344	157,170	170,995
Bank Fees	167,859	137,018	131,925
Sea View Space Rental	<u>303,750</u>	<u>328,050</u>	<u>331,875</u>
Total	\$1,187,117	\$1,286,697	\$1,263,176
Net Paid to the City	\$130,835,030	\$131,129,218	\$148,115,766

Objectives

The audit's objective was to determine whether HHC paid New York City the appropriate amounts in accordance with the MOU (i.e., "Services by the City and Compensation by HHC" and "Property and Contracts of HHC and Related Matters").

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 finding 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 the audit was Fiscal Years 2006, 2007, and 2008 (July 1, 2005, through June 30, 2008). Certain testing was extended to include Fiscal Years 2000 through 2005. To achieve our objectives, we reviewed and abstracted the *Memorandum of Understanding Between the New York City Health and Hospitals Corporation and the City of New York on the Provision of Ambulance and Pre-hospital Emergency Medical Services by the Fire Department of the City of New York for the Benefit of HHC*. We interviewed relevant HHC, FDNY, and OMB personnel to gain an understanding of their roles in the process. We documented our understanding of the operations through written narrative.

To determine whether HHC paid the City in four installments and adjusted the final payment for each of the fiscal years under audit, based on actual EMS collections, we obtained HHC's year-end EMS Settlement Worksheet and traced the payments to its electronic funds transfer account, then independently confirmed the amounts transferred to OMB through the City's Financial Management System (FMS).²

To determine whether FDNY collections reported on the EMS Settlement Worksheet were accurate, we traced the amounts collected by FDNY in the lockbox account to the amounts transferred daily to HHC. We then verified the amount of refunds issued by tracing the aggregate totals on EMS's electronic check registers, generated from HHC's OTPS accounts-payable system, to the total amount of refunds reported on the EMS Settlement Worksheet.

Determining the accuracy of the EMS component of Medicaid collections reported on the EMS Settlement Worksheet requires a review of Medicaid laws and policies, which is outside the scope of this audit. However, we obtained a reasonable level of assurance that the City is receiving its equitable share for EMS services by meeting with HHC officials to gain an understanding of how the Medicaid formula is used. We then judgmentally selected the hospital (Woodhull Medical and Mental Center) with the largest one-month EMS-Medicaid allocation (November 2007) to test the mathematical accuracy of the formula reported on the Medicaid Payment Summary report and compared those results to the amounts reported by HHC on the EMS Settlement Worksheet.

To determine whether the fees HHC deducted against EMS collections for licenses and leases were appropriate, we obtained the amounts that should have been deducted as indicated on the leases and license agreements, and reconciled those amounts to the fees deducted on the EMS Settlement Worksheet. To assess the validity of those deductions, we conducted observations of each site to ascertain whether they were used for only EMS activities. We also conducted an observation of the Goldwater Hospital's pharmacy to determine whether a pharmacist was employed—primarily responsible for stocking ambulances with medical supplies. Finally, we

² The EMS Settlement Worksheet is produced by HHC to calculate the final payment due the City by reconciling actual Medicaid and non-Medicaid collections with the projected quarterly payments and then subtracting expenses incurred by HHC on behalf of EMS.

reconciled the lockbox bank charges on the EMS Settlement Worksheet to HHC's bank statements.

Discussion of Audit Results

The matters covered in this report were discussed with HHC, OMB, and FDNY officials during and at the conclusion of this audit. A preliminary report was sent to these officials and was discussed at an exit conference held on May 15, 2009. On August 24, 2009, we submitted a draft report to HHC, OMB, and FDNY officials with a request for comments. We received written responses from FDNY on September 1, 2009, from OMB on September 11, 2009, and from HHC on September 15, 2009.

In their response, HHC officials stated "HHC acknowledges your findings concerning the Sea View rental payments of \$1,454,638 and lack of documentation for vendor payments of \$48,493." They further stated that HHC reimbursed the City \$1,503,131 of the \$2,450,578 assessed by the audit as part of the June 30, 2009 EMS final settlement reconciliation. However, HHC officials stated that "we do not concur with several findings (e.g., 'Improper Bank Charges,' 'Untimely Payment for EMS Services' and 'Lack of Documentation Supporting Approval of Delayed Medicaid Payments')." With respect to these deficiencies, HHC asserted that the bank charges were consistent with the MOU, and that the Untimely Payment for EMS Services finding resulted from an inaccurate interpretation of the MOU by the auditors. Further, HHC officials stated that there is no requirement in the MOU to formalize OMB's approval to postpone the transfer of payments, but going forward, they will request that such approval be received in writing from OMB. Regarding the seven recommendations directed to HHC, the HHC response agreed with three, partially agreed with one and disagreed with three.

In its response, OMB officials agreed with two of four recommendations, partially agreed with one recommendation, and disagreed with the remaining recommendation. OMB decided not to pursue the \$947,447 associated with lockbox bank charges. OMB believes that the lockbox costs are appropriately charged to the City because the lockbox is used by HHC solely for EMS revenue. OMB officials also stated that it will continue to work with HHC to ensure that payments are made consistent with the terms of the MOU and that any delay in payment would have to be authorized by OMB but it does not believe that it is necessary or appropriate to add a liquidated damages clause.

In their response, FDNY officials agreed with one of the two recommendations, stating that FDNY will ensure that all rental payments are paid on time. However, they disagreed with the other recommendation that suggested all EMS leases should be in the name of FDNY. They asserted that "HHC has stated that these leases should remain in the name of HHC and rent payments processed through HHC in order for the related rent expense to be included on HHC's books and in HHC Institutional Cost Report (ICR) filed with the State. These space rent expenses reported in the ICR are then included in reimbursable capital costs contained in HHC Medicaid rates, of which FDNY receives its appropriate share."

A careful review of HHC's disagreements found most of them to be without merit. The specific issues raised by HHC as well as our rebuttals are included within the respective sections of this report. The specific issues raised by OMB and FDNY as well as our rebuttals are included after the specific recommendations to this report. The full texts of the responses received from HHC, OMB, and FDNY are included as addenda to this report.

FINDINGS

HHC did not adhere to the financial terms of the MOU. Since 2000, HHC improperly deducted \$2,450,578 in offsets against EMS payments due the City. These offsets include \$1,454,638 for use of space to operate the fleet maintenance facility at Sea View, even though an agreement exists between the City and HHC for use of the premises; \$947,447 in bank charges for its own lockbox account; and \$48,493 in unsubstantiated payments to vendors. Furthermore, HHC and the City did not negotiate a payment schedule once FDNY assumed the responsibilities of billing and collecting of non-Medicaid revenue. As a result, there has been an unwarranted delay in payments by HHC to the City of non-Medicaid revenue. In addition, HHC did not obtain prior written approval from the City when it delayed making quarterly Medicaid payments in 2006. Finally, FDNY made untimely rental payments for a radio transmittal tower resulting in \$5,052 in unnecessary late fees for Fiscal Year 2008.

The City could have prevented these issues through closer oversight, enhanced controls, and better coordination. Although the City may be able to recoup the improper deductions from HHC, the City is at risk of losing potential interest income until the parties establish new due dates and associated late payment penalties.

\$2.4 Million in Improper Deductions

HHC improperly deducted \$2,450,578 in offsets against EMS payments due the City. These offsets include \$1,454,638 for use of space to operate the fleet maintenance facility at Sea View, \$947,447 in bank charges, and \$48,493 in overstated payments to vendors. With closer oversight, these inappropriate deductions, which accrued over the course of several fiscal years, could have been identified and corrected. However, due to poor oversight, the City was underpaid \$1,448,970 from Fiscal Year 2006 through 2008 and an additional \$1 million between Fiscal Year 2000 through Fiscal Year 2005. (See Table II below for a breakdown of lost revenue to the City.)

Table II
Schedule of Lost Revenue

Description	FY00–05	FY06	FY07	FY08	Total Amount
Improper Rent for Sea View*	\$490,963	\$303,750	\$328,050	\$331,875	\$1,454,638
Bank Charges	510,645	167,859	137,018	131,925	947,447
Overstated Payments to Vendors	—	6,602	13,559	28,332	48,493
Total Lost Revenue to the City	\$1,001,608	\$478,211	\$478,627	\$492,132	\$2,450,578

* HHC began charging additional rent for Sea View in FY 2004.

\$1,454,638 in Improper Rental Payments

HHC improperly charged the City \$1,454,638 as an offset against the Fiscal Year 2004 through Fiscal Year 2008 payments to the City, for use of approximately 10,000 square feet of

space in the Integrated Facility Building, and 4,500 square feet of outdoor parking at Sea View (collectively the “Premises”). Under a license agreement signed on July 20, 2000, HHC granted the City occupancy of the Premises in exchange for FDNY performing quarterly preventative maintenance on approximately 30 hospital vehicles, paving a 5,688 square foot parking lot for hospital use, and installing fencing and lighting around the parking lot area. Since FDNY fulfilled its repair and maintenance requirements, HHC should not have assessed any monetary charges for use of the Premises.

Our review of the EMS Settlement Worksheet revealed that HHC charged the City additional fees per square foot for use of the Premises. However, the license agreement only provides for a barter arrangement between the two parties and contains no provisions for monetary payment. Since square-footage charges were deducted from HHC’s EMS Settlement Worksheets at year end, HHC underpaid the City \$193,513 in Fiscal Year 2004, \$297,450 in Fiscal Year 2005, \$303,750 in Fiscal Year 2006, \$328,050 in Fiscal Year 2007, and \$331,875 in Fiscal Year 2008.³

HHC Response: “HHC concurs with the finding of incorrect charges for the rental of space at Sea View totaling \$1,454,638. The funds owed to the City have been reflected as a credit to the charges that HHC offsets against the final revenue settlement to EMS for FY 2009.”

\$947,447 in Improper Bank Charges

HHC deducted \$947,447 in bank charges for its own lockbox account as an offset against its payments to the City. From Fiscal Year 2000 through Fiscal Year 2008, the City paid HHC’s EMS-related lockbox bank charges. FDNY, through a third-party contractor, performs the billing and collecting functions for non-Medicaid revenue on behalf of HHC, but HHC receives actual payment. Payment is mailed to HHC’s lockbox which is linked to another HHC bank account. Funds are retained by HHC until it pays the City for the services provided by FDNY. Although FDNY, as a third-party notification, receives a monthly bank statement, the MOU does not specify that HHC is entitled to reimbursement for lockbox fees.

HHC Response: “This interpretation of the MOU is inappropriate. The lock box and the related bank account into which EMS revenues flow is established under HHC's tax ID number. The lock box is in the name of FDNY/EMS and captures all non-Medicaid revenues billed by the FDNY. Therefore, it is appropriate to bill FDNY/EMS for the \$947,447 in bank costs associated with the operation of the lock box because the \$437 million in revenue that flowed through the lockbox arrangement for Fiscal Years 2000-2008 between HHC and FDNY/EMS is paid to the City. The lockbox fees are expenses that are ‘passed through’ to the FDNY/EMS.

³ HHC’s annual charge is based on applying a square-foot charge (\$27.00 for Fiscal Year 2006, \$29.16 for Fiscal Year 2007, and \$29.50 for Fiscal Year 2008) to the total square footage of 11,250, which HHC determined FDNY occupies.

“Under the MOU, the party who ultimately receives the revenue for EMS services—the City—should bear the costs of billing and collection. This is expressly so even when HHC, rather than FDNY, is responsible for billing.

“Thus, the MOU provides in paragraph 9 that ‘the City shall pay HHC a reasonable rate, as determined jointly by the City Budget Director and the President of HHC, for the billing and collecting of non-Medicaid revenues for EMS services provided to patients delivered to HHC hospitals’ It follows, of course, that if the City bears the billing and collection costs when HHC is responsible for billing and collections, the City should also bear such costs when it prepares the bills. [Emphasis in original.] And, in fact, since the 1996 merger of EMS functions into FDNY, the City has been responsible for the bank lockbox charges related to EMS revenue—regardless of which entity prepared the bills.”

Auditor Comment: With respect to HHC’s interpretation of paragraph 9 of the MOU, a literal reading of the MOU would suggest that, once HHC ceased the billing and collection function, the City should not be obligated to continually bear the costs associated with a lockbox to hold the funds already collected by FDNY. HHC conveniently omits the remainder of paragraph 9 of the MOU, which states, “or shall assume the responsibility for the billing and collecting of such non-Medicaid revenues.” Since FDNY assumed the billing and collecting of the non-Medicaid revenues in 2002, there is no rational basis for HHC to rely upon this provision of the MOU to justify the City’s paying a “reasonable rate” for the lockbox charges. Although, as HHC contends, the lockbox is in the name of FDNY/EMS, HHC fails to disclose that the lockbox funds are actually deposited into HHC’s Capital Corp bank account and not into a separate City account. Moreover, HHC fails to mention that it continues to pledge EMS revenue as security for millions of dollars in bonds and therefore benefits from having the lock box maintained under its control.

Additionally, HHC contends that “the party who ultimately receives the revenue for EMS services—the City—should bear the costs of billing and collection.” We would agree with this assertion. However, lockbox funds are bypassing the City account and are being directly deposited to an HHC account for HHC to use free of charge. For at least three months HHC has access to millions of dollars at no cost and the right to earn interest on these funds without compensating the City.

Although OMB has stated in its response to the recommendations that it agrees with HHC and has decided that lockbox charges should not be returned, we believe it should reconsider its position and either instruct HHC to pay the additional \$947,447 assessed in the audit or seek to have the FDNY/EMS lockbox funds more expeditiously rerouted so that they will be directly deposited into a City treasury account. Under the present arrangement, the City is being charged for a lockbox service without enjoying corresponding benefits such as the immediate use and potential interest income from the revenue during the three (3) month period that the funds are in HHC’s control.

\$48,493 in Unsubstantiated Expenses Results in Underpayment to the City

HHC inappropriately charged the City for certain EMS vendor payments on the EMS Settlement Worksheet by \$48,493 from Fiscal Year 2006 through 2008. Subsequently, HHC deducted those amounts from its final payment to the City and indicated the adjustment on the EMS Settlement Worksheet. In reviewing these payments, we found no documentation to support the \$48,493 charge to the City, and therefore conclude that the City should not accept these as offsets to revenue due the City from HHC.

Payments made to specific vendors are identified on HHC’s OTPS check register, and each payment has corresponding invoices and/or agreements on file. In addition, vendor names were entered into HHC’s OTPS accounts-payable system and assigned a unique vendor code. However, the \$48,493 in payments that lacked supporting documentation were processed under a miscellaneous code. Miscellaneous coding is also used to process refunds. Therefore, these two types of payments cannot be differentiated. (See Table III for a breakdown.)

Table III
Schedule of Overstated Payments

Fiscal Year	EMS Settlement Worksheet	Payments to Specific Vendors	Payments Lacking Supporting Documentation
2006	\$575,164	\$568,562	\$6,602
2007	664,459	650,900	13,559
2008	<u>628,381</u>	<u>600,049</u>	<u>28,332</u>
TOTAL	\$1,868,004	\$1,819,511	\$48,493

We requested HHC to provide supporting documentation to justify these OTPS payments, but they were unable to do so. Since we could not determine the services received, we question the validity of these charges.

HHC Response: “HHC disagrees with the finding that supporting documentation was not supplied and that there are ‘unsubstantiated’ expenses. The differences totaling \$48,493 in the draft report relate to EMS-generated patient refund checks that were subsequently cancelled or became stale dated. HHC did subsequently provide to the auditors IT-generated reports supporting these amounts.

“However, we do agree HHC underpaid the City by \$48,493 for fiscal 2006 through 2008. EMS patient refunds, net of stale-dated/cancelled checks, appropriately reduces the collections credited to EMS in the settlement calculation. Patient refunds in the OTPS system are not reduced by stale-dated cancelled checks. The resulting difference was inadvertently included in the settlement calculation as OTPS expenditures incurred by EMS. OTPS expenditures incurred by EMS should only be the EMS lease payments and only these amounts will be included from now on.

“HHC has always maintained supporting details and will continue to do so for refund checks issued as well as stale dated/ cancelled checks, which appropriately reduce the patient refunds used in the settlement reconciliation. The OTPS deductions used in the settlement should reflect only those for lease and rental payments paid through the HHC OTPS system on behalf of FDNY/EMS. This has been corrected with the 6/30/09 settlement reconciliation.”

Auditor Comment: On several occasions, we asked HHC officials to provide documentation to support the \$48,493 in overstatements. While HHC did subsequently provide documentation purporting to justify the overstatements, the amounts in the IT-generated reports did not correlate to the \$48,493 in overstatements. Therefore, these differences remain unsubstantiated.

Untimely Payment for EMS Services

HHC does not pay the City within a reasonable time frame for the cost of EMS services. Since 2002, HHC has continuously delayed making timely payments to the City because it has followed an outdated practice of making quarterly payments based on projections of future non-Medicaid collections. This process was established when HHC was billing and collecting EMS payments. However, once FDNY assumed the responsibility for billing functions, the projected collection and quarterly payment process for non-Medicaid revenue should have ceased and payment remitted much sooner than every three months.

Although the MOU no longer requires projected collections and quarterly payments because FDNY performs the billing and collecting functions itself, the MOU did not specify the frequency with which the City should receive payment. There is no basis for HHC to hold these payments for this length of time. Accordingly, HHC should pay the City at least no later than within 30 days from the date HHC receives such payments from patients.

A more expeditious payment arrangement could have supplemented City finances through interest income as far back as 2002. The City parties should negotiate new payment due dates, including penalties for late payment.

HHC Response: “We disagree with the above statements for the following reasons:

- Since the transfer of EMS services to FDNY in 1996, the Corporation had paid and continues to pay on a quarterly schedule, consistent with the terms and agreement stipulated in the MOU. With the exception of Fiscal Year 2006, when the Corporation was going through a fiscal crisis, OMB granted HHC an extension to delay its quarterly payment during this period. As the MOU has not been amended since its inception, the quarterly payment schedule is not an ‘out-dated practice.’
- The Draft Audit Report suggests (p. 10) that after FDNY assumed responsibility in 2002, to prepare bills for transports of non-Medicaid patients to HHC hospitals, (1) the MOU no longer required that the revenue from such transports be included in the

quarterly payments from HHC to the City described in paragraph 8(b) of the MOU, and (2) HHC should pay the City on a more accelerated basis. This suggestion is based on an overly narrow interpretation of the MOU.

First, MOU paragraph 8(b) provides that in the case of transports to HHC hospitals, ‘the City Budget Director and the President of HHC shall jointly project the amount of collections anticipated by HHC for that fiscal year (the ‘HHC Projected Collections’)’ (§8(b)(ii)) to be paid by HHC to the City in four equal payments (§8(b)(iii)), and that they ‘jointly shall determine the amount actually collected by HHC for that fiscal year as a result of the operations of EMS (the ‘Actual HHC Collections’)’ (§8(b)(iv)). A sensible and practical reading of this paragraph is that it may continue to be applied to all revenue received by HHC for Medicaid and non-Medicaid transports to HHC hospitals, regardless of whether HHC or FDNY prepares the bills, as all such billing is done under HHC's provider/tax ID numbers and the revenue there from is necessarily paid to HHC without distinction.

“Second, assuming for the sake of argument that the quarterly payment arrangement specified in the MOU paragraph 8(b) no longer applies to non-Medicaid transports to HHC hospitals once the FDNY assumed billing responsibilities for those transports, the MOU does not preclude HHC and the City from continuing that arrangement. The HHC Projected Collections and HHC Actual Collections have historically included all revenue for EMS services, regardless of who prepared the bills, because, as noted, all such revenue is paid to HHC without distinction.

“Thus, even if it were determined that the quarterly payments were not required by paragraph 8(b) when FDNY prepares the bills, and that the MOU in such case is silent as to the frequency of payments, the City and HHC have always treated the quarterly payment arrangement to apply to all EMS revenue. That treatment is authorized, even if not specifically required, by the MOU, including in paragraph 10, which provides that ‘The Mayor, after consultation with HHC, may modify the funding arrangements set forth in paragraphs 8 and 9 above provided that any such modification does not result in adverse financial consequences for HHC.’ While a change was made in 2002 whereby the FDNY prepared certain EMS bills, no change was made to the quarterly payment arrangement. If additional changes to that arrangement are thought to be necessary, it is up to the Mayor and HHC President under paragraph 10 to make such change.

“In short, the Draft Report incorrectly concludes that ‘there is no basis to hold these [quarterly] payments for this length of time.’ On the contrary, until and unless the Mayor and HHC modify the quarterly payment/annual reconciliation funding arrangement, the quarterly payments may continue.”

Auditor Comment: We disagree with HHC’s response. After extensive review and discussion with representatives of HHC and the City both at our May 15, 2009 exit conference and subsequently via teleconferences, it is our understanding that MOU paragraphs 8(b)(i) and (ii) are applicable *only* to EMS services provided to Medicaid-

eligible patients. It is our understanding that once the FDNY assumed responsibility for billing and collecting for non-Medicaid patients, the provisions of paragraphs 8(b)(i) and (ii) would no longer apply with respect to such non-Medicaid revenue. In fact, paragraph 8(b)(ii) specifically states that “HHC, subject to paragraph 9 of this MOU, shall continue to bill for and receive directly all amounts arising from the provision of EMS services by FDNY to patients delivered to HHC hospitals.” It is paragraph 9 that creates the City’s obligation for the billing and collection of revenues arising from the provision of EMS services to non-Medicaid patients. Therefore, it appears that paragraphs 8(b)(i) and (ii) could not be applicable to non-Medicaid revenue. Since FDNY is performing the billing and collecting of non-Medicaid revenue, there is no need to project such revenues, and pursuant to MOU paragraph 10, the City and HHC were now free to modify the funding arrangements set forth in paragraphs 8 and 9. Thus it is our position that the quarterly payment arrangement need no longer remain in effect and that the City should negotiate a more reasonable repayment schedule that would return those funds more expeditiously to the City treasury.

Further, the intent of our recommendation with respect to this finding is to ensure that the City recoups the money it is due in an expeditious manner so that the costs associated with the EMS services could be offset. Therefore, OMB needs to reconsider its position and act in the best interests of the City instead of maintaining the status quo with HHC.

**Lack of Documentation Supporting
Approval of Delayed Medicaid Payments**

During Fiscal Year 2006, HHC did not separately remit its first two quarterly Medicaid payments and was more than two and a half months late in submitting its third quarterly payment, contrary to provisions of the MOU. According to Section III(8)(iii) of the MOU, HHC is required to repay the City “on the last day of each of the first three quarters of the fiscal year, and the last payment to be made within 60 days of the end of the fiscal year.” After discussing this issue with HHC and OMB personnel, they informed us that HHC had cash-flow problems during Fiscal Year 2006 and received OMB’s permission to postpone the transfer of EMS collections to the City. However, at the time of the discussion, neither OMB nor HHC could supply formal documentation approving the deviation from the terms of the MOU. Subsequent to our May 15, 2009 exit conference, we received a letter from OMB dated May 21, 2009, that retroactively provided written permission for HHC to delay the first three quarterly payments until June 2006. Any deviation from the terms of the MOU should be formally documented in a timely manner, and not retroactively, in order to avoid the appearance of noncompliance and further to provide additional transparency and clarity to the process.

HHC Response: “HHC will observe the audit recommendation to formalize the process by which HHC will request to postpone future payment transfers. OMB works closely and routinely with HHC to monitor its cash flow position throughout the year. The statements in the audit report suggesting HHC and OMB failed to follow appropriate MOU procedures are inaccurate. In circumstances where projected cash flow has the potential to disrupt operations, as was the case during Fiscal Year 2006, delayed payments to the City were permitted. However, it should be noted there is no requirement

that this arrangement be written. The letter received from OMB on May 21, 2009 was made at the auditor's request, and not an attempt to 'ratify' the prior practice."

Auditor Comments: Although, the MOU does not require OMB's written approval to allow HHC to delay making the quarterly payments, we believe that it would be a best business practice to have these approvals in writing.

Other Issues

Payment Delays Results in \$5,052 in Unnecessary Late Fees

FDNY delayed processing several rental payments, through HHC's OTPS system, for one of its radio transmittal towers during Fiscal Year 2008. As a result, late fees were incurred by FDNY in accordance with the lease provisions. However, it appears that since these payments do not come directly from FDNY's budget, but are instead deducted from funds otherwise owed by HHC to FDNY, timely payment was not a priority. For example, on April 9, 2008, FDNY paid rent and license fees for services provided as far back as November 2007. Under the lease, FDNY is required to pay rent on the first day of each month. Consequently, HHC's final payment to the City on the Fiscal Year 2008 EMS Settlement Worksheet was reduced by \$5,052 due to late fees incurred by FDNY.

Inadequate Oversight To Ensure Accountability

The City is not providing adequate oversight to ensure adherence to the provisions of the MOU. The substantial amounts of funds being transferred called for significantly more attention than they received. The additional charges with respect to the use of Sea View and the lockbox, untimely payment for non-Medicaid revenue, and late fees for OTPS expenses, could all have been prevented. Since these EMS payments and associated expenditures reside with HHC, it appears these funds were not subject to the appropriate oversight that should occur, resulting in the reported findings.

Once FDNY took over billing and collections, the City should have updated the repayment schedule between HHC and the City. The failure to remit non-Medicaid to the City in a timely manner contributes to the issues raised in this audit regarding the City's lack of oversight and accountability for the disposition and use of funds.

Moreover, FDNY should have been aware that HHC was charging fees for Sea View even when the barter agreement was in effect. FDNY should have also made its rental payments on time, as required by the lease provisions in order to avoid incurring unnecessary late fees. These conditions may not have occurred had those funds been part of FDNY's normal budgetary process.

RECOMMENDATIONS

HHC should:

1. Pay the City \$2,450,578.

HHC Response: “HHC concurs with the finding of incorrect charges for the rental of space at Sea View totaling \$1,454,638 and the overstated payments to vendors of \$48,493. The \$1,454,638 and the \$48,493 owed to the City will be reflected as a credit to the charges that HHC offsets against the final revenue settlement owed EMS for FY 2009.”

“With respect to the \$947,447 for bank charges, HHC deems these charges to be appropriate. The charges are associated with the operation of a lockbox and bank account in the name of FDNY/EMS through which EMS revenues flow.”

Auditor Comment: We are pleased that HHC has agreed to repay the City approximately \$1.5 million in inappropriate deductions for Sea View and overstated payments. However, as discussed above, we disagree with HHC’s response.

2. Abide by the terms of the July 20, 2000 license agreement and cease assessing the City an indirect cost associated with the City’s use of Sea View Hospital and surrounding area.

HHC Response: “The FY 2009 settlement will not include a rental charge as an offset to the revenues owed EMS. There will be no further Sea View rental charges.”

3. Cease charging the City bank fees associated with HHC’s lockbox account.

HHC Response: “HHC disagrees with this recommendation. While the lockbox and the related bank account into which EMS revenues flow is established under the HHC tax ID number, the lock box is in the name of EMS/FDNY and captures non-Medicaid revenues which result from billings by EMS. HHC believes it is appropriate therefore to bill EMS for the costs associated with the operation of the lockbox. Also, the lockbox fees of \$947,447 are clearly reasonable compared to the related non-Medicaid revenue of \$437 million that flowed through the lockbox during the years cited, fiscal year 2000 through 2008.”

Auditor Comment: As discussed above, these charges should have ceased once FDNY became responsible for the billing and collection function.

4. Maintain supporting documentation for any adjustments or credits against the payments made to the City.

HHC Response: “HHC has always maintained supporting details and will continue to do so.”

5. Negotiate with OMB a more expeditious payment schedule, establish a liquidated damages clause for any delayed non-Medicaid revenue payments, and formalize any modifications to the MOU accordingly.

HHC Response: “The Draft Audit report suggests (p.10) that after FDNY assumed responsibility in 2002, to prepare bills for transports of non-Medicaid patients to HHC hospitals, (1) the MOU no longer required that the revenue from such transports be included in the quarterly payments from HHC to the City described in paragraph 8(b) of the MOU, and (2) HHC should pay the City on a more accelerated basis. The suggestion is based on an inappropriately narrow interpretation. If changes to that arrangement are thought to be necessary, it is up to the Mayor and HHC President to make such a change under MOU ¶10 or ¶ 22.”

“Further, HHC objects to the recommendation for the inclusion of a liquidated damages clause for delayed payment of non-Medicaid revenue. HHC submits its cash flows to City OMB regularly during the fiscal year and requested delays in payment have always been approved verbally by OMB. HHC would only delay such payments should it encounter cash flow problems. Such problems would be brought to the attention of OMB and delay in payment would be authorized in writing by OMB. As a result, any delay would be sanctioned by OMB and thus the imposition of liquidated damages would be inappropriate.”

Auditor Comment: Projected collections and quarterly payments for non-Medicaid transports were subject to FDNY conducting its own billings and collecting—which it started in 2002. Therefore, as more fully discussed above, quarterly payments are no longer required by the MOU. Since FDNY is now performing the billing and collecting functions, the City should receive payment more frequently than every three months. Furthermore, liquidated damages would be imposed only if HHC delays payment without written consent from OMB. We do not understand why HHC maintains that quarterly payment for non-Medicaid revenue is still appropriate and that penalties should not be assessed in the event HHC withholds payment without approval.

Therefore, we continue to recommend that HHC negotiate with OMB on these issues and formalize appropriate modifications to the MOU.

6. Formally memorialize any modifications to the terms of the MOU as they occur.

HHC Response: “HHC concurs with this recommendation. With respect to requesting delays to the payment of non-Medicaid revenue, which we believe is the issue that prompted this recommendation; HHC will request that such approval is received in writing from OMB.”

7. As EMS lease agreements expire, subsequent renewals should be in the name of FDNY.

HHC Response: “HHC disagrees with the recommendation. . . . these leases should remain in the name of HHC and rent payments processed through HHC, as such expense historically has been included on HHC’s books and in the HHC Institutional Cost Report (ICR) filed with the State, and therefore included in the capital cost component of HHC Medicaid rates. If these rent expenses were not included in the ICR, HHC Medicaid rates related to ambulance services would be reduced, which in turn would reduce HHC payments to FDNY for the provision of EMS services.”

Auditor Comment: If HHC contends that the EMS leases must remain in the name of HHC to maintain current Medicaid rates, then HHC and FDNY officials should coordinate efforts that would relinquish payment processing duties to HHC in order to avoid late fees.

OMB, on behalf of the City, should ensure that:

8. HHC pays the City \$2,450,578.

OMB Response: “OMB believes that HHC owes the City \$1,503,131: \$1,454,638 for improper rent at Sea View and \$48,493 for inadvertent accounting errors. HHC has agreed to reimburse the City \$1,503,131 and the \$1,503,131 owed was included in the 6/30/09 EMS final settlement reconciliation.

“The difference between the \$1,503,131 payment that the City and HHC have agreed on and the Comptroller's suggested amount of \$2,450,578 is equal to the bank charges for the EMS revenue lockbox (\$947,447). Since the lockbox is a separate HHC lockbox used solely for EMS revenue, it is appropriate that the cost of the lockbox be paid for with EMS revenue. Therefore OMB finds that the lockbox charges should not be returned.”

Auditor Comment: As more fully discussed above, we believe OMB should reconsider its position and either instruct HHC to pay the additional \$947,447 assessed in the audit or seek to have the FDNY/EMS lockbox funds reimbursed to the City in a more expeditious time frame

9. HHC adheres to the terms of the MOU and that payments of EMS funds are promptly made to the City.

OMB Response: “The City and HHC are currently adhering to the terms of the MOU and payments of EMS funds to the City are made as expeditiously as possible. OMB will continue to work with HHC to ensure that payments are made consistent with agreed upon practice and the terms of the MOU.”

10. An annual reconciliation is performed to verify that all adjustments and credits taken by HHC against the final payment are valid.

OMB Response: “The City and HHC already perform an annual reconciliation to verify adjustments and credits towards the EMS payment. This annual reconciliation process will continue as it has in the past.”

Auditor Comment: OMB, on behalf of the City, should perform a detailed reconciliation of the final revenue settlement to ensure that those improper deductions identified in this audit and any new credits against the final revenue settlement are thoroughly investigated to ensure that all credits are allowable under the MOU.

11. A more expeditious payment schedule, a liquidated damages clause for delayed non-Medicaid revenue payments, and any other revisions are formalized within the MOU.

OMB Response: “OMB will continue to work with HHC to ensure that payments are made consistent with the terms of the MOU and as expeditiously as possible. Any delay in payment would have to be authorized by OMB and as such OMB does not believe that it is necessary or appropriate to add a liquidated damages clause.”

FDNY should:

12. Ensure that rental payments are processed on time.

FDNY Response: “The Department agrees with this recommendation. FDNY always attempts to make timely payments on all invoices. We will ensure that all rental payments are processed on time.”

13. All EMS lease renewals should be in the name of FDNY, and all lease payments processed through FDNY’s normal budgetary process.

FDNY Response: “The Department disagrees with this recommendation. Health and Hospitals Corporation (HHC) has stated that these leases should remain in the name of HHC and rent payments processed through HHC in order for the related rent expense to be included on HHC’s books and in HHC Institutional Cost report (ICR) filed with the State. The space rent expenses reported in the ICR are then included in reimbursable capital costs contained in HHC Medicaid rates, of which FDNY receives its appropriate share. If these rent expenses were not included in the ICR, HHC Medicaid rates related to ambulance services would be reduced and FDNY would not receive its share of State approved Non-Medicare Capital Reimbursement.”

Auditor Comment: As previously stated, if EMS leases must remain in the name of HHC to maintain current Medicaid rates, then FDNY and HHC officials should coordinate efforts that would relinquish payment processing duties to HHC to avoid late fees.

Alan D. Aviles
President

September 11, 2009

John Graham
Deputy Comptroller
Audits, Accountancy and Contracts
The City of New York
Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

RE: Audit Report on the Compliance of the Health and Hospitals Corporation (HHC) with the Financial Provisions of the Ambulance and Pre-hospital Emergency Medical Services Memorandum of Understanding (MOU)-FMO8-080A

Dear Mr. Graham:

Thank you for an opportunity to respond to the above referenced audit.

I was pleased to read the audit results verified that between Fiscal Years 2000 through 2008, HHC processed Emergency Medical Services (EMS) payments and deductions of approximately \$1 billion to the New York City Fire Department (FDNY) with an accuracy rate of 99.99%, representing approximately one million transactions over the nine year audit period.

After a thorough review of the draft audit report, HHC acknowledges your findings concerning the Sea View rental payments of \$1,454,638 and lack of documentation for vendor payments of \$48,493. Accordingly, we have attached a corrective action plan to resolve these matters.

However, we do not concur with several findings (e.g., "Improper Bank Charges", "Untimely Payment for EMS Services" and "Lack of Supporting Documentation Supporting Approval of Delayed Medicaid Payments"), and have prepared a detailed response as noted in Attachment I.

Improper Bank Charges

The MOU provides for the City to pay HHC a reasonable rate for the billing and/or collection of revenues for EMS services provided to patients. Consistent with the MOU, corresponding bank charges for collection services are reasonable and customary fees, and should not have been cited in the report. Attachment I provides for a more detailed response to this finding.

Untimely Payment for EMS Services

The audit's interpretation of the MOU regarding "Untimely Payment for EMS Services" is misleading and inaccurate. As discussed more fully in Attachment I, the language and practice surrounding the MOU did not require a change in the quarterly payment schedule or structure when the FDNY assumed responsibility in 2002 for billing non-Medicaid patients.

Lack of Supporting Documentation Supporting Approval of Delayed Medicaid Payments

While we agree with the audit's recommendation to formalize HHC's request to postpone the transfer of payments, the audit report failed to recognize that OMB works closely with HHC to monitor its cash flow throughout the year. In circumstances where projected cash flow has the potential to disrupt operations, as was the case during Fiscal Year 2006, delayed payments to the City were permitted. There is no requirement that this arrangement be written. The letter received from OMB on May 21, 2009 was made at the auditor's request, and not an attempt to "ratify" the prior practice.

Therefore, based on the above reasons and information provided in Attachment I, these findings should be eliminated from the report.

In closing, HHC objects to the practice of adding new audit findings subsequent to issuance of preliminary draft audit reports. A new audit finding, "Improper Bank Charges", was introduced in the final draft report for this audit, and was not presented in the preliminary draft report or discussed during fieldwork, the exit conference, or the three month interim period prior to issuance of the final draft report. As a result, the Corporation was not given an opportunity to provide documentation that could have eliminated the finding. Had this finding been discussed with all three agencies during any of the above stages, we believe the issue would have been effectively resolved.

This situation also occurred in the "Audit of Inventory Controls over Non-Controlled Drugs at Coney Island Hospital", wherein new findings were incorporated in the final draft report prior to verifying their accuracy with Corporate management. While I am certain this was unintentional; I respectfully request a return to prior audit protocols which permitted an open assessment of all findings to ensure concurrence of reportable matters.

Attachment I is the detailed response to the reported audit findings. Attachment II is the Audit Implementation Plan, which addresses all the recommendations cited in the report.

Should you have any questions concerning this response, please contact Mr. Walter Otero, Assistant Vice President, Internal Audits at (646) 458-5603.

Sincerely,



Alan D. Aviles

- cc. R. Raju, MD, FACS, MBA, Executive Vice President/Corporate Chief Medical Officer,
Medical & Professional Affairs
- F.J. Cirillo, Senior Vice President, Operations/COO
- R. Levy, General Counsel, Legal Affairs
- M. Zurack, Senior Vice President, Finance
- A. Marengo, Senior Assistant Vice President, Communications & Marketing
- J. Schick, Chief of Staff, President's Office
- G. Marino, Corporate Comptroller
- M. Genee, Deputy Corporate Comptroller
- L. Migdal, Deputy Chief Financial Officer
- W. Otero, Assistant Vice President, Office of Internal Audits
- S. Rush, Assistant Commissioner, New York City Fire Department
- M. Choi, New York City Office of Management Budget

Audit Report on the Compliance of the Health and Hospitals Corporation with the Financial Provisions of the Ambulance and Pre-hospital Emergency Medical Services Memorandum of Understanding

Attachment I

Although the Comptroller's audit report cites specific areas in need of improvement, HHC takes exception to the characterization that the Corporation "improperly" deducted \$2,450,578 in offsets against EMS payments due the City. There were valid and substantive reasons for the various deductions, as they were related to the Fire Department's ambulance services provided under the existing MOU. HHC has provided year-end reconciliations detailing all deductions/adjustments to the Fire Department in accordance with the MOU stipulations. Further, the reconciliations to the FDNY included the EMS lockbox/bank account charges which were acceptable under the MOU as to their propriety or reasonableness. We have addressed each of the audit findings as presented in the audit report.

The Draft Audit Report states (page 8):

\$1,454,638 in Improper Rental Payments

"HHC improperly charged the City \$1,454,638 as an offset against the Fiscal Year 2004 through Fiscal Year 2008 payments to the City, for use of approximately 10,000 square feet of space in the Integrated Facility Building, and 4,500 square feet of outdoor parking at Sea View (collectively the "Premises"). Under a license agreement signed on July 20, 2000, HHC granted the City occupancy of the Premises in exchange for FDNY performing quarterly preventative maintenance on approximately 30 hospital vehicles, paving a 5,688 square foot parking lot for hospital use, and installing fencing and lighting around the parking lot area. Since FDNY fulfilled its repair and maintenance requirements, HHC should not have assessed any monetary charges for use of the Premises."

HHC's Response

HHC concurs with the finding of incorrect charges for the rental of space at Sea View totaling \$1,454,638. The funds owed to the City have been reflected as a credit to the charges that HHC offsets against the final revenue settlement to EMS for FY 2009.

The Draft Audit Report states (page 9):

\$947,447 in Improper Bank Charges

HHC improperly “deducted \$947,447 in bank charges for its own lockbox account as an offset against its payments to the City” because “the MOU does not specify that HHC is entitled to reimbursement for lockbox fees.”

HHC’s Response

This interpretation of the MOU is inappropriate. The lock box and the related bank account into which EMS revenues flow is established under HHC’s tax ID number. The lock box is in the name of FDNY/EMS and captures all non-Medicaid revenues billed by the FDNY. Therefore, it is appropriate to bill FDNY/EMS for the \$947,447 in bank costs associated with the operation of the lock box because the \$437 million in revenue that flowed through the lockbox arrangement for Fiscal Years 2000-2008 between HHC and FDNY/EMS is paid to the City. The lockbox fees are expenses that are “passed through” to the FDNY/EMS.

Under the MOU, the party who ultimately receives the revenue for EMS services – the City -- should bear the costs of billing and collection. This is expressly so even when HHC, rather than FDNY, is responsible for billing.

Thus, the MOU provides in paragraph 9 that “the City shall pay HHC a reasonable rate, as determined jointly by the City Budget Director and the President of HHC, for the billing and collecting of non-Medicaid revenues for EMS services provided to patients delivered to HHC hospitals” It follows, of course, that if the City bears the billing and collection costs when HHC is responsible for billing and collections, the City should also bear such costs when it prepares the bills. And, in fact, since the 1996 merger of EMS functions into FDNY, the City has been responsible for the bank lockbox charges related to EMS revenue – regardless of which entity prepared the bills.

Should the City wish to change this longstanding arrangement, paragraph 10 specifies that such a change may be possible after consultation with HHC, but only if the modification does not result in adverse financial consequences for HHC. Clearly, shifting bank charges to HHC when HHC does not retain the EMS revenue would result in adverse financial consequences for HHC, and would not be permissible. Paragraph 22 also provides for the MOU to be amended or terminated by written agreement between the Mayor and the President of HHC, but there has been no such agreement.

During audit fieldwork, this issue/finding was not presented or discussed with the HHC, FDNY and OMB at the time the preliminary draft report was issued on April 21, 2009, or at the exit conference held on May 15, 2009. Had any of these avenues been taken to discuss this finding with all three agencies, this issue could have been effectively resolved prior to issuance of the formal draft report.

Therefore, based on the above reasons, this finding should be eliminated from the report.

The Draft Audit Report (page 9):

\$48,493 in Unsubstantiated Expenses Results in Underpayment to the City

“HHC inappropriately charged the City for certain EMS vendor payments on the EMS Settlement Worksheet by \$48,493 from Fiscal Year 2006 through 2008. Subsequently, HHC deducted those amounts from its final payment to the City and indicated the adjustment on the EMS Settlement Worksheet. In reviewing these payments, we found no documentation to support the \$48,493 charge to the City, and therefore conclude that the City should not accept these as offsets to revenue due the City from HHC.”

HHC's Response

HHC disagrees with the finding that supporting documentation was not supplied and that there are "unsubstantiated" expenses. The differences totaling \$48,493 in the draft report relate to EMS-generated patient refund checks that were subsequently cancelled or became stale dated. HHC did subsequently provide to the auditors IT-generated reports supporting these amounts.

However, we do agree HHC underpaid the City by \$48,493 for fiscal 2006 through 2008. EMS patient refunds, net of stale-dated/cancelled checks, appropriately reduces the collections credited to EMS in the settlement calculation. Patient refunds in the OTPS system are not reduced by stale-dated cancelled checks. The resulting difference was inadvertently included in the settlement calculation as OTPS expenditures incurred by EMS. OTPS expenditures incurred by EMS should only be the EMS lease payments and only these amounts will be included from now on.

HHC has always maintained supporting details and will continue to do so for refund checks issued as well as stale dated/ cancelled checks, which appropriately reduce the patient refunds used in the settlement reconciliation. The OTPS deductions used in the settlement should reflect

only those for lease and rental payments paid through the HHC OTPS system on behalf of FDNY/EMS. This has been corrected with the 6/30/09 settlement reconciliation.

The Draft Audit Report (page 10):

Untimely Payment for EMS Services

“HHC does not pay the City within a reasonable time frame for the cost of EMS services. Since 2002, HHC has continuously delayed making timely payments to the City because it has followed an outdated practice of making quarterly payments based on projections of future non-Medicaid collections. This process was established when HHC was billing and collecting EMS payments. However, once FDNY assumed the responsibility for billing functions, the projected collection and quarterly payment process for non-Medicaid revenue should have ceased and payment remitted much sooner than every three months.”

“Although the MOU no longer requires projected collections and quarterly payments because FDNY performs the billing and collecting functions itself, the MOU did not specify the frequency with which the City should receive payment. There is no basis for HHC to hold these payments for this length of time. Accordingly, HHC should pay the City at least no later than within 30 days from the date HHC receives such payments from patients.”

HHC’s Response

We disagree with the above statements for the following reasons:

- Since the transfer of EMS services to FDNY in 1996, the Corporation had paid and continues to pay on a quarterly schedule, consistent with the terms and agreement stipulated in the MOU. With the exception of Fiscal Year 2006, when the Corporation was going through a fiscal crisis, OMB granted HHC an extension to delay its quarterly payment during this period. As the MOU has not been amended since its inception, the quarterly payment schedule is not an “out-dated practice.”
- The Draft Audit Report suggests (p. 10) that after FDNY assumed responsibility in 2002, to prepare bills for transports of non-Medicaid patients to HHC hospitals, (1) the MOU no longer required that the revenue from such transports be included in the quarterly payments from HHC to the City described in paragraph 8(b) of the MOU, and (2) HHC

should pay the City on a more accelerated basis. This suggestion is based on an overly narrow interpretation of the MOU.

First, MOU paragraph 8(b) provides that in the case of transports to HHC hospitals, “the City Budget Director and the President of HHC shall jointly project the amount of collections anticipated by HHC for that fiscal year (the ‘HHC Projected Collections’)” (§ 8(b)(ii)), to be paid by HHC to the City in four equal payments (§ 8(b)(iii)), and that they “jointly shall determine the amount actually collected by HHC for that fiscal year as a result of the operations of EMS (the ‘Actual HHC Collections’)” (§ 8(b)(iv)). A sensible and practical reading of this paragraph is that it may continue to be applied to all revenue received by HHC for Medicaid and non-Medicaid transports to HHC hospitals, regardless of whether HHC or FDNY prepares the bills, as all such billing is done under HHC’s provider/tax ID numbers and the revenue there from is necessarily paid to HHC without distinction.

Second, assuming for the sake of argument that the quarterly payment arrangement specified in the MOU paragraph 8(b) no longer applies to non-Medicaid transports to HHC hospitals once the FDNY assumed billing responsibilities for those transports, the MOU does not preclude HHC and the City from continuing that arrangement. The HHC Projected Collections and HHC Actual Collections have historically included all revenue for EMS services, regardless of who prepared the bills, because, as noted, all such revenue is paid to HHC without distinction.

Thus, even if it were determined that the quarterly payments were not required by paragraph 8(b) when FDNY prepares the bills, and that the MOU in such case is silent as to the frequency of payments, the City and HHC have always treated the quarterly payment arrangement to apply to all EMS revenue. That treatment is authorized, even if not specifically required, by the MOU, including in paragraph 10, which provides that “The Mayor, after consultation with HHC, may modify the funding arrangements set forth in paragraphs 8 and 9 above provided that any such modification does not result in adverse financial consequences for HHC.” While a change was made in 2002 whereby the FDNY prepared certain EMS bills, no change was made to the quarterly payment arrangement. If additional changes to that arrangement are thought to be necessary, it is up to the Mayor and HHC President under paragraph 10 to make such change.

In short, the Draft Report incorrectly concludes that “there is no basis to hold these [quarterly] payments for this length of time.” On the contrary, until and unless the Mayor

and HHC modify the quarterly payment/annual reconciliation funding arrangement, the quarterly payments may continue.

Therefore, based on the above reasons, this finding should be eliminated from the report.

The Draft Audit Report (page 10):

Lack of Documentation Supporting Approval of Delayed Medicaid Payments

“During Fiscal Year 2006, HHC did not separately remit its first two quarterly Medicaid payments and was more than two and a half months late in submitting its third quarterly payment, contrary to provisions of the MOU. According to Section 111(8) (iii) of the MOU, HHC is required to repay the City “on the last day of each of the first three quarters of the fiscal year, and the last payment to be made within 60 days of the end of the fiscal year.” After discussing this issue with HHC and OMB personnel, they informed us that HHC had cash-flow problems during Fiscal Year 2006 and received OMB’s permission to postpone the transfer of EMS collections to the City. However, at the time of the discussion, neither OMB nor HHC could supply formal documentation approving the deviation from the terms of the MOU. Subsequent to our May 15, 2009 exit conference, we received a letter from OMB dated May 21, 2009, that retroactively provided written permission for HHC to delay the first three quarterly payments until June 2006. Any deviation from the terms of the MOU should be formally documented in a timely manner, and not retroactively, in order to avoid the appearance of non-compliance issues and further to provide additional transparency and clarity to the process.”

HHC’s Response

HHC will observe the audit recommendation to formalize the process by which HHC will request to postpone future payment transfers. OMB works closely and routinely with HHC to monitor its cash flow position throughout the year. The statements in the audit report suggesting HHC and OMB failed to follow appropriate MOU procedures are inaccurate. In circumstances where projected cash flow has the potential to disrupt operations, as was the case during Fiscal Year 2006, delayed payments to the City were permitted. However, it should be noted there is no requirement that this arrangement be written. The letter received from OMB on May 21, 2009 was made at the auditor’s request, and not an attempt to “ratify” the prior practice.

ATTACHMENT I
PART A

MAYOR'S OFFICE OF OPERATIONS
AUDIT COORDINATION AND REVIEW
AUDIT IMPLEMENTATION PLAN

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) Memorandum of Understanding (MOU) Date: August 21, 2009 Audit Agency: The City of New York Office of the Comptroller

Agency: NYC/HHC (OIA # 08-02) Audit Title: August 21, 2009 Audit No.: EM08-080A OMB Control No.:

RECOMMENDATIONS WITH WHICH THE AGENCY AGREES AND INTENDS TO IMPLEMENT	METHODS/PROCEDURES	IMPLEMENTATION TARGET DATE
<p><u>Recommendation # 1</u> New York City Health & Hospitals Corporation (HHC) should pay the City \$2,450,578. (Page 13)</p>	<p>HHC concurs with the finding of incorrect charges for the rental of space at Sea View totaling \$1,454,638 and the overstated payments to vendors of \$48,493. The \$1,454,638 and \$48,493 owed to the City will be reflected as a credit to the charges that HHC offsets against the final revenue settlement owed EMS for FY 2009. See Part C for the balance of \$947,447 for bank charges for which HHC disagrees with in this recommendation.</p>	<p>Implemented. The \$1,503,131 owed was included in the 6/30/09 EMS final settlement reconciliation.</p>
<p><u>Recommendation # 2</u> HHC should abide by the terms of the July 20, 2000 license agreement and cease assessing the City an indirect cost associated with the City's use of Sea View Rehabilitation Center & Home and surrounding area. (Page 13)</p>	<p>The FY 2009 settlement will not include a rental charge as an offset to the revenues owed EMS. There will be no further Sea View rental charges.</p>	<p>Implemented with the 6/30/09 EMS final settlement reconciliation.</p>
<p><u>Recommendation # 4</u> HHC should maintain supporting documentation for any adjustments or credits against the payments made to the City. (Page 13)</p>	<p>HHC has always maintained supporting details and will continue to do so.</p>	<p>Currently in effect</p>
<p><u>Recommendation # 6</u> HHC should formally memorialize any modifications to the terms of the MOU, when occurred. (Page 13)</p>	<p>HHC concurs with this recommendation. With respect to requesting delays to the payment of non-Medicaid revenue, which we believe is the issue that prompted this recommendation, HHC will request that such approval is received in writing from OMB.</p>	<p>Implemented</p>

ATTACHMENT I
PART B

MAYOR'S OFFICE OF OPERATIONS
AUDIT COORDINATION AND REVIEW
AUDIT IMPLEMENTATION PLAN

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) Memorandum of Understanding (MOU) Date: August 21, 2009 Audit Agency: The City of New York Office of the Comptroller

Agency: NYCHHC (OMA # 08-02) Audit Date: August 21, 2009 Audit No: FM08-080A OMB Control No: _____

RECOMMENDATIONS WITH WHICH THE AGENCY AGREES BUT IS UNABLE TO IMPLEMENT	REASONS FOR INABILITY TO IMPLEMENT	WHAT IS NEEDED TO ALLOW FOR IMPLEMENTATION (RESOURCES, PERSONNEL, LEGISLATION, LEGAL OPINION, ETC.)
NOT APPLICABLE		

ATTACHMENT I

PART C.

MAYOR'S OFFICE OF OPERATIONS
AUDIT COORDINATION AND REVIEW
AUDIT IMPLEMENTATION PLAN

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) Memorandum of Understanding (MOU) Date: August 21, 2009 Audit Agency: The City of New York Office of the Comptroller

Agency: NYC/HHC (OJA # 08-02) Audit Date: August 21, 2009 Audit No: FM08-080A OMB Control No: _____

RECOMMENDATIONS WITH WHICH THE AGENCY DISAGREES AND DOES NOT INTEND TO IMPLEMENT	REASONS FOR DISAGREEMENT AND REFUSAL TO IMPLEMENT
<p><u>Recommendation #1</u> New York City Health and Hospitals Corporation should pay the City \$947,447 for bank charges (Page 13)</p>	<p>With respect to the \$947,447 for bank charges, HHC deems these charges to be appropriate. The charges are associated with the operation of a lockbox and bank account in the name of FDNY/EMS through which EMS revenues flow. See Attachment I for further response and reasons for disagreement re: \$947,447 in Improper Bank Charges.</p>
<p><u>Recommendation #3</u> HHC should cease charging the City bank fees associated with HHC's lock-box account. (Page 13)</p>	<p>HHC disagrees with this recommendation. While the lock box and the related bank account into which EMS revenues flow is established under the HHC tax ID number, the lock box is in the name of EMS/FDNY and captures non-Medicare revenues which result from billings by EMS. HHC believes it is appropriate therefore to bill EMS for the costs associated with the operation of the lock box. Also the lockbox fees of \$947,447 are clearly reasonable compared to the related non-Medicare revenue of \$437 million that flowed through the lockbox for the years cited, fiscal year 2000 through 2008. See Attachment I for further response and reasons for disagreement re: \$947,447 in Improper Bank Charges.</p>

ATTACHMENT I
PART C

MAYOR'S OFFICE OF OPERATIONS
AUDIT COORDINATION AND REVIEW
AUDIT IMPLEMENTATION PLAN

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) Memorandum of Understanding (MOU) Date: August 21, 2009 Audit Agency: The City of New York Office of the Comptroller

Agency: NYC/HHC (OIA # 08-02) Audit Date: August 21, 2009 Audit No: EMC08-080A OMB Control No: _____

RECOMMENDATIONS WITH WHICH THE AGENCY DISAGREES AND DOES NOT INTEND TO IMPLEMENT	REASONS FOR DISAGREEMENT AND REFUSAL TO IMPLEMENT
<p><u>Recommendation # 5</u></p> <p>HHC should negotiate with the Office of Management Budget (OMB) a more expeditious payment schedule, establish a liquidated damages clause for any delayed non-Medicare revenue payments and formalize any modifications to the Memorandum of Understanding (MOU) accordingly. (Page 13)</p>	<p>The Draft Audit Report suggests (p. 10) that after FDNY assumed responsibility, in 2002, to prepare bills for transports of non-Medicare patients to HHC hospitals, (1) the MOU no longer required that the revenue from such transports be included in the quarterly payments from HHC to the City described in paragraph 8(b) of the MOU, and (2) HHC should pay the City on a more accelerated basis. The suggestion is based on an inappropriately narrow interpretation. If changes to that arrangement are thought to be necessary, it is up to the Mayor and HHC President to make such a change under MOU ¶ 10 or ¶ 22. See Attachment 1 for further response and reasons for disagreements re: negotiating a more expeditious payment schedule with OMB.</p> <p>Further, HHC objects to the recommendation for the inclusion of a liquidated damages clause for delayed payment of non-Medicare revenue. HHC submits its cash flows to City OMB regularly during the fiscal year and requested delays in payment have always been approved verbally by OMB. HHC would only delay such payments should it encounter cash flow problems. Such problems would be brought to the attention of OMB and delay in payment would be authorized in writing by OMB. As a result, any delay would be sanctioned by OMB and thus the imposition of liquidated damages would be inappropriate. See Attachment 1 for further response and reasons for disagreements re: Untimely Payment for EMS Services.</p>

MAYOR'S OFFICE OF OPERATIONS
 AUDIT COORDINATION AND REVIEW
 AUDIT IMPLEMENTATION PLAN

ATTACHMENT I
 PART C

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) Memorandum of Understanding (MOU) Date: August 21, 2009 Audit Agency: The City of New York Office of the Comptroller

Agency: NYCHHC/OIA # 08-02 Audit Date: August 21, 2009 Audit No.: EMIG08-080A OMB Control No. _____

RECOMMENDATIONS WITH WHICH THE AGENCY DISAGREES AND DOES NOT INTEND TO IMPLEMENT	REASONS FOR DISAGREEMENT AND REFUSAL TO IMPLEMENT
<p><u>Recommendation # 7</u></p> <p>HHC should ensure that, as Emergency Medical Services (EMS) lease agreements expire, subsequent renewals be in the name of the New York City Fire Department (FDNY). (Page 13)</p>	<p>HHC disagrees with the recommendation that as EMS lease agreements for space expire, subsequent renewals should be in the name of FDNY and all lease payments processed through FDNY's normal budgetary process. We explained to the City Comptroller audit team that these leases should remain in the name of HHC and rent payments processed through HHC, as such expense historically has been included on HHC's books and in the HHC Institutional Cost Report (ICR) filed with the State, and therefore included in the capital cost component of HHC Medicaid rates. If these rent expenses were not included in the ICR, HHC Medicaid rates related to ambulance services would be reduced, which in turn would reduce HHC payments to FDNY for the provision of EMS services.</p>



The City of New York
Office of Management and Budget
75 Park Place • New York, New York 10007-2146
Telephone: (212) 788-5900 • Fax: (212) 788-6300

Mark Page
Director

September 11, 2009

Mr. John Graham
Deputy Comptroller
Audits, Accountancy & Contracts
The City of New York Office of the Comptroller
1 Centre Street
New York, NY 10007-2341

**Re: Audit Report of the Compliance of the Health and Hospitals Corporation
 with the Financial Provisions of the Ambulance and Pre-hospital Emergency
 Medical Services Memorandum of Understanding – FM08-080A**

Dear Mr. Graham:

Attached is a copy of the Office of Management and Budget's (OMB) response and Agency Implementation Plan (AIP) for the four recommendations (numbers 8 – 11) pertaining to OMB made by the Office of the Comptroller in the above referenced audit.

Thank you for the opportunity to respond to the audit. Should you have any questions regarding our response or AIP, please contact P.V. Anantharam, Deputy Director, at (212) 788-5894.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Page".

Mark Page

Attachment

c. Steven Levine, Deputy Director
P.V. Anantharam, Deputy Director
Steve Rush, Assistant Commissioner, New York City Fire Department
Walter Otero, Assistant Vice President, Health and Hospitals Corporation

Audit Report on the Compliance of the Health and Hospitals Corporation with the Financial Provisions of the Ambulance and Pre-hospital Emergency Medical Services Memorandum of Understanding – FM08-08A

Audit Recommendations – Office of Management and Budget Response

8) OMB, on behalf of the City, should ensure that HHC pays the City \$2,450,578.

OMB Response: OMB believes that HHC owes the City \$1,503,131: \$1,454,638 for improper rent at Sea View and \$48,493 for inadvertent accounting errors. HHC has agreed to reimburse the City \$1,503,131 and the \$1,503,131 owed was included in the 6/30/09 EMS final settlement reconciliation.

The difference between the \$1,503,131 payment that the City and HHC have agreed on and the Comptroller's suggested amount of \$2,450,578 is equal to the bank charges for the EMS revenue lockbox (\$947,447). Since the lockbox is a separate HHC lockbox used solely for EMS revenue, it is appropriate that the cost of the lockbox be paid for with EMS revenue. Therefore OMB finds that the lockbox charges should not be returned.

9) OMB, on behalf of the City, should ensure that HHC adheres to the terms of the MOU and that payments of EMS funds are promptly made to the City.

OMB Response: The City and HHC are currently adhering to the terms of the MOU and payments of EMS funds to the City are made as expeditiously as possible. OMB will continue to work with HHC to ensure that payments are made consistent with agreed upon practice and the terms of the MOU.

10) OMB, on behalf of the City, should ensure that an annual reconciliation is performed to verify that all adjustments and credits taken by HHC against the final payment are valid.

OMB Response: The City and HHC already perform an annual reconciliation to verify adjustments and credits towards the EMS payment. This annual reconciliation process will continue as it has in the past.

11) OMB, on behalf of the City, should ensure that a more expeditious payment schedule, a liquidated damages clause for delayed non-Medicaid revenue payments and any other revisions are formalized within the MOU.

OMB Response: OMB will continue to work with HHC to ensure that payments are made consistent with the terms of the MOU and as expeditiously as possible. Any delay in payment would have to be authorized by OMB and as such OMB does not believe that it is necessary or appropriate to add a liquidated damages clause.

VI DII IMPLEMENTATION PLAN - OMB

PART A

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) Memorandum of Understanding (MOU) Date: 21-Aug-09 Audit Agency: The City of New York Office of the Comptroller

Agency: OMB Audit Date: 21-Aug-09 Audit No.: FM08-080A

Audit Title: Audit of HHC This response is by OMB associated with recommendations for OMB.

RECOMMENDATIONS WITH WHICH THE AGENCY AGREES AND INTENDS TO IMPLEMENT	METHODS/PROCEDURES	IMPLEMENTATION TARGET DATE
<p><u>Recommendation #8</u></p> <p>OMB, on behalf of the City, should ensure that HHC pays the City \$2,430,578.</p>	<p>OMB believes that HHC owes the City \$1,503,131; \$1,454,638 for improper rent at Sea View and \$48,493 for inadvertent accounting errors. HHC has agreed to reimburse the City \$1,503,131 and the \$1,503,131 owed was included in the 6/30/09 EMS final settlement reconciliation.</p> <p>See Part C for the balance of \$947,447 for bank charges which OMB disagrees with in this recommendation.</p>	<p>Implemented. The \$1,503,131 owed was included in the 6/30/09 EMS final settlement reconciliation</p>
<p><u>Recommendation #9</u></p> <p>OMB, on behalf of the City, should ensure that HHC adheres to the terms of the MOU and that payments of EMS funds are promptly made to the City.</p>	<p>The City and HHC are currently adhering to the terms of the MOU and payments of EMS funds to the City are made as expeditiously as possible. OMB will continue to work with HHC to ensure that payments are made consistent with agreed upon practice and the terms of the MOU.</p>	<p>Currently in effect</p>
<p><u>Recommendation #10</u></p> <p>OMB, on behalf of the City, should ensure that an annual reconciliation is performed to verify that all adjustments and credits taken by HHC against the final payment are valid.</p>	<p>The City and HHC already perform an annual reconciliation to verify adjustments and credits towards the EMS payment. This annual reconciliation process will continue as it has in the past.</p>	<p>Currently in effect.</p>

PART B

AUDIT IMPLEMENTATION PLAN - OMB

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) memorandum of Understanding (MOU) Date: 21-Aug-09 Audit Agency: The City of New York Office of the Comptroller

Agency: DMH This response is by OMB associated with recommendations for DMH Audit Date: 21-Aug-09 Audit No.: FM08-080A

RECOMMENDATIONS WITH WHICH THE AGENCY AGREES BUT IS UNABLE TO IMPLEMENT	REASONS FOR INABILITY TO IMPLEMENT	WHAT IS NEEDED TO ALLOW FOR IMPLEMENTATION (RESOURCES, PERSONNEL, LEGISLATION, LEGAL OPINION)
NOT APPLICABLE		

AUDIT IMPLEMENTATION PLAN - OMB

PART C

Audit Title: Audit Report of HHC's Compliance with the Financial Provisions of the Ambulance & Pre-Hospital Emergency Medical Services (EMS) memorandum of Understanding (MOU) Date: 21-Aug-09 Audit Agency: The City of New York Office of the Comptroller

Agency: Audit of HHC. This response is by OMB associated with recommendations for OMB. Audit Date: 21-Aug-09 Audit No.: FM08-080A

RECOMMENDATIONS WITH WHICH THE AGENCY DISAGREES AND DOES NOT INTEND TO IMPLEMENT	REASONS FOR DISAGREEMENT AND REFUSAL TO IMPLEMENT
<p><u>Recommendation #8</u></p> <p>OMB, on behalf of the City, should ensure that HHC pays the City \$947,447 for bank charges</p>	<p>The difference between the \$1,503,131 payment that the City and HHC have agreed on and the Comptroller's suggested amount of \$2,450,578 is equal to the bank charges for the EMS revenue lockbox (\$947,447). Since the lockbox is a separate HHC lockbox used solely for EMS revenue, it is appropriate that the cost of the lockbox be paid for with EMS revenue. Therefore OMB finds that the lockbox charges should not be returned</p>
<p><u>Recommendation #11</u></p> <p>OMB, on behalf of the City, should ensure that a more expeditious payment schedule, a liquidated damages clause for delayed non-Medicaid revenue payments and any other revisions are formalized within the MOU</p>	<p>OMB will continue to work with HHC to ensure that payments are made consistent with the terms of the MOU and as expeditiously as possible. Any delay in payment would have to be authorized by OMB and as such OMB does not believe that it is necessary or appropriate to add a liquidated damages clause.</p>



FIRE DEPARTMENT
9 METROTECH CENTER BROOKLYN, N.Y. 11201-3857



NICHOLAS SCOPPETTA
Fire Commissioner

September 1, 2009

Mr. John Graham
Deputy Comptroller
Audits, Accountancy & Contracts
The City of New York Office of the Comptroller
1 Centre Street
New York, NY 10007-2341

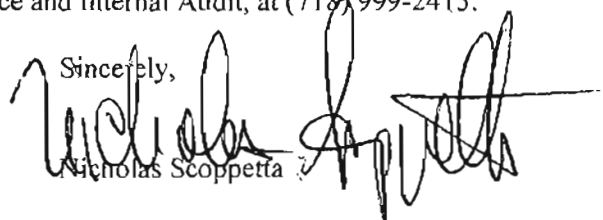
Re: Audit Report on the Compliance of the Health and Hospitals Corporation with the Financial Provisions of the Ambulance and Pre-hospital Emergency Medical Services Memorandum of Understanding - FM08-080A

Dear Mr. Graham:

Attached is a copy of the Fire Department's response and Agency Implementation Plan (AIP) to the two recommendations made by the Office of the Comptroller in the above mentioned audit.

Please thank your staff for the time and diligence that they put into this audit – the Department appreciates their efforts, and intends to utilize their recommendations wherever possible.

If you have any questions about our response or AIP, please contact Domenick Loccisano, Executive Director of Compliance and Internal Audit, at (718) 999-2415.

Sincerely,

Nicholas Scoppetta

Attachment

cc: William Eimicke, Deputy Commissioner Strategic Planning and Policy
Michael Vecchi, Associate Commissioner Management Initiatives
Stephen Rush, Assistant Commissioner Budget and Finance
Robert Scott, Agency Chief Contracting Officer
Ray Saylor, Chief Compliance Officer
Richard Brennan, Director Revenue Management
George Davis III, Deputy Director Mayor's Office of Operations

Audit Report on the Compliance of the Health and Hospitals Corporation with the Financial Provisions of the Ambulance and Pre-hospital Emergency Medical Services Memorandum of Understanding - FM08-080A

Audit Recommendations / FDNY Response – Agency Implementation Plan

1) Ensure that rental payments are processed on time.

FDNY Response - The Department agrees with this recommendation. FDNY always attempts to make timely payments on all invoices. We will ensure that all rental payments are processed on time.

2) All EMS lease renewals should be in the name of the FDNY and all lease payments processed through the FDNY's normal budgetary process.

FDNY Response - The Department disagrees with recommendation. Health and Hospitals Corporation (HHC) has stated that these leases should remain in the name of HHC and rent payments processed through HHC in order for the related rent expense to be included on HHC's books and in the HHC Institutional Cost Report (ICR) filed with the State. These space rent expenses reported in the ICR are then included in reimbursable capital costs contained in HHC Medicaid rates, of which FDNY receives its appropriate share. If these rent expenses were not included in the ICR, HHC Medicaid rates related to ambulance services would be reduced and FDNY would not receive its share of State approved Non-Medicare Capital Reimbursement.