



City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



FINANCIAL AUDIT

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Deputy Comptroller for Audit

Audit Report on the Compliance of
Metro Cruise Services, L.L.C. with Its
Operating Agreement for the Brooklyn
Cruise Terminal

FN17-081A

June 29, 2017

<http://comptroller.nyc.gov>



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

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To the Residents of the City of New York:

My office has audited Metro Cruise Services, L.L.C.'s (MCS') compliance with its operating agreement (Operating Agreement) with the New York City Economic Development Corporation (EDC) for the Brooklyn Cruise Terminal (BCT). The audit examined whether MCS paid the City the correct amount of revenue as required under the Operating Agreement and whether it complied with the other major requirements of the agreement. In addition, the audit sought to determine whether EDC provided sufficient oversight of MCS' performance to protect the City's interests.

This audit found that MCS understated the Operating Income due the City by at least \$98,221 through its inaccurate computation and deduction of security costs. The audit further found that MCS maintained insufficient records to enable us to determine whether it properly reported and shared with the City the special event revenue generated at the BCT. Lastly, this audit identified gaps within MCS' fresh water meter readings that MCS did not document or satisfactorily explain. As a result, we question the accuracy of the payments made to the City for the provision of fresh water.

With respect to EDC's oversight of the BCT, the audit found that EDC did not sufficiently oversee MCS' compliance with the Operating Agreement to ensure that MCS paid the correct amount to the City. Specifically, EDC did not verify the accuracy of the passenger counts on which MCS computed the wharfage fees due to the City, MCS' reported fresh water revenue, Safety and Security Costs, and routine maintenance costs.

The audit made one recommendation to MCS and three recommendations to EDC. Specifically, the audit recommended that MCS should remit \$98,221 to the City for improperly claimed Safety and Security Costs. The audit also recommended that EDC review all prior payments and the corresponding supporting documentation submitted by MCS to calculate the Operating Income payable to the City; recoup all Operating Income owed to the City by MCS; and implement procedures to ensure any successor operating the BCT accurately reports Operating Revenue.

The results of the audit have been discussed with MCS and EDC officials, and their comments have been considered in the preparation of this report. Their complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the Compliance of Metro Cruise Services, L.L.C. with Its Operating Agreement for the Brooklyn Cruise Terminal

FN17-081A

EXECUTIVE SUMMARY

In May 2013, the City of New York (the City), acting through the New York City Economic Development Corporation (EDC), entered into an operating agreement (the Operating Agreement) with Metro Cruise Services, L.L.C. (MCS), which provides that MCS shall be the sole and exclusive operator of the Brooklyn Cruise Terminal (BCT).¹ As operator, MCS is responsible for the day-to-day operations of the BCT and is tasked with the management of the pier. MCS's responsibilities include providing docking, stevedoring, and meeting any other needs of vessels accommodated there.

Under the Operating Agreement, MCS is required to remit the revenue generated from the BCT's operation to the City, through EDC, after deducting specified types of revenue—MCS' compensation—and allowable costs. The City's share is referred to as Operating Income. The revenue that MCS shares with the City consists principally of three categories—wharfage (based on cruise ships' passenger counts), dockage, and special events. In addition, MCS shares with the City the fees MCS collects for furnishing cruise ships with fresh water drawn from the City's water supply system. EDC is responsible for administering the Operating Agreement on behalf of the City and for ensuring that the City receives the correct amount of revenue thereunder.

The objectives of this audit were to determine whether MCS paid the City the correct amounts required under the Operating Agreement and whether it complied with the other major requirements of that agreement. In addition, the audit sought to determine whether EDC provided sufficient oversight of MCS' performance to protect the City's interests.

Audit Findings and Conclusions

Our audit found that MCS understated the Operating Income due the City by at least \$98,221 through its inaccurate computation and deduction of security costs. We further found that MCS maintained insufficient records, specifically copies of executed contracts, to enable us to determine whether it properly reported and shared with the City the special event revenue

¹ As of this writing, the extended term of the agreement ends on June 30, 2017.

generated at the BCT. Lastly, our audit identified gaps within MCS' fresh water meter readings that MCS did not document or satisfactorily explain. As a result, we question the accuracy of the payments made to the City for the provision of fresh water.

With respect to EDC's oversight of the BCT, we found that EDC did not sufficiently oversee MCS' compliance with the Operating Agreement to ensure that MCS paid the correct amount to the City. Specifically, EDC did not verify the accuracy of the passenger counts on which MCS computed the wharfage fees due to the City, MCS' reported fresh water revenue, Safety and Security Costs, and routine maintenance costs.

Audit Recommendations

This report makes a total of four recommendations to MCS and EDC, including that:

MCS should:

1. Remit \$98,221 to the City for improperly claimed Safety and Security Costs.

EDC should:

2. Review all prior payments and corresponding supporting documentation used by MCS to calculate the Operating Income payable to the City;
3. Recoup all Operating Income owed to the City by MCS, including underpayments in previous calendar years that resulted from MCS' inappropriate deductions and calculations; and
4. Implement the following procedures to ensure that MCS, any successor, or any other BCT operator accurately reports BCT Operating Revenue.
 - Implement sufficient verification procedures for the passenger (PAX) counts reported by the third-party cruise lines;
 - Request and review the supporting documentation for fresh water usage to identify any unexplained water consumption and any unexplained gaps or other anomalies in the reported water meter readings;
 - Review security invoices and supporting documentation to ensure the accuracy and validity of the Safety and Security Cost deductions under the Operating Agreement;
 - Ensure that all appropriate and necessary special event documents are maintained by the BCT operator; and
 - Request and review the BCT operator's documentation for all claimed maintenance deductions to determine whether they are deductible under the Operating Agreement.

MCS Response

In its written response, MCS agreed with the report's finding that it improperly deducted \$98,221 for Safety and Security Costs for Calendar Years 2014 through 2016. However, MCS also stated in response to that finding that it was now "seeking reimbursement" for a separate security staffing expense it incurred throughout the same three-year period—totaling \$109,053—for hiring a

“Roundsmen.” With regard to the finding that MCS did not always execute written contracts for special events, MCS noted that it had provided us with “Hold Harmless & Indemnity Agreements (HH&I) and/or other legally binding documents” for those events. In addition, MCS disagreed with our finding that it failed to account for unexplained gaps in its water meter readings, claiming that the water meter “can record terminal water usage,” and is not a “single designated water meter exclusively to measure the fresh water supplied to the cruise ships it accommodates.”

It appears that MCS attempts to offset its acknowledged overbilling for Safety and Security expenses by seeking reimbursement—three years after the fact—for an unrelated expense. However, that expense—for hiring a “Roundsmen”—is not an allowable charge that MCS is permitted to deduct from Operating Revenue under the Safety and Security provisions of the Operating Agreement. Moreover, MCS provided no documentation or evidence of having raised this issue with EDC or having sought EDC’s approval for such a deduction during the three-year period when it was incurred. MCS has provided no new information that would justify offsetting its debt to the City with its unrelated overhead expense.

Concerning the absence of written contracts for certain special events, MCS’ HH&I agreements merely address insurance and liability issues and do not establish payment amounts and due dates. Thus, they are not substitutes for standard special event contracts that would show whether MCS properly reported and shared with the City the special event revenue generated at the BCT.

Finally, the recent claim by MCS that the water meter it used to measure the fresh water supplied to cruise vessels “can record [other] terminal water usage” contradicts what its representatives and EDC officials said during the audit and is inconsistent with records obtained during the audit. Moreover, in making this claim in response to the audit finding, MCS did not provide any additional documentation.

In sum, MCS has provided no new information that would cause us to revise the audit findings and recommendations.

EDC Response

In its response, EDC agreed with the audit finding that MCS had overbilled the City by \$98,221 for Safety and Security costs and stated it would recoup that amount from MCS, but did not agree that EDC inadequately oversaw MCS’ operations. Specifically, EDC objected to the audit’s statement that “EDC informed us that it did not verify the information submitted to it by MCS,” stating that “[t]his statement was taken out of context. In accordance with the EDC Cruise Billing Manual highlighted by the Comptroller’s Office in the Draft Audit Report, EDC routinely conducted quarterly reconciliation and verification or [sic] revenues and costs associated with the operation of the cruise terminal. We will re-emphasize with staff the importance of identifying unallowable costs.”

EDC also wrote, “As was mentioned during the audit process, the water meter that records fresh water supplied to cruise ships *does not* do so exclusively. The meter can also record water supplied to other parts of BCT such as public bathrooms in passenger waiting areas and facilities occupied by CBP [U.S. Customs and Border Protection]. The Comptroller’s Office cannot, therefore, demonstrate the veracity of their claim to unexplained inaccuracies associated with the provision of fresh water to cruise vessels.” This statement in EDC’s response is, however, inconsistent with the statements that EDC officials made during the audit and is inconsistent with water meter reading records obtained during the audit.

EDC did not respond to the recommendations addressed to it in the report.

EDC's responsibilities include the proper oversight of City contracts and business operations to ensure the accuracy of the revenue reported and remitted to the City. As identified in this audit, EDC's existing procedures were insufficient. Had EDC implemented sufficient verification procedures, the issues cited in the report, such as MCS' overbilling for Safety and Security Costs and the large unexplained gaps in water meter readings, would have been identified and addressed in a timely manner.

AUDIT REPORT

Background

On May 1, 2013, EDC entered into the Operating Agreement with MCS designating MCS as the sole and exclusive operator of the BCT located in Red Hook, Brooklyn.² That Operating Agreement, which was later amended and restated on January 1, 2014, was extended from its original expiration date of December 31, 2016, through June 30, 2017. Under the Operating Agreement, MCS' primary responsibilities are handling the docking, stevedoring, and meeting any other needs of cruise ships or other vessels that can be accommodated at the BCT. In addition, MCS may use and market the BCT as a marine terminal, a facility for trade shows and special events, or a convention facility.

As the sole operator of the BCT, MCS is tasked with day-to-day administrative responsibilities, such as the billing and collection of payments from the cruise vessel operators and others for use of the BCT. With the exception of stevedoring revenue, all revenue generated from operation of the BCT, including fees paid by cruise lines for dockage, wharfage (per-passenger fees), fresh water, special event revenue, and all other money derived from any and all activities at the BCT is considered "Operating Revenue."

Under the Operating Agreement, MCS is required to remit all Operating Revenue to EDC on a quarterly basis after deducting certain charges as compensation for its services, specifically, (1) a prescribed per-passenger-operations charge: (2) safety and security costs as defined in the agreement: (3) "deductible reimbursable improvement costs" for dredging and capital and "major maintenance" work: and (4) "ancillary operations charges."³ After all allowable charges are deducted from Operating Revenue, the remaining amounts are payable to the City, through EDC, as "Operating Income." With each quarterly payment, MCS is required to submit a statement to EDC showing MCS' calculation of Operating Revenue and Operating Income. Additionally, MCS is required to maintain proper books, records, and accounts for the BCT's operations, and submit annual statements showing its calculations.

The Operating Agreement requires MCS to pay, at its own expense without reimbursement by EDC, all costs in connection with its operation, maintenance, and management of the BCT, while EDC is responsible for all capital and major maintenance work. MCS is also required to provide security at all times, maintain proper insurance coverage (i.e. Marine General Liability, automobile liability insurance, etc.), and pay the utility charges—electric, gas, and water and sewer charges—for the BCT.

Based on the Operating Agreement, MCS is allowed to deduct the Safety and Security Costs it incurs for the days that no cruise ships were docked at the BCT (called "non-cruise days" in the Operating Agreement).

As stated in Section 12.1 of the Operating Agreement, EDC "shall have the right, upon reasonable notice and during normal business hours, to inspect the operations and records of Operator as

² The BCT includes Pier 11 and Pier 12, which EDC has leased from the Port Authority of New York and New Jersey as of December 23, 2004.

³ "Ancillary operations" consist of special events, military docking, yacht docking, security services, provision of fresh water to ships, and concessions service. The fees—gross revenue—MCS collects for ancillary operations is split with the City, at rates of 50 or 15 percent. The portion retained by MCS is called the "ancillary operations charge." Under the Operating Agreement, the per-passenger operations charge is "a charge for each passenger embarking to or debarking from a commercial cruise vessel in the cruise trade (including in-transit passenger) at the Brooklyn Cruise Terminal for each calendar year during the Term."

they relate to Operator's payments to NYCEDC." The City relies on EDC, the entity with oversight responsibilities for the Operating Agreement, to enforce it by, among other things, providing reasonable assurance of whether MCS properly and accurately accounts for Operating Revenue and the City's share (i.e., the Operating Income). Additionally, EDC should determine whether MCS satisfactorily honors its performance obligations under the Operating Agreement, including properly maintaining and repairing the BCT, safeguarding BCT resources, such as its system to ensure controlled delivery of potable water to paying customers, and remitting the City's Operating Income on time.

For Calendar Years 2014 and 2015 combined, MCS reported Operating Revenue of \$2.4 million and remitted payments totaling \$1.2 million to EDC as detailed in Table I below.

Table I

MCS Reported Operating Revenue and MCS
Payments Remitted to EDC for Calendar Years
2014 and 2015

	2014	2015	Total
MCS Operating Revenue			
Dockage fees*	\$ 183,728	\$ 209,809	\$ 393,537
Wharfage fees**	844,863	983,923	1,828,786
Special Events	73,350	135,833	209,183
Fresh Water Provided	3,338	9,179	12,517
Total	\$1,105,279	\$1,338,744	\$2,444,023
Deductions and Reimbursements			
Safety & Security Costs	(\$523,347)	(\$544,905)	(\$1,068,252)
Miscellaneous Costs	(16,437)	(4,800)	(21,237)
2013 MCS Rollover Cost	(167,399)	-	(167,399)
Total	(\$707,183)	(\$549,705)	(\$1,256,888)
Other Allowable Adjustments			
EDC's Expenses on Behalf of MCS	\$20,594	-	\$20,594
Water/Sewage Adjustment	-	\$12,643***	12,643
Water/Sewage Fees	-	17,950	17,950
Total	\$20,594	\$30,593	\$51,187
Operating Income Paid to the City through EDC	\$418,690	\$819,632	\$1,238,322

* Dockage Fees = Cruise ship Gross Register Tonnage multiplied by Dockage Rate by the number of days docked.

** Wharfage is a fee MCS collects from the cruise lines based on the number of their passengers who use BCT (called "PAX" in the Operating Agreement). The Wharfage fee = the sum of all PAX (Debarking PAX + Embarking PAX + In-Transit PAX) multiplied by the applicable Wharfage Rate.

***Credit from Department of Environmental Protection due to incorrect water and sewer billings.

Objectives

The objectives of this audit were to determine:

- Whether MCS properly reported Operating Revenue and accurately calculated Operating Income due the City;
- Whether MCS complied with other major requirements of its agreement (i.e., maintaining accurate books and records, providing security at all times, maintaining required insurance coverage and paying all utility charges); and
- Whether EDC provided sufficient oversight of the MCS operations at the BCT, in accordance with the Operating Agreement.

Scope and Methodology Statement

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the 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 of this audit was from January 1, 2014 to December 31, 2016. Please refer to the Detailed Scope and Methodology section at the end of this report for the specific audit procedures and detailed tests conducted during the course of this audit.

Discussion of Audit Results

The matters covered in this report were discussed with MCS and EDC officials during and at the conclusion of this audit. A preliminary draft report was sent to MCS and EDC and discussed at an exit conference held on May 31, 2017. On June 5, 2017, we submitted a draft report to MCS and EDC with a request for written comments. We received written responses from MCS and EDC on June 19, 2017.

In its written response, MCS agreed with the report's finding that it improperly deducted \$98,221 for Safety and Security Costs for Calendar Years 2014 through 2016. However, MCS also stated in response to that finding that it was now "seeking reimbursement" for a separate security staffing expense it incurred throughout the same three-year period—totaling \$109,053—for hiring a "Roundsman."

With regard to the finding that MCS did not always execute written contracts for special events, MCS noted that it had provided us with "Hold Harmless & Indemnity Agreements (HH&I) and/or other legally binding documents" for those events. In addition, MCS disagreed with our finding that it failed to account for unexplained gaps in its water meter readings, claiming that the water meter "can record terminal water usage," and is not a "single designated water meter exclusively to measure the fresh water supplied to the cruise ships it accommodates."

It appears that MCS attempts to offset its acknowledged overbilling for Safety and Security expenses by seeking reimbursement—three years after the fact—for an unrelated expense.

However, that expense—for hiring a “Roundsmen”—is not an allowable charge that MCS is permitted to deduct from operating revenue under the Safety and Security provisions of the Operating Agreement. Moreover, MCS provided no documentation or evidence of having raised this issue with EDC or having sought EDC’s approval for such a deduction during the three year period when the expense was incurred. MCS has provided no new information that would justify linking the two issues or offsetting its debt to the City with that unrelated expense.

Concerning the absence of written contracts for certain special events, MCS’ HH&I agreements merely address insurance and liability issues and do not establish payment amounts and due dates. Thus, they are not substitutes for standard special event contracts that would show whether MCS properly reported and shared with the City the special event revenue generated at the BCT.

Finally, the recent claim by MCS that the water meter it used to measure the fresh water supplied to cruise vessels “can record [other] terminal water usage” contradicts what its representatives and EDC officials said during the audit and is inconsistent with records obtained during the audit. Moreover, in making this claim in response to the audit finding, MCS did not provide any additional documentation.

By contrast, during the audit, both MCS and EDC provided evidence that the water meter was used exclusively to supply fresh water to cruise ships and should not reflect any other water consumption. In addition, and consistent with that original explanation, our review of MCS’ records found instances where the meter in question showed no water consumption even though we identified terminal-related activities occurring during the same period. Had the meter been recording “terminal water usage” as MCS now claims, it should have recorded such usage during the times when activities were taking place in the terminal.

In sum, MCS has provided no new information that would cause us to revise the audit findings and recommendations.

In its response, EDC agreed with the audit finding that MCS had overbilled the City by \$98,221 for Safety and Security costs and stated it would recoup that amount from MCS, but did not agree that EDC inadequately oversaw MCS’ operations. Specifically, EDC objected to the audit’s statement that “EDC informed us that it did not verify the information submitted to it by MCS,” stating that “[t]his statement was taken out of context. In accordance with the EDC Cruise Billing Manual highlighted by the Comptroller’s Office in the Draft Audit Report, EDC routinely conducted quarterly reconciliation and verification or [sic] revenues and costs associated with the operation of the cruise terminal. We will re-emphasize with staff the importance of identifying unallowable costs.”

EDC also wrote, “As was mentioned during the audit process, the water meter that records fresh water supplied to cruise ships *does not* do so exclusively. The meter can also record water supplied to other parts of BCT such as public bathrooms in passenger waiting areas and facilities occupied by CBP [U.S. Customs and Border Protection]. The Comptroller’s Office cannot, therefore, demonstrate the veracity of their claim to unexplained inaccuracies associated with the provision of fresh water to cruise vessels.” This statement in EDC’s response is, however, inconsistent with the statements that EDC officials made during the audit and is inconsistent with water meter reading records obtained during the audit.

EDC did not respond to the recommendations addressed to it in the report.

EDC's responsibilities include the proper oversight of City contracts and business operations to ensure the accuracy of the revenue reported and remitted to the City. As identified in this audit, EDC's existing procedures were insufficient. Had EDC implemented sufficient verification procedures, the issues cited in the report, such as MCS' overbilling for Safety and Security Costs and the large unexplained gaps in water meter readings, would have been identified and addressed in a timely manner.

The full text of MCS' and EDC's responses are included as addenda to this report.

FINDINGS

MCS did not accurately calculate the Operating Income due the City. Specifically, MCS improperly deducted \$98,221 for security costs incurred on days when commercial cruise vessels were docked at the BCT, which are not allowable deductions under the Operating Agreement. As a result, MCS underpaid the City at least \$98,221 for the period of January 1, 2014 to October 31, 2016.

We found MCS did not always execute written contracts for special events and, as a result, we were unable to determine the accuracy of the special event revenue it reported to the City. In addition, MCS could not account for 46,611 cubic feet of metered fresh water—the equivalent of 348,650 gallons—that should have been used exclusively to supply paying cruise vessels with net revenue to be paid to the City.⁴ As a result, we question the accuracy of the payments made for the provisions of fresh water.

We also found that EDC's oversight of the BCT operations was insufficient to provide the City with reasonable assurance that MCS' reporting of Operating Revenue and Operating Income owed to the City were accurate and adequately supported by verifiable business records. Instead, EDC relied on and accepted at face value MCS' calculations and unverified information provided by its counterparties, such as the cruise lines using the BCT to determine the revenue due the City. Consequently, the City cannot be reasonably assured that it is receiving or will receive the proper amount of revenue derived from MCS' operation of the BCT.

MCS Improperly Deducted \$98,221 for Unallowable Security Costs from Its Payments to the City

MCS improperly deducted \$98,221 for Safety and Security Costs for the period from January 1, 2014 to October 31, 2016. According to Article 4.2(c) of the Operating Agreement, MCS is permitted to deduct "Safety and Security Costs" from the payments due to the City for days in which there are no commercial cruise vessels at BCT. Specifically, the Operating Agreement provides that

'Safety and Security Costs' shall mean the costs to Operator for hiring the following on days in which **no** commercial cruise vessel is at the Brooklyn Cruise Terminal ('Non-Cruise Days') and only (i) three Port Police and Guards Union ('PPGU') Guards . . . in the working [*sic*] three separate eight-hour shifts so that the terminal is secure for a complete 24 hour period, for each Non-Cruise Day . . . there shall be no Safety and Security Costs for any day in which there is a commercial cruise vessel at the Brooklyn Cruise Terminal. [Emphasis original.]

However, our review of MCS' payments to its security-services contractor, the contractor's corresponding invoices, and the pertinent billing sheets revealed that MCS improperly deducted Safety and Security Costs of \$29,089, \$34,791, and \$34,341, respectively, in Calendar Years 2014, 2015, and 2016, for dates on which commercial cruise vessels were docked at the BCT. Those unallowable deductions resulted in underpayments to the City totaling \$98,221.

⁴ 46,611 cubic feet of fresh water is the equivalent of 348,650 gallons. See, e.g., New York City Department of Environmental Protection, *How to Read Your Water Meter*: "1 cubic foot = 7.48 gallons." (downloaded May 13, 2017).

MCS' Response: "MCS agrees with the \$98,221 for unallowable security costs for the period of January 1, 2014 to October 31, 2016."

EDC's Response: "EDC agrees with the finding of \$98,221 in overbilled costs for unallowable security costs, and we will follow up with MCS to recoup."

MCS Executed Written Contracts for Only Some of the Special Events Held at the BCT

In hosting special events, MCS did not always execute and maintain a written contract with the event sponsor that established payment terms, such as the sums the sponsor would pay MCS for each day the event was held and for related access and services, such as "production days," "load-in," and "load-out." Consequently, we could not determine whether MCS' records relating to the special event revenue it shared with the City accurately reflected all sums MCS received from the sponsors. Specifically, we reviewed MCS' documentation for six of the special events held at BCT in Calendar Years 2014 through 2016, which collectively generated \$359,150 (31 percent) of the special event revenue of \$1,165,292. MCS provided invoices and matching proof of payment for all six events. However, MCS provided written contracts, captioned "Summary of Terms," which recited the payment terms for only two of the six events and provided no contracts or equivalent recitations of the agreed payment terms for the four remaining sampled events. Therefore, although we could reconcile the invoices and proof of payment for all six events, we could not determine whether the invoices for four of the events reflected all charges the sponsors had agreed to pay MCS.

According to Section (21) of the Terminal Operations and Stevedoring requirements in the Operating Agreement, the "[o]perator shall keep proper books, records, and accounts in connection with the operation of the Terminal, including full accounts of all stevedoring charges, services and facilities fees, passenger fees, water charges, and any other fees invoiced and collected by the Operator." Although MCS provided sufficient documentation to show that it collected the fees corresponding to the invoices it provided, the records as to four of the six sampled events were insufficient to show that its invoices reflected all fees that the sponsors had agreed to pay.

MCS' Response: "MCS refutes that we did not always execute and maintain a written contract. As communicated and documented, MCS provided Hold Harmless & Indemnity Agreements (HH&I) and/or other legally binding documents."

Auditor Comment: MCS provided its HH&I agreements as a purported substitute for standard special event contracts that it produced for other events. However, the HH&I agreements merely specify the insurance and liability components of a special event and do not establish payment amounts and payment due dates. Such agreements do not substitute for a comprehensive written contract. Given the limited information in the HH&I agreements, we could not determine whether MCS' records relating to the special event revenue it shared with the City accurately reflected all sums MCS received from the sponsors.

Unexplained Gaps in MCS' Water Meter Readings

MCS failed to account for 46,611 cubic feet of metered fresh water that should have been used exclusively to supply paying commercial cruise vessels, which may have resulted in an underpayment of approximately \$3,500 in water-derived revenue to the City.

MCS uses a designated water meter exclusively to supply fresh water to cruise ships. To document each cruise ship's fresh water consumption, MCS records the meter's starting and ending readings on a Potable Water Ticket form. According to Article 3.2 of the Operating Agreement, MCS is responsible for supplying fresh water to cruise ships, recording cruise ships' fresh water consumption, billing the cruise lines, and collecting the amounts billed. The Operating Agreement further provides that MCS shall retain a portion of the net revenue generated for fresh water.

Our review of MCS' Potable Water Tickets for the period January 1, 2014 through December 31, 2016 identified unexplained gaps in MCS' reported water consumption tickets totaling 46,611 cubic feet, which may have resulted in an underpayment of \$3,502 to the City. Because MCS uses a single designated water meter exclusively to measure the fresh water supplied to the cruise ships it accommodates, each starting water meter reading should match the previous ending reading.

However, Table II below shows the four gaps between the respective readings.

Table II

Questionable Fresh Water Consumption

Previous Potable Water Ticket		Subsequent Potable Water Ticket		Unexplained Gaps (Cubic Feet)
Date	Ending Meter Reading	Date	Starting Meter Reading	
01/03/15	3,080,400	06/03/15	3,085,400	5,000
01/03/16	3,279,200	05/25/16	3,291,700	12,500
08/09/16	3,328,000	10/06/16	3,333,600	5,600
10/06/16	3,337,500	10/31/16	3,354,300	16,800
Total Questionable Water Consumption:				39,900

As shown in Table II, the gaps in the readings recorded on MCS' tickets reflect 39,900 cubic feet of fresh water that was consumed but not accounted for. Additionally, we noted 14 instances of smaller discrepancies which totaled another 6,711 cubic feet of fresh water consumed but not recorded or explained. In all, 46,611 cubic feet of fresh water was dispensed and not accounted for during the three year period we reviewed. Based on the level of consumption observed, we estimate the net monetary effect of the 18 discrepancies to the City would have been \$3,502.

When questioned, MCS officials responded that the discrepancies may be attributable to other parties operating at the BCT, stating,

[t]here are extensive Customs and Border Protection (CBP) office spaces located in the middle of the cruise terminal that operate independently. Furthermore, we have no knowledge of which other piers and work areas outside of the cruise terminal are using water controlled by the water meters. On several occasions during our term, we noticed odd readings that seemed to indicate large water consumption during times when no vessel operations took place, pointing to other facilities being metered. We communicated our observations to the NYCEDC....

However, MCS was not able to provide any documentation to account for the 46,000 cubic foot-plus discrepancy between its reported water delivery and the potable water tickets it provided. Moreover, EDC had no record and its officials recalled no instance of MCS reporting any irregularities or questionable activities regarding the metered potable water at the BCT. Additionally, at a subsequent meeting with EDC officials, EDC confirmed that a single water meter was used exclusively to supply fresh water to cruise ships. Due to the inconsistencies in water meter readings and consumption reported, we were not able to obtain reasonable assurance that MCS accurately reported all fresh water charges. As a result, we are unable to determine whether MCS reported all revenue associated with fresh water consumption to the City and question whether they paid the correct amount in accordance with the Operating Agreement.

MCS' Response: "The Report includes a statement that there is a '*single designated water meter exclusively to measure the fresh water supplied to the cruise ships it accommodates.*' We disagree with this recorded statement . . . when fresh water is not being supplied to a vessel, the [domestic vessel water supply line valve] DVWSLV, which is after the water meter, is manually closed in a secured room. As communicated by MCS officials and recorded in the Report (even though the DVWSLV is closed), the water meter has recorded (and will) continue to record (unless the valve located before the water meter is manually turned off) water usage because there are terminal related activities. This is the reason for what the Draft refers to as '*unexplained gap(s).*'"

EDC's Response: "As was mentioned during the audit process, the water meter that records fresh water supplied to cruise ships *does not* do so exclusively. The meter can also record water supplied to other parts of BCT such as public bathrooms in passenger waiting areas and facilities occupied by CBP."

Auditor Comment: During the course of our audit, both the BCT Terminal Manager and the EDC Senior Vice President informed us that MCS uses a designated water meter *exclusively* to supply fresh water to cruise ships. Furthermore, based on our review of the Potable Water Tickets and MCS records, it does not appear that the water meter records water consumption within the terminal. There were multiple instances in which there was activity within the terminal and the water meter in question did not record *any* water consumption. For example, during the 57-day period between July 1, 2014 and August 27, 2014, two cruise ships docked at the BCT and a special event was held. Although cruise ship passengers and event attendees were inside the terminal during that period, there was *no* change in the water meter readings. Consequently, the unexplained gaps within the water meter readings remain in question.

EDC Did Not Adequately Oversee MCS Operations

EDC did not provide sufficient oversight of MCS' operation of the BCT—particularly verification of its revenue and expense calculations and the passenger counts provided by third-party cruise lines—to ensure that MCS remitted all money due to the City. Article 12.1(c) of the Operating Agreement provides that MCS “shall maintain and upon request shall make available to NYCEDC (i) such documentation and records which may be necessary to support, on a quarterly and annual basis, any and all fees, charges and rates pursuant to this Agreement. . . .” However, we found that EDC either did not request supporting documentation or did not adequately review it to verify the accuracy of MCS' calculations and payments.

Wharfage Fees

Although wharfage fees derived from cruise-vessel-passenger counts constitute three-quarters of the BCT Operating Revenue, EDC did not implement procedures to verify the passenger counts received from the cruise lines and provided to MCS. Thus, neither EDC nor this audit could verify the accuracy of the wharfage fees paid by MCS under the Operating Agreement.

When we asked EDC how it verifies the passenger counts provided by the cruise companies, EDC stated in substance that it does not independently verify the information reported by the cruise lines. The absence of EDC action to verify passenger counts at the BCT left the City exposed to the risk that under-reporting of those counts due to errors, omissions, or intentional manipulation could occur and go undetected and result in a corresponding underpayment of the wharfage fees due to the City.

EDC's Response: “EDC utilizes passenger counts that are provided by the cruise lines to both the U.S. Coast Guard and U.S. Customs and Border Protection ('CBP'). Counts provided by the cruise lines must match passenger counts generated by CBP through its processing of individuals for entry into the country. EDC is confident of the accuracy of this process; any discrepancy would be a violation of federal immigration law.”

Auditor Comment: EDC relies solely on passenger counts reported to it by cruise companies without obtaining any form of assurance regarding the accuracy of those passenger counts. EDC did not confirm that the passenger counts reported to it were the same as passenger counts reported to the U.S. Coast Guard and CBP. Furthermore, EDC did not perform any independent verification of the passenger counts received from the cruise companies.

Fresh Water Fees

EDC did not request and review any records regarding MCS' usage of metered fresh water that should have been used exclusively to supply paying cruise vessels. Consequently, EDC was unable to identify and take corrective action to address MCS' inaccurate reporting of the amount of fresh water used at the BCT.

Article 12.1(c) of the Operating Agreement requires MCS to “maintain and upon request shall make available to NYCEDC (i) such documentation and records which may be necessary to support, on a quarterly and annual basis, any and all fees, charges and rates pursuant to this Agreement, including . . . Potable Water Ticket. . . .” As previously stated, MCS could not account for 46,611 cubic feet of fresh water that should have been furnished only to paying vessels. Had

EDC requested and reviewed the supporting documentation, it could have discovered the unexplained fresh water usage and mitigated the risk of further underreporting of metered water use and the corresponding underpayment of revenue owed to the City.

EDC's Response: "As was mentioned during the audit process, the water meter that records fresh water supplied to cruise ships *does not* do so exclusively. The meter can also record water supplied to other parts of BCT such as public bathrooms in passenger waiting areas and facilities occupied by CBP. The Comptroller's Office cannot, therefore, demonstrate the veracity of their claim to unexplained inaccuracies associated with the provision of fresh water to cruise vessels.

EDC is satisfied that the SOP employed by MCS as described to the Comptroller's Office is, indeed, sufficient to ensure the proper billing of fresh water supplied to cruise vessels."

Auditor Comment: During the course of our audit, EDC's Senior Vice President informed us that MCS uses a designated water meter exclusively to supply fresh water to cruise ships. Furthermore, as detailed above, based on our review of the Potable Water Tickets and MCS records, it does not appear that the water meter records water consumption within the terminal.

The unexplained gaps within the water meter readings went undetected by EDC for most of MCS' term as operator. Therefore, we stress the importance of implementing review procedures which will allow EDC to detect any irregularities which may affect the Operating Income and payment to the City.

Safety and Security Costs

EDC did not implement verification procedures sufficient to ensure the accuracy and appropriateness of the security costs that MCS deducted from the Operating Revenue. According to Section 5.3 of EDC's Billing Manual, "[a]t the end of each quarter NYCEDC and [MCS] will reconcile the fees for the quarter. [MCS] will calculate the amounts that [MCS] owes NYCEDC and send NYCEDC the report showing these amounts. NYCEDC will then verify the numbers, along with any reimbursements that may be necessary, and send confirmation/acceptance of the figures to [MCS]."

However, contrary to the verification process described in EDC's Billing Manual, we found no evidence that EDC verified MCS' claimed security deductions by, for example, reviewing the supporting documentation to determine whether they were accurate and reflected services on non-cruise dates so as to be allowable under the Operating Agreement. When we inquired, EDC informed us that it did not verify the information submitted to it by MCS.

EDC's Response: "EDC agrees with the finding of \$98,221 in overbilled costs for unallowable security costs, and we will follow up with MCS to recoup. Notwithstanding our agreement with the finding, exception is taken with the statement that '...EDC informed us that it did not verify the information submitted to it by MCS.' This statement was taken out of context. In accordance with the EDC Cruise Billing Manual highlighted by the Comptroller's Office in the Draft Audit Report, EDC routinely conducted quarterly reconciliation and verification of [sic] revenues and costs associated with the operation of the cruise terminal. We will re-emphasize with staff the importance of identifying unallowable costs."

Auditor Comment: Although EDC's Cruise Billing Manual requires quarterly reconciliation and verification of revenues and costs, the fact that EDC was unaware that MCS was incorrectly billing the City for security costs associated with cruise days indicates that its review procedures were insufficient to ensure the accuracy and reliability of information reported by the BCT operator. Had EDC conducted sufficient verification procedures, MCS' errors and misreporting would have been identified in a timely manner.

Routine Maintenance Costs

EDC was unable to provide documentation to demonstrate it adequately reviewed MCS' deductions for claimed expenses. Specifically, our review of MCS' general ledger and the annual report submitted to EDC found that MCS deducted \$21,237 during calendar years 2014 and 2015 for expenditures that appeared to reflect routine maintenance costs for which MCS is responsible under the Operating Agreement. In discussion with the auditors, EDC could not clearly explain whether or how it determined that the expenses in question were allowable deductions, and EDC did not provide documents we requested that would support the related maintenance deductions. Based on the records we reviewed, it is possible that as a result of an inadequate review, EDC may have failed to identify \$21,237 in unallowable deductions for MCS' routine maintenance costs.

EDC's Response: "With respect to the \$21,237 in deductions, EDC did relay to the Comptroller's Office that these expenditures were allowable deductions associated with projects that were EDC's responsibility to cover."

Auditor Comment: Although EDC stated that the miscellaneous costs were its responsibility, it failed to provide any correspondence and documentation that would support its blanket assertion that the costs were its responsibility under the terms of the Operating Agreement. Thus, the audit team could not confirm that the costs were appropriate deductions from the Operating Revenue.

RECOMMENDATIONS

MCS should:

1. Remit \$98,221 to the City for improperly claimed Safety and Security Costs.

MCS' Response: While MCS acknowledged that it improperly deducted \$98,221 in security costs, it did not specifically address the recommendation that it remit that amount to the City.

EDC should:

2. Review all prior payments and corresponding supporting documentation used by MCS to calculate the Operating Income payable to the City;

EDC's Response: EDC did not address the recommendation.

3. Recoup all Operating Income owed to the City by MCS, including underpayments in previous calendar years that resulted from MCS' inappropriate deductions and calculations; and

EDC's Response: While EDC stated that it would "follow up with MCS to recoup" the \$98,221 it agreed had been improperly deducted by MCS, EDC did not otherwise specifically address the recommendation.

4. Implement the following procedures to ensure that MCS, any successor, or any other BCT operator accurately reports BCT Operating Revenue.

- Implement sufficient verification procedures for the passenger (PAX) counts reported by the third party cruise lines;
- Request and review the supporting documentation for fresh water usage to identify any unexplained water consumption and any unexplained gaps or other anomalies in the reported water meter readings;
- Review security invoices and supporting documentation to ensure the accuracy and validity of the Safety and Security Cost deductions under the Operating Agreement;
- Ensure that all appropriate and necessary special event documents are maintained by the BCT operator; and
- Request and review the BCT operator's documentation for all claimed maintenance deductions to determine whether they are deductible under the Operating Agreement.

EDC's Response: EDC did not address the recommendation.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit covered January 1, 2014 to December 31, 2016.

To assess the general condition of the BCT and identify observable revenue streams, we performed an observation of the BCT on November 1, 2016. We reviewed and abstracted the governing agreements between EDC, MCS, and the Port Authority of New York and New Jersey to identify the key responsibilities and requirements of each party relating to the BCT. To gain an understanding of the BCT's operations, we conducted walk-throughs of BCT general operations, fresh water operations, and security operations with the Terminal Manager. We also conducted a walk-through of special event operations with the Events Manager to gain an understanding of the events review and approval processes. To gain an understanding of the accounting processes, we requested the financial documents from EDC and MCS and conducted a teleconference with the MCS accounting team at Long Beach, California. To obtain an understanding of EDC's oversight roles and responsibilities for the BCT, we interviewed key personnel at EDC who are responsible for overseeing the Operating Agreement.

To identify any inconsistent financial reporting practices, we conducted a trend analysis of the MCS general ledger for Calendar Years 2014 through 2016. We also reconciled the annual income statements provided by MCS to its general ledger.

To determine whether MCS and/or EDC had adequate procedures to verify the accuracy of the passenger count information submitted by the cruise lines, we analyzed the MCS and EDC procedures based on information provided through interviews, policies and procedures, and requirements stated in the Operating Agreement.

To determine the accuracy of the dockage revenue, we compared the Gross Registered Tonnage (GRT) reported on MCS billing worksheets with the International Tonnage Certificates for all cruise ships docked at BCT during our scope period. We then recomputed the dockage revenue using the dockage rate stated on the Operating Agreement. We also reviewed the calculation of the wharfage charges by determining whether the correct wharfage rate was used to bill the cruise lines. To determine the reasonableness of the passenger counts (also known as PAX counts), we compared the PAX counts reported by the cruise lines to the passenger manifest or maximum capacity of each vessel.

We obtained supporting documents for the water meter readings (i.e., "Potable Water Tickets") and then recalculated the fresh water charges to determine the accuracy of the reported fresh water charges. We also determined whether there was any significant water consumption between two water meter readings or unusual meter readings.

To determine whether MCS accurately reported all special event revenue to the City, we judgmentally selected 6 out of 80 events that were listed on the Event Listings that MCS provided. We selected the two largest events from each calendar year. Since we were only able to trace

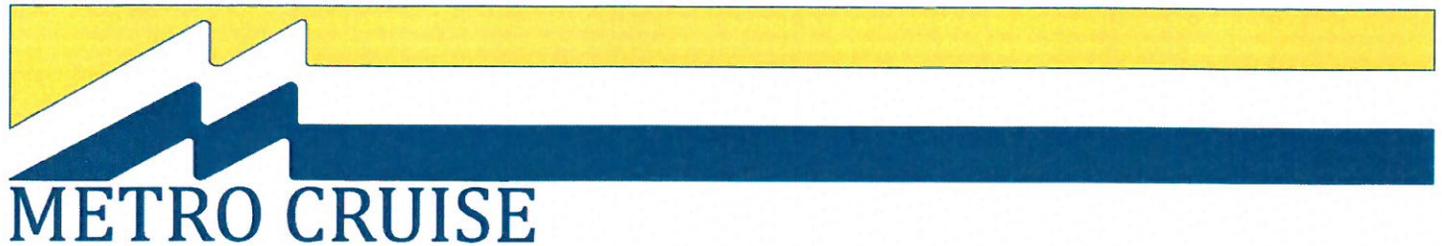
two events' revenue from the Event Listings to MCS general ledger, we decided to select an additional five largest events from the general ledger as our samples. We then reviewed the supporting documents, such as event agreements, operational plans, and certificates of liabilities insurances, invoices, and payment records, of these 11 events and traced the revenue to amounts reported on Event Listings and general ledger.

To determine whether MCS appropriately subtracted the applicable deductions from the Operating Revenue, we reviewed all supporting documents, such as invoices, billing worksheets, and canceled checks.

To determine the accuracy and timeliness of the payments to EDC, we identified the payments made by MCS from its bank statements which included check images. We then compared the dates of the checks to the due date of the quarterly payments as stated in the Operating Agreement. To determine whether all required payments were made, we reviewed the quarterly reports to analyze whether payments were made for all instances where the Operating Revenue exceeded the allowable deductions.

To determine whether MCS maintained adequate insurance coverage as required by the Operating Agreement, we reviewed the insurance certificates and ensured that EDC was listed as the additionally insured on the policy.

The results of our test, while not projectable, should provide reasonable assurance that we have obtained sufficient, appropriate evidence of MCS' compliance with its Operating Agreement.



June 16, 2017

Marjorie Landa
Deputy Comptroller, Audit Bureau
Office of New York City Comptroller Scott M. Stringer
1 Centre Street, 13th Floor (North)
New York, NY 10007

RE: Audit Report on the Compliance of Metro Cruise Services LLC (MCS)
With Its Operating Agreement for the Brooklyn Cruise Terminal FN17-081A

Dear Ms. Landa,

As requested in the June 5, 2017 letter to Mr. Borzone and in response to the Brooklyn Cruise Terminal (BCT) Draft Audit Report, please note our comments below, which we originally provided to your audit group regarding the preliminary findings on May 15, 2017, and discussed in detail during the May 31, 2017 exit interview conducted by your audit team. As requested we are again providing responses, which have not substantially changed; in short, we are simply restating our position to address the final draft.

As previously requested, we reiterate that this response (and attachment) be included in the final report. Below we have summarized our position toward the Findings, which begin on page eight of the Draft Audit Report.

Summary Response to Audit Findings:

1. **MCS Improperly Deducted \$98,221 for Unallowable Security Costs from Its Payments to the City**
 - MCS agrees with the \$98,221 for unallowable security costs for the period of January 1, 2014 to October 31, 2016.
 - MCS is seeking reimbursement for security costs (Roundsmen) of \$109,052.99 for the period of January 1, 2014 to October 31, 2016.
2. **MCS Executed Written Contracts for Only Some of the Special Events Held at the BCT**
 - MCS provided and maintained appropriate documentation to support all revenue received, as well as amounts subsequently remitted to City.
3. **Unexplained Gaps in MCS's Water Meter Readings**
 - MCS has provided clarity as to the fact that the water meter is not, as stated in the Draft, a "single designated water meter exclusively to measure the fresh water supplied to the cruise ships it accommodates."

Detailed Response to Audit Findings:

1. MCS Improperly Deducted \$98,221 for Unallowable Security Costs from Its Payments to the City

On page 8 of the Draft, Section title "Findings" it states that:

"MCS did not accurately calculate the Operating Income due the City. Specifically, MCS improperly deducted \$98,221 for security costs incurred on days when commercial cruise vessels were docked at the BCT, which are not allowable deductions under the Operating Agreement. As a result, MCS underpaid the City at least \$98,221 for the period of January 1, 2014 to October 31, 2016."

Additionally on page 8 of the Draft, Section title "MCS Improperly Deducted \$98,221 for Unallowable Security Costs from Its Payments to the City" it states that:

"our review of MCS's payments to its security-services contractor, the contractor's corresponding invoices, and the pertinent billing sheets revealed that MCS improperly deducted Safety and Security Costs of \$29,089, \$34,791, and \$34,341, respectively, in Calendar Years 2014, 2015, and 2016, for dates on which commercial cruise vessels were docked at the BCT. Those unallowable deductions resulted in underpayments to the City totaling \$98,221."

MCS agrees with the \$98,221 for unallowable security costs the period of January 1, 2014 to October 31, 2016. However, an internal review of the Draft findings exposed that MCS was required by the Collective Bargaining Agreement (CBA) between the Port Police, Guards Union (PPGU) and New York Shipping Association, Inc., to hire a Roundsman. Additionally, MCS was informed by the New York Economic Development Corp. (NYCEDC) that we were required to hire a Roundsman, when applicable, to comply with the CBA and the Operating Agreement (e.g., Safety and Security for the terminal). This topic was discussed with Tom Spina and Leonard Imperial of the NYCEDC.

Accordingly, we call to your attention that MCS, as required by the CBA between the Port Police, PPGU and New York Shipping Association, Inc., which is referenced in Sections 4.2(c) and 4.2(c)(i), as well as in Exhibit B, Section 5, the costs for Safety and Security incurred by Operator may be deducted by the Operator from the Operating Revenue for the quarter in which such costs were actually paid by the Operator. Additionally, per Exhibit B, Section 5, MCS is to provide and supervise all required security personnel, subcontractors, and providers of related services. When the contract was entered into, the current requirement was for three PPGU guards; however, soon thereafter, the current requirement changed to be three PPGU guards, plus a Roundsman, on weekdays only.

As reflected in our records, MCS incurred additional Safety and Security Costs for the terminal without reimbursement.

As MCS was informed by the NYCEDC that we were required to hire a Roundsman and MCS was required to comply with the CBA, as well as the Operating Agreement (e.g., Safety and Security for the terminal), the cost of such provided safety and security service is for the account of the NYCEDC.

Furthermore, MCS is seeking reimbursement of \$109,052.99 for the period of January 1, 2014 to October 31, 2016; a reconciliation is provided in Exhibit I.

2. MCS Executed Written Contracts for Only Some of the Special Events Held at the BCT

On page 9 of the Draft, Section title “MCS Executed Written Contracts for Only Some of the Special Events Held at the BCT” it states that:

“MCS did not always execute and maintain a written contract with the event sponsor”

Having provided access to Contracts/Agreements for all requested events, MCS refutes that we did not always execute and maintain a written contract. As communicated and documented, MCS provided Hold Harmless & Indemnity Agreements (HH&I) and/or other legally binding documents.

On page 9 of the Draft, Section title “MCS Executed Written Contracts for Only Some of the Special Events Held at the BCT” it states that:

“Therefore, although we could reconcile the invoices and proof of payment for all six events, we could not determine whether the invoices for four of the events reflected all charges the sponsors had agreed to pay MCS.”

Having provided access to invoices and proof of payments for the six selected events, respectfully we are not in alignment with this statement. As previously stated, MCS has no fiduciary gain in not billing 100% of all charges. MCS’s invoices are complete and correct; additionally and accordingly, MCS’s remittance to the EDC is in conformance to the Agreement.

3. Unexplained Gaps in MCS’s Water Meter Readings

On page 9 of the Draft, Section title “Unexplained Gaps in MCS’s Water Meter Readings” it states that:

“MCS failed to account for 46,611 cubic feet of metered fresh water that should have been used exclusively to supply paying commercial cruise vessels, which may have resulted in an underpayment of approximately \$3,500 in water-derived revenue to the City.”

“Because MCS uses a single designated water meter exclusively to measure the fresh water supplied to the cruise ships it accommodates, each starting water meter reading should match the previous ending reading. However, Table III below shows the four gaps between the respective readings.”

“Additionally, at a subsequent meeting with EDC officials, EDC confirmed that a single water meter was used exclusively to supply fresh water to cruise ships. Due to the inconsistencies in water meter readings and consumption reported, we were not able to obtain reasonable assurance that MCS accurately reported all fresh water charges. As a result, we are unable to determine whether MCS reported all revenue associated with fresh water consumption to the City and paid the correct amount in accordance with the Operating Agreement.”

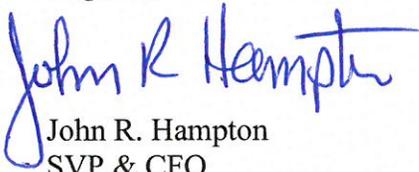
As previously noted and demonstrated to EDC representatives, the domestic vessel water supply line valve (DVWSLV) is a manually controlled valve located in a secured room. When a vessel is not berthed at the facility and not taking on water, the DVWSLV valve is manually placed in the closed position. The only time that the DVWSLV is opened is when a vessel is being supplied with fresh water. When this occurs, an MCS representative and a cruise line representative enter the secured room, record the beginning meter reading, then open the DVWSLV. Upon completion of supplying fresh water to the vessel, the DVWSLV is closed and the ending water meter is recorded and validated by MCS and a cruise line representative. These recordings are utilized to invoice the vessel for supplying domestic water. This is the standard operating procedure (SOP).

Accordingly, all domestic water supplied to the vessel was properly recorded by a MCS and a cruise line representative and invoiced accordingly.

The Report includes a statement that there is a “*single designated water meter exclusively to measure the fresh water supplied to the cruise ships it accommodates.*” We disagree with this recorded statement. The DVWSLV that is manually closed is located after the water meter. Since the water meter is not closed off to the domestic terminal water supply line, the water meter can record terminal water usage. The only way that the meter could be considered as “exclusive” is if the shut off valve located before the water meter was manually turned off; this was confirmed by representatives of the NYCECD maintenance staff.

In summary, per the SOP, when fresh water is not being supplied to a vessel, the DVWSLV, which is after the water meter, is manually closed in a secured room. As communicated by MCS officials and recorded in the Report (even though the DVWSLV is closed), the water meter has recorded (and will) continue to record (unless the valve located before the water meter is manually turned off) water usage because there are terminal related activities. This is the reason for what the Draft refers to as “*unexplained gap(s).*”

Regards,



John R. Hampton
SVP & CFO
Metro Cruise Services

Exhibit I

Invoice Period	Cost of Roundsman	Credit/Vessel Days	Adjusted Cost
1/1/2014 12/31/2014	\$ 39,131.87	\$ (2,220.20)	\$ 36,911.67
1/1/2015 12/31/2015	\$ 41,064.52	\$ (1,905.92)	\$ 39,158.59
1/1/2016 10/31/2016	\$ 34,931.76	\$ (1,949.04)	\$ 32,982.73
	<u>\$ 115,128.15</u>	<u>\$ (6,075.16)</u>	<u>\$ 109,052.99</u>

Invoice #	Invoice Period	Rounds Man	Sales Tax	Total
600002320	12/30/2013 1/5/2014	581.90	51.64	633.54
600002335	1/6/2014 1/12/2014	581.90	51.64	633.54
600002336	1/13/2014 1/19/2014	581.90	51.64	633.54
600002337	1/20/2014 1/26/2014	581.90	51.64	633.54
600002338	1/27/2014 2/2/2014	581.90	51.64	633.54
600002352	2/3/2014 2/9/2014	581.90	51.64	633.54
600002353	2/10/2014 2/16/2014	582.50	51.70	634.20
600002354	2/17/2014 2/23/2014	582.50	51.70	634.20
600002355	2/24/2014 2/28/2014	582.50	51.70	634.20
4310437	3/1/2014 3/31/2014	2,957.64	262.49	3,220.13
4310439	4/1/2014 4/30/2014	3,098.48	274.99	3,373.47
4310440	5/1/2014 5/31/2014	3,098.48	274.99	3,373.47
4310447	6/1/2014 6/30/2014	2,957.64	262.49	3,220.13
4310459	7/1/2014 7/31/2014	3,239.32	287.49	3,526.81
4310468	8/1/2014 8/31/2014	2,957.64	262.49	3,220.13
4310480	9/1/2014 9/30/2014	3,098.48	274.99	3,373.47
4310496	10/1/2014 10/31/2014	3,239.32	287.49	3,526.81
4310507	11/1/2014 11/30/2014	2,816.80	249.99	3,066.79
4310519	12/1/2014 12/31/2014	3,239.32	287.49	3,526.81
		<u>35,942.02</u>	<u>3,189.85</u>	<u>39,131.87</u>

Credits	Vessels	Notes	Rounds Man	Sales Tax	Total
Prior Year	12/30/2013		(116.38)	(10.33)	(126.71)
Prior Year	12/31/2013		(116.38)	(10.33)	(126.71)
Queen Mary 2	1/3/2014		(116.38)	(10.33)	(126.71)
Queen Mary 2	5/16/2014		(140.84)	(12.50)	(153.34)
Queen Mary 2	6/13/2014		(140.84)	(12.50)	(153.34)
Queen Mary 2	7/1/2014		(140.84)	(12.50)	(153.34)
Queen Mary 2	7/6/2014	Not Required			
Queen Mary 2	7/28/2014		(140.84)	(12.50)	(153.34)
Queen Mary 2	8/27/2014		(140.84)	(12.50)	(153.34)
Queen Mary 2	9/15/2014		(140.84)	(12.50)	(153.34)
Ruby Princess	9/22/2014		(140.84)	(12.50)	(153.34)
Royal Princess	9/27/2014	Not Required			
Royal Princess	10/4/2014	Not Required			
Royal Princess	10/11/2014	Not Required			
Ruby Princess	10/12/2014	Not Required			
Queen Mary 2	10/16/2014		(140.84)	(12.50)	(153.34)
Royal Princess	10/18/2014	Not Required			
Royal Princess	10/25/2014	Not Required			
Queen Mary 2	10/28/2014		(140.84)	(12.50)	(153.34)
Ruby Princess	10/30/2014		(140.84)	(12.50)	(153.34)
Queen Mary 2	11/19/2014		(140.84)	(12.50)	(153.34)
Queen Mary 2	12/22/2014		(140.84)	(12.50)	(153.34)
			<u>(2,039.22)</u>	<u>(180.98)</u>	<u>(2,220.20)</u>

Total Due 2014 36,911.67

Invoice #	Invoice Period		Rounds Man	Sales Tax	Sales Tax	Total
4310530	1 1 2015	1 31 2015	3,098.48	8.875%	274.99	3,373.47
4310543	2 1 2015	2 28 2015	2,816.80	8.875%	249.99	3,066.79
4310559	3 1 2015	3 31 2015	3,063.48	8.875%	271.88	3,335.36
4310573	4 1 2015	4 30 2015	3,209.36	8.875%	284.83	3,494.19
4310586	5 1 2015	5 31 2015	3,063.48	8.875%	271.88	3,335.36
4310599	6 1 2015	6 30 2015	3,209.36	8.875%	284.83	3,494.19
4310610	7 1 2015	7 31 2015	3,355.24	8.875%	297.78	3,653.02
4310621	8 1 2015	8 31 2015	3,063.48	8.875%	271.89	3,335.37
4310635	9 1 2015	9 30 2015	3,209.36	8.875%	284.83	3,494.19
4310645	10 1 2015	10 31 2015	3,209.36	8.875%	284.83	3,494.19
4310661	11 1 2015	11 30 2015	3,063.48	8.875%	271.88	3,335.36
4310671	12 1 2015	12 31 2015	3,355.24	8.875%	297.78	3,653.02
			37,717.12	1.07	3,347.40	41,064.52

Credits	Vessels	Notes	Rounds Man	Sales Tax	Sales Tax	Total
1 3 2015	Queen Mary 2	Not Required				
5 10 2015	Queen Mary 2	Not Required				
6 3 2015	Queen Mary 2		(145.88)	8.875%	(12.95)	(158.83)
6 21 2015	Queen Mary 2	Not Required				
7 14 2015	Queen Mary 2		(145.88)	8.875%	(12.95)	(158.83)
7 30 2015	Queen Mary 2		(145.88)	8.875%	(12.95)	(158.83)
08 04 15	Queen Mary 2		(145.88)	8.875%	(12.95)	(158.83)
08 19 15	Queen Mary 2		(145.88)	8.875%	(12.95)	(158.83)
9 4 2015	Queen Mary 2		(145.88)	8.875%	(12.95)	(158.83)
9 20 2015	Regatta					
9 21 2015	Caribbean Princess		(145.88)	8.875%	(12.95)	(158.83)
9 26 2015	Regal Princess	Not Required				
9 27 2015	Queen Mary 2	Not Required				
10 3 2015	Regal Princess	Not Required				
10 10 2015	Regal Princess	Not Required				
10 11 2015	Queen Mary II	Not Required				
10 17 2015	Regal Princess	Not Required				
10 24 2015	Regal Princess	Not Required				
10 28 2015	Caribbean Princess		(145.88)	8.875%	(12.95)	(158.83)
10 29 2015	Queen Mary II		(145.88)	8.875%	(12.95)	(158.83)
11 12 2015	Queen Mary II		(145.88)	8.875%	(12.95)	(158.83)
11 25 2015	Queen Mary II		(145.88)	8.875%	(12.95)	(158.83)
12 22 2015	Queen Mary II		(145.88)	8.875%	(12.95)	(158.83)
						(1,905.92)

Total Due 2015 39,158.59

Invoice #	Invoice Period		Rounds Man	Sales Tax	Total
4310683	1/1/2016	1/31/2016	3,063.48	271.88	3,335.36
4310697	2/1/2016	2/29/2016	3,063.48	271.88	3,335.36
4310709	3/1/2016	3/31/2016	3,431.14	304.51	3,735.65
4310720	4/1/2016	4/30/2016	3,132.78	278.03	3,410.81
4310734	5/1/2016	5/31/2016	3,281.96	291.27	3,573.23
4310749	6/1/2016	6/30/2016	3,281.96	291.27	3,573.23
4310764	7/1/2016	7/31/2016	3,132.78	278.04	3,410.82
4310779	8/1/2016	8/31/2016	3,431.14	304.52	3,735.66
4310795	9/1/2016	9/30/2016	3,132.78	278.04	3,410.82
4310815	10/1/2016	10/31/2016	3,132.78	278.03	3,410.81
			32,084.28	2,847.48	34,931.76

Credits	Vessels	Notes	Rounds Man	Sales Tax	Total
1/3/2016	Queen Mary 2	Not Required			
1/17/2016	Queen Mary 2	Not Required			
5/17/2016	Queen Mary 2		(149.18)	(13.24)	(162.42)
5/25/2016	Fleet Week		(149.18)	(13.24)	(162.42)
7/1/2016	Queen Mary 2		(149.18)	(13.24)	(162.42)
7/6/2016	Queen Mary 2		(149.18)	(13.24)	(162.42)
7/24/2016	Queen Mary 2	Not Required		-	-
8/9/2016	Queen Mary 2		(149.18)	(13.24)	(162.42)
9/8/2016	Queen Mary 2		(149.18)	(13.24)	(162.42)
9/22/2016	Caribbean Princess		(149.18)	(13.24)	(162.42)
9/24/2016	Regal Princess	Not Required		-	-
10/1/2016	Regal Princess	Not Required			
10/6/2016	LeBoreal		(149.18)	(13.24)	(162.42)
10/8/2016	Regal Princess	Not Required			
10/11/2016	Queen Mary 2		(149.18)	(13.24)	(162.42)
10/12/2016	Caribbean Princess		(149.18)	(13.24)	(162.42)
10/15/2016	Regal Princess	Not Required			
10/22/2016	Regal Princess	Not Required		-	-
10/25/2016	Queen Mary 2		(149.18)	(13.24)	(162.42)
10/27/2016	Regal Princess	Not Required		-	-
10/30-31/16	Seabourn Quest		(149.18)	(13.24)	(162.42)
				-	-
					(1,949.04)

Total Due 1/1/2016 - 10/31/2016 32,982.73

Invoices for all security charges rendered between 1/1/2014 through 10/31/2016 were provided via Drop Box.



June 19, 2017

Marjorie Landa
Deputy Comptroller
Office of New York City Comptroller
1 Centre Street, 13th Fl
New York, NY 10007

Re: Draft Audit Report (the "Draft Audit Report") on the Compliance of Metro Cruise Services, LLC ("MCS") with Its Operating Agreement for the Brooklyn Cruise Terminal ("BCT").

Ms. Landa:

As requested in the exit conference held May 31, 2017 in NYCEDC's offices, please find NYCEDC's comments with respect to the Draft Audit Report.

EDC Did Not Adequately Oversee MCS Operations

1. Wharfage Fees

EDC utilizes passenger counts that are provided by the cruise lines to both the U.S. Coast Guard and U.S. Customs and Border Protection ("CBP"). Counts provided by the cruise lines must match passenger counts generated by CBP through its processing of individuals for entry into the country. EDC is confident of the accuracy of this process; any discrepancy would be a violation of federal immigration law.

2. Fresh Water Fees

As was mentioned during the audit process, the water meter that records fresh water supplied to cruise ships *does not* do so exclusively. The meter can also record water supplied to other parts of BCT such as public bathrooms in passenger waiting areas and facilities occupied by CBP. The Comptroller's Office cannot, therefore, demonstrate the veracity of their claim to unexplained inaccuracies associated with the provision of fresh water to cruise vessels.

EDC is satisfied that the SOP employed by MCS as described to the Comptroller's Office is, indeed, sufficient to ensure the proper billing of fresh water supplied to cruise vessels.

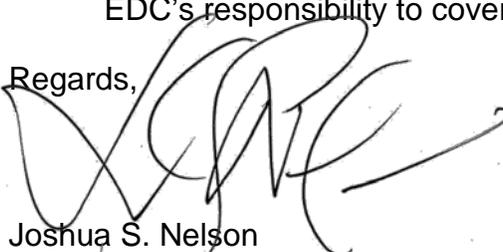
3. Safety and Security Costs

EDC agrees with the finding of \$98,221 in overbilled costs for unallowable security costs, and we will follow up with MCS to recoup. Notwithstanding our agreement with the finding, exception is taken with the statement that "...EDC informed us that it did not verify the information submitted to it by MCS." This statement was taken out of context. In accordance with the EDC Cruise Billing Manual highlighted by the Comptroller's Office in the Draft Audit Report, EDC routinely conducted quarterly reconciliation and verification of revenues and costs associated with the operation of the cruise terminal. We will re-emphasize with staff the importance of identifying unallowable costs.

4. Routine Maintenance Costs

With respect to the \$21,237 in deductions, EDC did relay to the Comptroller's Office that these expenditures were allowable deductions associated with projects that were EDC's responsibility to cover.

Regards,



Joshua S. Nelson
Senior Vice President
Transportation Systems
Asset Management Revenue

Cc: Fred D'Ascoli, Comptroller, Finance
Michael DeMeo, Vice President, Asset Management Revenue
Spencer Hobson, Executive Vice President, Finance
Matthew Kwatinetz, Executive Vice President, Asset Management Revenue
Oscar Roman, Senior Associate, Asset Management Revenue
Kim Vaccari, Chief Financial Officer