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October 2, 2013

The Honorable Dora B. Schriro, Commissioner
New York City Department of Correction
75-20 Astoria Boulevard, Suite 305
East Elmhurst, New York 11370

Re: Letter Report on the Department of Correction's Monitoring of Its Employees Who Use E-ZPass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business (Andit Number 7R14-059AL)

Dear Commissioner Schriro:

We are sending this Letter Report regarding the audit of the Department of Correction's (DOC) monitoring of its employees using E-ZPass and/or parking permits while driving City-owned or personally-owned vehicles on City business. This is one of a series of audits concerning City agency E-ZPass usage.

The objective of this audit is to determine if DOC, a "public safety agency," is effectively monitoring its employees who use E-ZPasses and parking permits while driving City-owned or personally-owned vehicles on City business in accordance with applicable rules and regulations.

The other public safety agencies, New York City Fire Department and New York City Police Department, were discussed in a separate audit report.

Conclusion

We found that DOC does not effectively monitor the use of E-Z Passes by its authorized drivers in accordance with applicable rules and regulations. We found no issues concerning parking permit usage. The details of this audit are below.

This opinion and report does not include our review of your agency's controls regarding your drivers' driving behavior, which was addressed in a prior report (Letter Report on the Public Safety Agencies' Monitoring of Their Employees Who Drive City-Owned or Personally-Owned Vehicles on City Business, Audit # 7R12-091AL, issued June 25, 2012).

Failure to Monitor E-ZPass Usage

DOC did not maintain a log detailing agency E-ZPass usage as required by City and DOC policies and procedures.

According to the City of New York's "City Vehicle Driver Handbook" (Regulations), dated February 2009, §8 E-Z Pass, the Agency Transportation Coordinator (ATC) is responsible for the following:

8.1 Issuance of E-ZPass. The E-ZPass electronic toll collection system is made available through the Metropolitan Transportation Authority/Bridges and Tunnels. Issuance of an E-ZPass is determined by the ATC and employees responsible for the E-ZPass must report all E-ZPass related issues to their ATC. Drivers are allowed to use a City sponsored E-ZPass only when conducting official City business and in connection with the approved use of a City Government Vehicle.

Drivers must keep a log of E-ZPass use and submit it to the agency representative responsible for monitoring use. When an E-ZPass is used, the driver must fill out a trip ticket detailing what it was used for and why it needed to be used so that accurate log books are maintained. Detailed summary reports on travel are produced by E-ZPass and submitted to the designated agency E-ZPass representative for review.

When the auditors requested a sample of log sheets to be tested, they were informed in an email dated April 24, 2013, "As you are aware, we are unable to locate in our archives, nearly all of the 2011 trip sheets samples that had been selected by the City Comptroller for review." Additional inquiries were made to determine the whereabouts of the entire calendar year 2011 detailed logs; we were informed by the DOC representative that DOC could account for the parties responsible for using their E-ZPass transponders and their activities.

However, in April 2011, a DOC employee was arrested for the fraudulent use of an E-ZPass during the period January 2010 to April 2011 (which was during our audit scope period). This employee was arrested for taking the E-ZPass (transponder) out of a City vehicle (theft of City property), and using it in his own personal vehicle with tolls totaling more than \$3,000. This employee was assigned to one of the divisions at DOC where the agency claimed it could account for E-ZPass use.

Further, in the same communication, DOC stated that in November 2011, it had instituted an additional level of review. This additional control had the Commanding Officer of each Division sign off on the E-ZPass usage of individuals under his or her command. In DOC's current monthly E-ZPass Usage Verification Memo, dated February 1, 2012, it states, "Attached you will find a list of vehicle(s) and E-ZPass transponder(s) listed as a Take Home or Pool Vehicle assigned to your command. Please note that as per Operations Order #18/97, the Departmental 'E-ZPass' is to be employed solely for Official Business."

We reviewed DOC's Operations Order 18/97 dated December 1997 § III Procedures, B. 3, which states, "Commanding Officers of Facilities and Divisions shall be held accountable for the appropriate utilization of vehicles, and the respective transponders, assigned to their Command(s)." The order also states, "The

Commanding Officer shall be responsible for verifying that all charges incurred are appropriate and return the signed monthly statement to the Transportation Division.” Therefore, it appears that this additional control is a reiteration of the longstanding Operations order 18/97, which dates back to December 1997.

Despite these policies, DOC still needs to maintain and have available the individual detailed trip sheets/detailed logs for its Commanding Officers’ review and for support of their approvals. Because these logs for calendar year 2011 were unavailable, we are unable to confirm appropriate E-ZPass usage.

Excessive Use of E-ZPass for Non-Business Use

Our audit found that several DOC employees/officials appeared to have excessively used their E-ZPass for non-business use.

According to City Regulations Section **8.1.4 Reimbursement of E-ZPass Charges** of the Regulations, “Agencies receive monthly E-ZPass statements. Drivers are responsible for reimbursement to the agency for any charges incurred while not performing official City business. Drivers are reminded that abuse of a City sponsored E-ZPass is prohibited and may lead to disciplinary proceedings.”

During the reimbursement period of January 2011 through December 2011, we found that 53 employees had reimbursed DOC for approximately \$8,000 in non-business usage (personal). The following table shows the employees with the four highest non-business E-ZPass usages.

Table I

DOC Employee	E-ZPass Dollar Total Transactions 2011	Employee Reimbursement to DOC 2011	Percentage of Reimbursement to Total Transaction
#1 Deputy Director	\$ 981.00	\$451.20	46
#2 Executive Officer	\$ 1084.77	\$494.49	46
#3 Director	\$ 2928.00	\$1730.63	59
#4 Deputy Commissioner	\$ 1801.06	\$952.80	53
Total Amount	\$6,794.83	\$3,629.12	53

Two of the four employees listed in Table I were from the same department. The DOC employee listed as # 3 used his E-ZPass 123 times for personal use or 57 percent of the time (out of 216 uses) during the period of April 2011 through August 2011. Even though DOC was reimbursed for non-business usage, the E-ZPass was not used in accordance with the intent of the regulation. Furthermore, while the Agency was reimbursed for the E-ZPass tolls incurred in connection with non-business use, this reimbursement did not cover the additional cost of the wear and tear associated with the additional mileage on a City vehicle. As an example, for employee # 3, we estimated that the additional cost could be \$1,188 (72 days of use @ \$16.50 [30 miles x 55 cents per mile, which is the minimum number of miles the City reimburses per day for use of one’s personal vehicle). DOC should consider attempting recoupment of the additional vehicle costs in connection with excessive use of City vehicles for non-business purposes.

We recommend that DOC:

1. Maintain log books detailing E-ZPass usage as required by the regulations.
Agency response: The agency agreed with the recommendation.
2. Reinforce the policies and procedures detailing E-ZPass usage.
Agency response: The agency agreed with the recommendation.
3. Limit the personal use of E-ZPass transponders by monitoring usage more closely.
Agency response: The agency agreed with the recommendation.
4. Monitor and limit the personal use of City vehicles and consider recouping the costs of excessive use of City vehicles for non-business purposes.

Agency Response: Regarding recommendation number 4 DOC's officials, stated;
"Various agency employees are authorized to take home an agency vehicle for work-related reasons, as outlined in Department Operations Order #14/96, entitled Use of Agency Vehicles. It needs to be emphasized that the Department, integral to law enforcement and the criminal justice system, operates on a continuous basis, 24 hours each day, seven days each week. As a result, there are employees whose duties necessitate use of their agency-assigned vehicles and E-Z Pass transponders to respond to work-related conditions and emergencies in the five boroughs outside of regular business hours. The use of agency-assigned vehicles and E-Z Pass transponders under these conditions is necessary and does not constitute personal use of City property."

DOC's officials added, "To further strengthen controls with respect to vehicle usage and in an effort to identify inappropriate or unauthorized personal use of agency vehicles, completed Trip Sheet Logs will be carefully reviewed to identify unauthorized vehicle usage. Particular attention will be given to discrepancies in vehicle mileage, unusual travel locations and usage during off-hours and when it is deemed appropriate, immediate corrective action will be taken. We will also assess the need for any further recouping of costs."

Auditor's Comment: While we understand that various agency employees are authorized to take home an agency vehicle for work related reasons, this finding does not relate to work related use but instead to personal use of agency vehicles.

City Regulations clearly state, "With the exception of elected officials for whom the New York City Police Department has determined that personal security is necessary, as well as certain authorized City government executives, **under no circumstances may City Government Vehicles be used for personal or other-than-official City business** unless provided for in this Driver Handbook."

By allowing significant personal usage and reimbursement of E-ZPass, DOC is tacitly indicating to its staff that the E-ZPass can be used for non-business purposes. However,

City's Regulations clearly states the City's E-ZPass should be used only when conducting official City business and in connection with the approved use of a City government vehicle. DOC procedures should not be designed to tacitly disregard the City's Regulations.

5. Perform physical inspections (inventory) of its E-ZPasses (unannounced and announced).
Agency response: The agency agreed with the recommendation.

Background

New York City requires that only those employees who exercise reasonable care in operating City- or personally-owned vehicles be allowed to use them to conduct City business. This requirement is outlined in the City of New York's "City Vehicle Driver Handbook." All agency heads, through the ATC, must ensure that all employees assigned a City-owned vehicle either for full-time use or temporary use are authorized to drive. It is also the ATC's responsibility to ensure that these drivers have valid licenses and insurance (if they are driving their personal vehicles). The driver's license should be a New York State License unless the employee is exempt from City residency requirements. If this is the case, then the authorized driver must have a valid license from the state where he/she resides and must have the appropriate classification for the vehicle which he/she is driving on City business. The Regulations further specify that City agencies must establish programs that promote safety along with proper training in the use of motor vehicles.

E-ZPasses should be issued only to authorized drivers, thus allowing said Agency personnel to perform their responsibility in an effective manner. E-ZPasses are issued by the Metropolitan Transportation Authority/Bridges and Tunnels (MTA). All E-ZPass usage must be reported to the ATC. Drivers are allowed to use a City-sponsored E-ZPass only when conducting official City business and in connection with the approved use of a City government vehicle. Subsequently, the driver must fill out a vehicle trip log detailing what the vehicle was used for and why it needed to be used so that accurate agency vehicle trip log books can be maintained. The MTA sends detailed summary reports on travel to the designated agency E-ZPass representative for review.

Drivers must be aware of their agency's in-house procedures regarding the use of parking permits, including areas where City government vehicles are permitted to park. Parking permits must be properly displayed to ensure visibility through the windshield. Permits may only be used for official City business in connection with the assigned City government vehicle and only as described by the parking permit and any other accompanying instructions.

Scope and Methodology

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

The scope period of this audit was from January 1, 2010, through December 31, 2012. Our audit reviewed

E-ZPass usage and parking permits issued in our scope period for DOC, categorized as “Public Safety” in the Fiscal Year 2011 Mayor’s Management Report.

To meet our objectives, we obtained and reviewed the City of New York “City Vehicle Driver Handbook” issued February 2009 and the subsequent addendum. To determine whether DOC monitored its drivers’ E-ZPass usage and issued parking permits in accordance with the City’s regulations, we obtained and reviewed the following: 1) list of all E-ZPasses issued to DOC and the associated license plate; 2) copy of DOC’s E-ZPass bills for the calendar year; (3) list of all parking permits and the vehicles they were assigned to; and (5) list of all employees for DOC who were authorized to drive on City business during the scope period.

To assess the reliability of the database of E-ZPasses received from DOC, we attempted to match the MTA E-ZPass billing statements to the vehicle trip logs where available.

To determine whether DOC effectively monitored E-ZPass usage, we determined whether the E-ZPass was used during normal agency business hours. We reviewed the E-ZPass bills for the period January 2011 through December 2011 and compared the dates to the 2011 calendar to determine if an E-ZPass was used on a weekend or holiday. If an E-ZPass was used, we determined whether proper authorization was given for its use. In addition, we checked the New York City Payroll Management System to determine whether the assigned driver was on leave and in addition, still an employee of the agency during the period of E-ZPass usage. We also checked to ensure that each E-ZPass was active during the scope period.

To determine whether DOC effectively monitored parking permits, we reviewed all parking permits to determine if each parking permit issued by the agency to the employee was attached to a City vehicle. If the parking permit was attached to a personally-owned vehicle, we reviewed the agency’s authorization to the employee with that parking permit.

The matters covered in this report were discussed with DOC officials during and at the conclusion of this audit. An exit conference and a preliminary draft were not necessary because DOC was notified of our findings in writing during the course of the audit. On August 28, 2013, we submitted a draft letter report to DOC officials with a request for comments. We received a written response from DOC officials on September 17, 2013.

The full text of DOC’s response is included as an addendum to this report.

Sincerely yours,



Tina Kim

- c. Elizabeth Weinstein, Director, Mayor’s Office of Operations
- George Davis III, Deputy Director, Mayor’s Office of Operations
- Vincent Liquori, Director, IT Audit



NEW YORK CITY DEPARTMENT OF CORRECTION
Dora B. Schiro, Commissioner
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September 17, 2013

H. Tina Kim, Deputy Comptroller
City of New York Office of the Comptroller
Bureau of Audit
Municipal Building
One Centre Street, Room 1100
New York, N.Y. 10007-2341

Dear Deputy Comptroller Kim:

Thank you for the opportunity to respond to the City Comptroller's Draft Letter Audit Report on the Department of Correction's Monitoring of its Employees Who Use E-Z Pass and Parking Permits While Driving City-Owned or Personally-Owned Vehicles on City Business (Audit Number 7R14-059AL).

To begin, as indicated in our response dated June 11, 2013, to your prior Draft Letter Audit Report on the subject of Public Safety Agencies' Monitoring of Their Employees Who Drive City-Owned or Personally-Owned Vehicles on City Business, we are pleased that the report included its prior finding that the Department is effectively monitoring the driving behavior of its authorized drivers by: (1) subscribing to the DMV's LENS program and receiving program updates; (2) revoking in a timely manner the privileges of drivers who have a suspended or revoked license; (3) verifying that employees who drive their personal vehicles for City business have insurance coverage; and (4) providing employees with the requisite driver safety awareness program.

With respect to the current audit report, please find below, the five recommendations contained therein along with the Department's response.

Recommendation 1: Maintain log books detailing E-Z Pass usage as required by the regulations.

Agency Response: In order to conform to the greatest extent possible with the requirements contained in the City of New York's "City Vehicle Department Handbook," the Department recently revised its written policy of recording E-Z Pass usage for all agency vehicles. The Department's newly revised Motor Vehicle Usage Reports (Trip Sheet Logs) will now require all vehicle operators to make dedicated entries directly on the Logs to indicate the time and the toll location traversed, each time an E-Z Pass toll transaction is made.

Recommendation 2: Reinforce the policies and procedures detailing E-Z Pass usage.

Agency Response: The Department's Operations Order 18/97, entitled E-Z Pass Toll Collection System, is undergoing revision. Once completed, the Order will more clearly delineate the policies and procedures regarding E-Z Pass usage. We anticipate the Order will be finalized within the next 90 days.

Recommendation 3: Limit the personal use of E-Z Pass transponders by monitoring usage more closely.

Agency Response: The E-Z Pass transaction statements will be carefully reviewed to identify unauthorized transponder use. Careful attention will be paid to identification of transactions that appear to be unrelated to an employee's official duties. Such indicators will include transactions occurring at unusual hours, unfamiliar toll locations, and usually high transponder usage. It is important to note, however, that Department employees who are authorized to take home an agency vehicle are also assigned E-Z Pass transponders for authorized use on a '24/7' basis. In that respect, please see our response below to Recommendation 4 for a more complete explanation.

Recommendation 4: Monitor and limit the personal use of City vehicles and consider recouping the costs of excessive use of City vehicles for non-business purposes.

Agency Response: Various agency employees are authorized to take home an agency vehicle for work-related reasons, as outlined in Department Operations Order # 14/96, entitled Use of Agency Vehicles. It needs to be emphasized that the Department, integral to law enforcement and the criminal justice system, operates on a continuous basis, 24 hours each day, seven days each week. As a result, there are employees whose duties necessitate use of their agency-assigned vehicles and E-Z Pass transponders to respond to work-related conditions and emergencies in the five boroughs outside of regular business hours. The use of agency-assigned vehicles and E-Z Pass transponders under these conditions is necessary and does not constitute personal use of City property.

For example, in Table #1 of your report, all four of the employees that you identified have responsibilities encompassing off-hour duties and as such, are on call 24/7, with authorization to use their agency-assigned vehicles and E-Z Pass transponders for these purposes. Two of the employees cited are chaplains whose responsibilities include after-hours notifications of next-of-kin regarding the death or critical illness of an inmate, responding to a hospital to comfort a staff member that was injured or an inmate undergoing surgery, or to respond to a command to provide bereavement counseling. A third employee who was cited, the former Deputy Commissioner of Public Information, was required to respond 24/7 to off-hour events and incidents. Lastly, the fourth employee who was cited, an Assistant Deputy Warden, was responsible for responding immediately to critical incidents whenever they occurred.

To further strengthen controls with respect to vehicle usage and in an effort to identify inappropriate or unauthorized personal use of agency vehicles, completed Trip Sheet Logs will be carefully reviewed to identify unauthorized vehicle usage. Particular attention will be given to discrepancies in vehicle mileage, unusual travel locations and usage during off-hours and when it is deemed appropriate, immediate corrective action will be taken. We will also assess the need for any further recouping of costs.

Recommendation 5: Perform physical inspections (inventory) of their E-Z Pass transponders (unannounced and announced).

Agency Response: A new tracking system will be implemented, whereby each E-Z Pass user shall be responsible for verifying in writing on a monthly basis, that he or she is in physical possession of the individual E-Z Pass transponders. Every user will be required to attest that each transponder is individually accounted for by verifying the actual ID number printed on the transponder.

If you require any additional information with respect to this audit, please contact Joel Lampert, Agency Audit Liaison, at (718) 546-0646.

Sincerely,

A handwritten signature in blue ink that reads "Dora Schiro". The signature is written in a cursive style with a large, looped initial "D".

Dora Schiro
Commissioner

cc: Elizabeth Weinstein, Director, Mayor's Office of Operations
George Davis III, Deputy Director, Mayor's Office of Operations