



# City of New York

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## OFFICE OF THE COMPTROLLER

**John C. Liu**  
**COMPTROLLER**



## FINANCIAL AUDIT

**Tina Kim**

Deputy Comptroller for Audit

Audit Report on the Department of  
Finance's Efforts to Collect Outstanding  
Parking Fines from Participants in Its  
Stipulated Fine and Commercial  
Abatement Programs

FM11-110A

October 18, 2012

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
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John C. Liu  
COMPTROLLER

October 18, 2012

**To the Residents of the City of New York:**

My office has audited the New York City Department of Finance's (DOF) efforts to collect outstanding parking fines from participants in its Stipulated Fine and Commercial Abatement Programs. We audit City agencies such as DOF as a means of ensuring they operate efficiently and are accountable for resources and revenues in their charge.

DOF is responsible for the adjudication and collection of parking violations summonses issued by various authorized agencies. DOF has a Commercial Fleet Program to make it easier for commercial vehicle owners to save time and money in resolving parking summonses. The Commercial Fleet Program follows the provisions contained in Chapter 39 of Title 19 of the Official Compilation of Rules of the City of New York (RCNY). The audit focused on the Commercial Fleet Program's two alternative programs – the NYC Delivery Solutions (Stipulated Fine) Program and the Commercial Abatement Program. These Programs allow participants to pay a reduced parking fine in exchange for waiving their rights to contest parking summonses and making their payments within 15 days. These Programs do not assess penalties or interest on participants' outstanding balances and prevent their vehicles from being towed.

The audit found that DOF does not effectively pursue collection of outstanding parking fines issued to vehicles owned by companies participating in its Stipulated Fine and Commercial Abatement Programs. Further, companies were also allowed to continue in the Programs even after failing to pay for summonses issued prior to enrollment. In some cases, companies agreed to pay summonses when they entered the Program, made one partial payment, and then failed to make any further payments. DOF has no procedures regarding how to deal with non-compliant participants. DOF's pursuit of this debt is non-existent. As of April 2012, 1,517 companies participating in these reduced fine Programs owe \$9,262,544. However, if DOF were to adhere to the signed enrollment agreement and exercise its right to remove the non-compliant participants from the Programs, unpaid summonses could be restored to the original amounts and DOF could seek judgments and pursue all enforcement efforts against those companies with outstanding balances.

The results of the audit have been discussed with DOF officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "J.C.L.", written over a horizontal line.

John C. Liu

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# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

## Audit Report on the Department of Finance's Efforts to Collect Outstanding Parking Fines from Participants in Its Stipulated Fine and Commercial Abatement Programs FM11-110A

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### AUDIT REPORT IN BRIEF

The New York City Department of Finance (DOF) is responsible for the adjudication and collection of parking violations summonses issued by various authorized agencies. DOF has several programs to make it easier for commercial vehicle owners to save time and money resolving parking summonses. One such program is the Commercial Fleet Program, which was created to help commercial vehicle owners track and manage their violations. A company with one or more vehicles registered or leased under the company's name and address is eligible to participate in the Commercial Fleet Program.

The Commercial Fleet Program follows the provisions contained in Chapter 39 of Title 19 of the Official Compilation of Rules of the City of New York (RCNY). The Commissioner of DOF adopted RCNY to prescribe the internal procedures and organization of the Parking Violations Bureau, the manner and time of entering pleas, the conduct of hearings, and the amount and manner of payment of penalties.

The Commercial Fleet Program includes two alternative programs, the NYC Delivery Solutions (Stipulated Fine) Program and the Commercial Abatement Program. Both of these programs allow participants to pay a reduced parking fine in exchange for waiving their rights to contest parking summonses and making their payments within 15 days.<sup>1</sup> In addition to reduced fines, outstanding balances of Program participants are not assessed penalties or interest, their vehicles are not subject to tow, and DOF does not pursue judgments against participants for unpaid summonses.<sup>2</sup> Both programs require their participants to pay off all outstanding summonses issued before they enter into the Program. However, the amount they pay is based upon a pre-determined reduced rate for each type of violation and they may enter into a

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<sup>1</sup> Effective February 15, 2012, companies enrolling in the Programs have up to 30 days to pay their outstanding parking summonses.

<sup>2</sup> DOF has the statutory authority to docket an unpaid summons as a judgment, by default, in the records of the Civil Court of the City of New York. DOF may then restrain bank accounts, prevent license renewals of current registrations, and boot, tow, and auction off any of the debtor's motor vehicles.

payment agreement. (The one exception is for summonses issued for red-light violations, which are not reduced and are subject to judgment enforcement.)

As of April 2012, there were 924 companies with outstanding fine amounts totaling \$7,729,458 registered in the Stipulated Fine Program and 593 companies with outstanding fine amounts totaling \$1,533,086 registered in the Commercial Abatement Program.

## **Audit Findings and Conclusions**

DOF does not effectively pursue collection of outstanding fines for parking summonses issued to vehicles owned by companies participating in its Stipulated Fine and Commercial Abatement Programs. Further, companies were also allowed to continue in the Programs even after failing to pay for summonses issued prior to enrollment. In some cases, companies agreed to pay summonses when they entered the Program, made one partial payment, and then failed to make any further payments. DOF has no procedures on how to deal with non-compliant participants. DOF's pursuit of this debt is non-existent. As of April 2012, 1,517 companies participating in these reduced fine Programs owe \$9,262,544. However, if DOF were to adhere to the signed enrollment agreement and exercise its right to remove the non-compliant participants from the Programs, unpaid summonses could be restored to the original amounts and DOF could seek judgments and pursue all enforcement efforts against those companies with outstanding balances.

## **Audit Recommendations**

DOF should:

1. Revise its Weekly Fleet Summons Issuance Report to include all (not just newly issued) outstanding summonses sent to participants.
2. Closely monitor Program participants' debt to ensure their compliance with Programs' policies.
3. Establish formal written policies of enforcement actions to be taken against non-compliant companies, such as:
  - a) Implement enhanced notification efforts of any participant that does not pay all outstanding summonses listed on the Weekly Fleet Summons Issuance Report;
  - b) Set criteria to remove non-compliant companies from the Programs (i.e., set a monetary threshold or specify payment deadlines); and
  - c) Institute penalties and/or late fees for untimely payments.
4. Remove companies that are not abiding by the terms of their enrollment agreement and restore the summonses to the unreduced amount. Then pursue collection of restored summonses through default judgment in the amount of the original unreduced fine amount and impose all penalties and interest in accordance with the RCNY, §39-03.1.

## **Agency Response**

DOF, in its response, has in substance agreed to implement our four recommendations. While there may be a disagreement over what has occurred and when, there is agreement over the appropriate course of action to take in improving the effectiveness of DOF in collecting unpaid fines.

# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

## Audit Report on the Department of Finance's Efforts to Collect Outstanding Parking Fines from Participants in Its Stipulated Fine and Commercial Abatement Programs FM11-110A

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### INTRODUCTION

#### Background

DOF is responsible for the adjudication and collection of parking violations summonses issued by various authorized agencies. DOF has several programs to make it easier for commercial vehicle owners to save time and money resolving parking summonses. One such program is the Commercial Fleet Program, which was created to help commercial vehicle owners track and manage their violations. A company with one or more vehicles registered or leased under the company's name and address is eligible to participate in the Commercial Fleet Program.

The Commercial Fleet Program follows the provisions contained in Chapter 39 of Title 19 of the Official Compilation of Rules of the City of New York (RCNY). The Commissioner of DOF adopted RCNY to prescribe the internal procedures and organization of the Parking Violations Bureau, the manner and time of entering pleas, the conduct of hearings, and the amount and manner of payment of penalties.

The Commercial Fleet Program includes two alternative programs, the NYC Delivery Solutions (Stipulated Fine) Program and the Commercial Abatement Program. Both of these programs allow participants to pay a reduced parking fine in exchange for waiving their rights to contest parking summonses and making their payments within 15 days. In addition to reduced fines, outstanding balances of Program participants are not assessed penalties or interest, their vehicles are not subject to tow, and DOF does not pursue judgments against participants for unpaid summonses. Both programs require their participants to pay off all outstanding summonses issued before they enter into the Program. However, the amount they pay is based upon a pre-determined reduced rate for each type of violation and they may enter into a payment agreement. (The one exception is for summonses issued for red-light violations, which are not reduced and are subject to judgment enforcement.)



Companies apply to DOF's Tax and Parking Program Operations Division, which enrolls qualifying companies into either the Stipulated Fine or Commercial Abatement Program. Companies are categorized in either Program based on the nature of their business. Participants are enrolled in the Stipulated Fine Program if they have commercial fleet vehicles engaged in expeditious deliveries or services (for example, private mail delivery). The Commercial Abatement Program participants have commercial fleet vehicles engaged in other than expeditious deliveries or services (for example, plumbing companies). Once enrolled, the Tax and Parking Program Operations Division sends participating companies weekly reports (Fleet Summons Issuance Reports) of outstanding summonses issued during the previous week. Each weekly report does not carry over delinquent balances from previous reports.

Based on the provisions of RCNY, DOF has the discretion to terminate a participant's enrollment in the program if the participant fails to pay the reduced fines in accordance with the agreement. DOF is then authorized to reinstitute the fine and penalties on any outstanding summonses as if no agreement had been in effect and then take enforcement actions, such as restraining bank accounts and asset seizure.

DOF's Collections Division is responsible for pursuing collection of delinquent debt once a judgment has been filed in Civil Court. Every two months, the Collections Division will send the Fleet 550 Judgment Report to those companies participating in the Stipulated Fine or Commercial Abatement Program, listing only those outstanding summonses in judgment status seeking payment. However, because under the Programs, most types of summonses are not subject to judgment, a significant majority of the outstanding summonses in these Commercial Fleet Programs will not go into judgment and are not included in this report. Consequently, DOF's Collections Division does not--nor is responsible for making any effort to--collect a majority of the outstanding summonses for companies enrolled in the Stipulated Fine or Commercial Abatement programs.

As of April 2012, there were 924 companies with outstanding fine amounts totaling \$7,729,458 registered in the Stipulated Fine Program and 593 companies with outstanding fine amounts totaling \$1,533,086 registered in the Commercial Abatement Program. Table I shows the top debtors in the Stipulated Fine and Commercial Abatement Programs.



Table I

**Top Debtors in the Stipulated Fine and Commercial Abatement Programs,  
as of April 2012**

<b>Stipulated Fine</b>	<b>Amount Outstanding Over 30 Days</b>
FEDERAL EXPRESS	<b>\$957,315</b>
VERIZON	<b>480,030</b>
FRITO-LAY(QUEENS) (COM) PLTS	<b>213,557</b>
ANHEUSER-BUSCH DIST. OF NY INC	<b>168,963</b>
VERIZON CORP. SERVICES (STIP)	<b>157,758</b>
<b>Total</b>	<b>\$1,977,623</b>
<b>Commercial Abatement</b>	
PS MARCATO ELEVATOR CO. INC.	<b>88,390</b>
CHURCHILL CORP SERVICES	<b>40,540</b>
MOVING AHEAD & STORAGE	<b>40,258</b>
MANHATTAN TRANSFER CO. INC.	<b>39,340</b>
TELE-DYNAMICS INC.	<b>35,367</b>
<b>Total</b>	<b>\$243,895</b>

These top debtors represent 26 percent and 16 percent of the total outstanding reduced debt owed by participants in the Stipulated Fine and Commercial Abatement Programs, respectively. Furthermore, the top five debtors in each program have outstanding debt that is older than 180 days, totaling over \$800,000 and \$200,000, respectively.

## Objective

The objective of this audit was to determine whether the Department of Finance effectively collects fines for parking summonses issued to vehicles owned by companies participating in its Stipulated Fine and Commercial Abatement Programs.

## 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 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 the collection of outstanding parking summonses from DOF's Stipulated Fine Program up to August 2, 2012, and for the Commercial Abatement Program up to June 30, 2012. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

## Discussion of Audit Results

The matters covered in this report were discussed with DOF officials during and at the conclusion of this audit. A preliminary draft report was sent to DOF officials and was discussed at an exit conference held on October 4, 2012. On October 5, 2012, we submitted a draft report to DOF officials with a request for comments. We received a written response from DOF officials on October 15, 2012.

**DOF Response:** The audit fails to recognize that DOF has been developing solutions to the issues the report raises since 2011, and is scheduled to complete the roll out of the new program between November and January. While the programs have been a success and provide an important service to the business community, the Department of Finance (DOF) determined in 2011 that there were recurring problems that needed to be fixed to improve enforcement of unpaid fines and simplify administration of the program.

DOF added that it developed new procedures to clarify program eligibility and participation requirements, improve reporting on outstanding summonses, provide escalating and transparent penalties for non-payment, and apply new enforcement procedures with fixed timelines for action. According to DOF the remaining changes required substantial IT programming.

In addition, DOF responded that its new plan required that companies be able to view and create bills for all open tickets from one on-line portal. While the new portal will solve the information management side of the equation, the Fleet team also developed a system to resolve all unpaid penalties and enforce collection of debt. Staff worked with Finance Counsel's office to revamp the program rules.

DOF further commented that the roll out for this new program is scheduled for next month. All companies will be noticed about the changes to these programs and be required to pay all existing debt and sign an updated enrollment agreement. We anticipate having all companies that would like to join the enhanced program re-enrolled by January 2013. All companies that do not reenroll will be removed from the programs.

**Auditor Comment:** DOF has stated this program has been running for eight years. In return for a reduced administrative burden to the City, DOF has allowed commercial organizations to receive a substantial reduction on fines as well as other benefits. Program participants are not assessed penalties or interest, their vehicles are not subject to tow, and DOF does not pursue judgments against participants for unpaid summonses. As DOF has acknowledged, many firms-- despite receiving significant benefits from the program-- have not lived up to their end of the agreement. These firms have been allowed to continue business as usual with no repercussions because DOF has not exercised its right to remove non-compliant companies from the Programs and then pursue enforcement and collection efforts.

While we applaud the fact that DOF has finally taken action, the point needs to be made that DOF has allowed these problems to continue for eight years, and the roll-out of the changes discussed has still not occurred. On April 17, 2012 (approximately one month after our initial meeting), DOF's Director of Internal Audit sent a "Fleet/Rental Program Updates" (the Plan) with milestone dates and target deadlines, indicating planned changes to the Stipulated Fine and Commercial Abatement Programs.

After reviewing the plan and documentation in the sampled case files, we found that no notifications were made and that the milestone dates and target deadlines were not met, even though the Plan indicated that certain milestones had, in fact, been completed. These Steps

included notifying existing participants of the updated agreement and requiring participants to sign the updated agreement. The Plan further indicated that participants who did not sign this updated agreement would be terminated from these Programs.

Because the Plan included a number of conflicts between target beginning and ending dates, we decided to continue our audit under the initial criteria. Should there be a change in the program, we would expect that DOF would keep us up to date—clearly, it did not.

Upon completion of our fieldwork, we reached out to DOF to see if any actions pertaining to the Plan were taken for our sampled cases. In an August 31, 2012, email, DOF's Director of the Fleet/Rental Unit stated that the participants in the audit's sample had not signed new agreements. Consequently, our sample companies continued to participate in the Programs without facing termination.

The only implemented change to the Programs that occurred during the course of the audit was that a new Enrollment Agreement, for newly enrolled companies, became effective February 15, 2012. This new Enrollment Agreement allowed newly enrolled companies to have up to 30 days to pay their outstanding parking summonses—a fact that was mentioned in the audit report. Because it only dealt with new enrollees, there was no impact on our sample cases or findings reported.

In its response, DOF stated that, in part, implementation was delayed due to “substantial IT programming” that needed to occur related to the portal. However, because DOF did not share any detailed information regarding this portal with us, we cannot verify the accuracy of the statement nor can we determine whether the portal will address the issues identified in the audit.

In conclusion, we wish to note that DOF, in its response, has in substance agreed to implement our four recommendations. While there may be a disagreement over what has occurred and when, there is agreement over the appropriate course of action to take in improving the effectiveness of DOF in collecting unpaid fines.

The full text of the written comments from DOF is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

DOF does not effectively pursue collection of outstanding fines for parking summonses issued to vehicles owned by companies participating in its Stipulated Fine and Commercial Abatement Programs. Further, companies were also allowed to continue in the Programs even after failing to pay for summonses issued prior to enrollment. In some cases, companies agreed to pay summonses when they entered the Program, made one partial payment, and then failed to make any further payments. DOF has no procedures regarding how to deal with non-compliant participants. DOF's pursuit of this debt is non-existent. As of April 2012, 1,517 companies participating in these reduced fine Programs owe \$9,262,544. However, if DOF were to adhere to the signed enrollment agreement and exercise its right to remove the non-compliant participants from the Programs, unpaid summonses could be restored to the original amounts and DOF could seek judgments and pursue all enforcement efforts against those companies with outstanding balances.

### **No Collection Efforts Made to Pursue over \$9 Million in Outstanding Summonses**

Our review of outstanding debt owed by companies in the Stipulated Fine and Commercial Abatement Programs found that, as of April 2012, 1,517 companies owe \$9,262,544 (\$6,421,588 of the \$9,262,544 was outstanding longer than 30 days). DOF's Enrollment Agreement for the Programs state, "Payment of the amount indicated on the fleet reports (Fleet Summons Issuance Report) must be made within 15 days of receipt. Failure to pay timely may result in removal from the Program and the imposition of penalties and a default judgment." Companies voluntarily enroll in these programs and are bound by the terms of their Enrollment Agreement.

Contrary to the agreements they enter into with DOF, our analysis found that many of the companies are not complying with the 15-day payment requirement. These companies have not only failed to pay summonses issued since their enrollment in the Programs, but have also failed to pay their outstanding summonses prior to their enrollment. In fact, many of the participants owe thousands of dollars and DOF has taken no action to collect the outstanding debt. Table II shows an aging schedule of the debt outstanding that is owed by 1,517 companies participating in the Stipulated Fine and Commercial Abatement Programs.

**Table II**Aging Schedule of the Outstanding Debts for the Stipulated Fine and Commercial Abatement Programs as of April 2012

<b>Outstanding Periods</b>	<b>Stipulated Fine</b>	<b>Commercial Abatement</b>	<b>Total</b>
<b>0 to 30 days</b>	\$2,658,547	\$182,409	\$2,840,956
<b>31 to 60 days</b>	1,602,034	134,400	1,736,434
<b>61 to 90 days</b>	477,690	74,582	552,272
<b>91 to 180 days</b>	296,560	115,831	412,391
<b>Over 180 days</b>	2,694,627	1,025,864	3,720,491
<b>Total</b>	<b>\$7,729,458</b>	<b>\$1,533,086</b>	<b>\$9,262,544</b>

Because most of the debt owed by Program participants is non-judgment, the participants do not receive notice of their total outstanding debt. Participants receive weekly notices of summonses issued during the previous week. However, unpaid balances from previous weekly notices are not carried over to the next notice. Those participants that ignore the weekly notice of new summonses are not reminded of their outstanding debt in subsequent notices and are allowed to continue business as usual with no repercussions. DOF does not actively pursue collection on outstanding fines and does not exercise its right to remove non-compliant companies from the Programs. Terminating delinquent companies would allow DOF to take enforcement actions such as pursuing judgments, denying vehicle registrations, and towing vehicles with unpaid parking tickets.

DOF's pursuit of this debt is non-existent because judgments are not being sought for these outstanding summonses. Because these cases are not placed in judgment, DOF's Collections Division would not be notified of any participants' non-compliance and associated outstanding debt. Had participants been removed from the Programs, outstanding summonses could be placed into judgment and DOF's Collections Division could take enforcement actions. For example, Program Participant A enrolled in the Stipulated Fine Program in July 2005 and, as of July 2012, has an outstanding balance in reduced fines totaling \$28,532. Table III is a breakdown of the Program Participant A's outstanding debt by year.

**Table III**Amount Outstanding for Program Participant A by Year as of July 2012

<b>Year Issued</b>	<b>Reduced Fine Due</b>	<b>Payment</b>	<b>Amount Outstanding</b>
2012	\$13,969	\$0	\$13,969
2011	9,321	95	9,226
2010	2,194	1	2,193
2009	506	0	506
2008	2,017	105	1,912
2007	726	0	726
<b>Total</b>	<b>\$28,733</b>	<b>\$201</b>	<b>\$28,532</b>

We found that Program Participant A paid less than 1 percent of its outstanding balance to satisfy its summonses over the past six years. Program Participant A is one of the many participants that enrolled in the Program, but failed to adhere to its terms.

In another example, Program Participant B enrolled in the Commercial Abatement Program on June 29, 2011. According to the Summons Inquiry Detail Report (SLRPT 442), as of May 2012, Program Participant B owes \$102,660 in outstanding summonses. Table IV shows a breakdown of Program Participant B's outstanding summonses by year.

**Table IV**

Amount Outstanding for Program Participant B by Year as of May 2012

<b>Year Issued</b>	<b>Reduced Fine Amount</b>	<b>Payment</b>	<b>Amount Due</b>
2012	\$6,211	\$0	\$6,211
2011	26,681	795	25,886
2010	48,904	9,051	39,853
2009	28,987	3,135	25,852
2008	3,281	2,181	1,101
2007	2,854	239	2,615
2006	1,380	281	1,099
2005	43	0	43
<b>Total</b>	<b>\$118,341</b>	<b>\$15,682</b>	<b>\$102,660</b>

Program Participant B had outstanding debt before entering the Program in 2011. In an effort to encourage payment on its outstanding debt, DOF permitted Program Participant B to enroll in the Commercial Abatement Program. However, upon enrolling in the Program, Program Participant B only satisfied part of the prior debt. Yet Program Participant B has taken full advantage of the reduced fines as a participant in the Commercial Abatement Program.

The two examples cited are not unique. DOF takes no enforcement action to pursue outstanding debt of Program participants. If DOF exercised its discretion to terminate the more egregious companies, such as Program Participants A and B, from the Programs, DOF could restore the fines to their original amount, raising the total outstanding debt. DOF could then institute applicable penalties and interest, further increasing the amount owed by the non-compliant companies. Finally, DOF could pursue default judgments against the non-compliant companies.

## **Failure to Enforce Payment on Debt Incurred Prior to Entering the Programs**

DOF requires all participants in the Stipulated Fine or Commercial Abatement Programs to sign an Enrollment Agreement. According to the agreement, companies with debt incurred before enrollment were required to make payment on such debt "in 3 equal installments: the first within 15 days of Finance providing notice of the amount due, the second approximately 30 days later, and the final installment due approximately 30 days after that."

The audit found that seven of the 20 sampled companies still had outstanding amounts on summonses (totaling \$195,886) issued prior to their enrollment in the Programs (see Appendix). These companies were issued Backlog bills requesting payment when they entered the Programs.

A Backlog bill is a summary of existing summonses incurred prior to enrollment into these Programs and includes any reductions of original fine amounts granted by DOF. Should payment remain outstanding, DOF takes no action against companies that breach the enrollment agreement, and participants are allowed to continue business as usual with no repercussions. These companies ignore their debt and continue to accumulate more debt without any further notification that they neglected to pay their backlog bills.

For example, Program Participant C has been a Commercial Abatement participant since March 2010. Program Participant C entered the Commercial Abatement Program with a Backlog bill of 1,256 summonses, amounting to \$93,179. As of June 2012, Program Participant C has not made any effort to pay the Backlog bill. See Table V for a breakdown of outstanding summonses from the Backlog bill by year.

**Table V**

Outstanding Summonses from Program Participant C's  
Backlog Bill by Year

<b>Period</b>	<b>Number of Summonses</b>	<b>Amount Due</b>
2010	529	\$23,452
2009	643	60,167
2008	84	9,560
<b>Total Summonses:</b>	<b>1,256</b>	<b>\$93,179</b>

Further, since enrolling in the Commercial Abatement Program, Program Participant C has also neglected to pay \$33,802 in reduced-rate summonses. As of June 2012, Program Participant C has an outstanding summonses balance of \$126,981.

## **Failure to Terminate Participation in the Programs Costs a Minimum of Nearly \$4 Million in Potential Revenue**

DOF's failure to exercise its right to expel non-compliant companies may cost the City, at a minimum, \$4 million in potential revenue. Consequently, these companies are allowed to remain in the Programs and continue to accumulate additional debt.

In April 2012, there were 1,517 participants in the Stipulated Fine Program and Commercial Abatement Program. These 1,517 participants had \$9,262,544 in total outstanding reduced fines. However, 110 of the 1,517 participants had total outstanding reduced fines of \$10,000 or more, totaling \$7,490,837.

Specifically, we randomly selected 20 companies (10 from each Program) from the population of 110 participants. These 20 participants had a total of \$923,286 outstanding reduced fines. The Stipulated Fine and Commercial Abatement Program participants received a reduction of approximately 80 and 70 percent, respectively, on the summonses they incurred. If these 10



Stipulated Fine Program participants are removed from the Program, the 80 percent reduction would be eliminated, thereby restoring the total reduced fine of \$566,429 to their total original fine amount of \$2,781,550. Similarly, if the 10 Commercial Abatement Program participants are removed from the Program, the 70 percent reduction would be eliminated, thereby restoring the total reduced fine of \$356,857 to their total original fine amount of \$1,198,031. As a result, DOF has the potential to collect total fine amounts of \$3,979,581 without reduction for these 20 Program participants (see Appendix).

The outstanding debt of the 20 companies selected has continued to grow during the short period from our initial analysis in April 2012 to the cut-off dates used when we conducted our detailed testing (June and August 2012). This further shows the results of DOF's inaction. Specifically, the debt of the 10 sampled companies in the Stipulated Fine program rose 21 percent and the debt of the 10 sampled companies in the Commercial Abatement program rose 37 percent. See Table VI for the growth of debt by the 20 sampled companies.

**Table VI**  
Growth of Debt by the 20 Sampled Companies

Programs	Total as of April 2012	Total Fine Balance as of April 2012	≥ \$10,000 Audit Population as of April 2012	≥\$10,000 Audit Population Fine Balance as of April 2012	Random Sample as of April 2012	Random Sample Fine Balance as of April 2012	Outstanding Fine Amount as of Audit Cut-off Dates	Audit Cut-off Dates for Outstanding Fines
Stipulated Fine	924	\$7,729,457	73	\$6,686,806	10	\$467,585	\$566,429	8/2/12
Commercial Abatement	593	\$1,533,086	37	\$804,031	10	\$259,975	\$356,857	6/30/12
<b>Totals</b>	<b>1517</b>	<b>\$9,262,543</b>	<b>110</b>	<b>\$7,490,837</b>	<b>20</b>	<b>\$727,560</b>	<b>\$923,286</b>	

DOF has the authority to remove participants from the Programs if the participants fail to make payments in a timely manner. Further, once removed from the Programs for such late payment, DOF may impose penalties on unpaid amounts and seek default judgment to obtain payment. Specifically, DOF can remove non-compliant participants pursuant to:

The Enrollment Agreement which states “Failure to pay timely may result in removal from the Program and the imposition of penalties and a default judgment” and,

Chapter 39 of Title 19 of the Official Compilation of Rules of the City of New York (RCNY), §39-03.1, which states that when an owner fails to pay fines in accordance with an agreement, “the agreement shall be null and void and of no further force and effect and the notices of violation issued against such enrolled vehicles that are outstanding shall be subject to the provisions of this chapter and the penalties set forth in this chapter to the same extent and in the same manner as if such agreement had not been in effect.”

The recourse DOF has in pursuing this debt is to remove non-compliant participants from the Programs, reinstitute original fine amounts, and give violators the option of paying or requesting hearings. If the violator does not respond (after a series of notices), the City should seek judgment against the violator and pursue stronger enforcement action (for example, towing, restraining bank accounts). By doing this, DOF can potentially collect nearly \$4 million from the 20 sampled companies. DOF might also feel it cost effective to pursue collections for the 110

companies which each had an outstanding balance of  $\geq$ \$10,000 as of April 2012. The total amount as of April 2012 was approximately \$7.5 million (although this includes the above-noted 20 sampled companies).

## RECOMMENDATIONS

DOF should:

1. Revise its Weekly Fleet Summons Issuance Report to include all (not just newly issued) outstanding summonses sent to participants.

**DOF Response:** “DOF is near the end of the IT development project to upgrade the web portal for program participants to allow anyone enrolled to log on and see all open violations issued to enrolled plates in real-time. Therefore DOF disagrees that there is a reason to continue to send paper reports as recommended by the Comptroller.”

**Auditor Comment:** The alternative format presented by DOF is acceptable as long as its method informs participants of all outstanding summonses-- not just newly issued summonses.

2. Closely monitor Program participants’ debt to ensure their compliance with Programs’ policies.

**DOF Response:** “One of the primary goals of DOF’s extensive upgrade to the web portal is to allow companies to not only better understand their open debt but also give them the tools to self-manage it. As the revised program goes live, fleet unit personnel will move from explaining the contents of reports and answering questions to focusing on enforcement efforts.”

3. Establish formal written policies of enforcement actions to be taken against non-compliant companies, such as:

- a) Implement enhanced notification efforts of any participant that does not pay all outstanding summonses listed on the Weekly Fleet Summons Issuance Report;
- b) Set criteria to remove non-compliant companies from the Programs (i.e., set a monetary threshold or specify payment deadlines); and
- c) Institute penalties and/or late fees for untimely payments.

**DOF Response:** “DOF Fleet and Counsel staff have been drafting detailed rules regarding our program enhancements over many months. In addition, as noted earlier, starting in November an updated enrollment agreement will be mailed to all existing participants that clearly delineates all changes to the program.”

4. Remove companies that are not abiding by the terms of their enrollment agreement and restore the summonses to the unreduced amount. Then pursue collection of restored summonses through default judgment in the amount of the original unreduced fine amount and impose all penalties and interest in accordance with the RCNY, §39-03.1.

**DOF Response:** “DOF has incorporated this requirement as a part of our long-term plan. As noted earlier, we have specified a timeline in our rules draft regarding payment, penalties, judgment and removal from the program.”

## 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 collection of outstanding parking summonses from DOF's Stipulated Fine Program up to August 2, 2012, and for the Commercial Abatement Program up to June 30, 2012.

To obtain an understanding of DOF's procedures in the reporting and collecting of outstanding parking summonses, we reviewed the relevant provisions of the Parking Violations of the Official Compilation of Rules of the City of New York, Title 19, Chapter 39, the Enrollment Agreement for Commercial Fleet and Stipulated Parking Fine Programs, and the Standard Operating Procedures from DOF's Collections Division. We interviewed key personnel from DOF's Tax and Parking Program Operations and Collections Divisions to understand DOF's enrollment and enforcement procedures. We discussed the legal requirements and possible enforcement actions taken in the resolution of outstanding parking violations with DOF's General Counsel Division. We also conducted a system walk-through on the Operations and Collections Divisions. We documented our understanding of the processes by means of flowcharts that were reviewed and approved by the DOF officials we interviewed.

We reviewed and analyzed DOF's Commercial Fleet Program's participants' summons reports generated from the Summons Tracking Accounts Receivable System (STARS).<sup>3</sup> We obtained an outstanding summons summary report and an outstanding summons aging report for the period January 1, 2011, to February 2, 2012, for all Stipulated Fine and Commercial Abatement Program participants.

To test the accuracy and validity of the STARS database, we requested an example of one participant in each Stipulated Fine Program and one participant in the Commercial Abatement Program. We obtained all relevant enrollment and reporting information, including a report of outstanding summonses with reduced fines applied. We also reviewed the images of actual summonses from the New York City Electronic Service Payment System (NYSERV), a web-based summonses imaging system. Specifically, we:

- Compared the Detail Summonses Report to the Fleet Judgment Billing Report (SMRPT550) ;
- Traced the Detail Summonses Report to the Violation Status Details on the web-based NYSERV;
- Tested the Detail Summonses Report to the STARS database printouts and to the Computer Assisted Collections System (CACS)<sup>4</sup> database printouts;
- Assessed the Detail Summonses Report for completeness to NYSERV and the Electronic Databases (STARS and CACS) ; and

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<sup>3</sup> STARS is an online database system that allows DOF to track the issuance, payment, and adjudication of all parking summonses issued in New York City.

<sup>4</sup> The Collections Division utilizes CACS, which maintains complete, up-to-date case collection information on its database and communicates directly with the host accounting system, STARS.

- Evaluated Electronic Database (STARS) accuracy based upon Source Documents (Issued Summonses on NYSERV) .

To determine whether the Department of Finance effectively collected fines for parking summonses issued to vehicles in its Stipulated Fine and Commercial Abatement Programs, we obtained an outstanding summons aging report as of April 2012. We randomly selected 20 participants out of 110 Stipulated Fine and Commercial Abatement Program participants that each had a total outstanding summons amount greater than or equal to \$10,000. Specifically, out of the 73 Stipulated Fine Program participants with outstanding summonses totaling \$6,686,806, we randomly selected 10 participants with outstanding summonses totaling \$467,585. Out of the 37 Commercial Abatement Program participants with outstanding summonses totaling \$804,031, we randomly selected 10 participants with outstanding summonses totaling \$259,975. We requested all relevant information on the selected Program participants and examined the following reports:

- Fleet summary report of outstanding parking summonses as of April 2012;
- Fleet detailed report of outstanding parking summonses as of April 2012;
- Each sampled participant's Summons Inquiry Detail Report (SLRPT 442) of all parking summonses satisfied and outstanding;
- Each sampled participant's Backlog bill, if available; and
- Fleet Judgment Billing Reports (SMRPT550) obtained from DOF.

For each of these 20 participants, we ascertained the enforcement actions taken to collect outstanding summonses by requesting documentation from DOF officials and reviewing information recorded in CACS.

## 20 SAMPLED PARTICIPANTS' FINE HISTORY

Company Name	Enrollment Date*	Reduced Fine Amount Still Outstanding From Summonses Prior to Enrollment Date	Total Outstanding Reduced Fine Amounts	Original Fine Amounts
<b>Stipulated Fine</b>				
DAVIS TRUCKING INC.	10/20/2008	\$2,542	\$14,872	\$22,576
COFFEE DISTRIBUTING CORP.	5/1/2006	190	22,122	105,345
CINTAS DOCUMENT SOLUTIONS INC.	7/12/2005	0	28,532	38,118
CHIMNEY DOCTORS	N/A	N/A	13,303	32,087
GOTHAM REFINING CHEMICAL CORP.	2/10/2009	0	14,809	36,875
UNITED PARCEL SERVICE (SI)	N/A	N/A	44,075	75,307
ANHEUSER BUSCH DISTRIBUTION OF NY INC.	N/A	N/A	294,432	893,025
POLO LINEN SERVICE INC.	N/A	N/A	37,104	68,347
METROSTAR DISTRIBUTIONS, INC.	6/8/2006	0	38,789	80,685
MIDTOWN EXPRESS INC.	11/28/2007	185	58,391	1,429,185
<b>Stipulated Fine (SF) Program Total</b>		<b>\$2,917</b>	<b>\$566,429</b>	<b>\$2,781,550</b>

## Commercial Abatement

CAPITOL FIRE	N/A	N/A	14,720	25,685
PS MARCATO CO. INC.	6/29/2011	94,506	102,660	679,934
DMV MECHANICAL INC.	11/24/2009	456	12,350	27,814
JOHN J SIDERIS INC.	N/A	N/A	14,018	47,870
SEAVIEW PLUMBING INC.	N/A	N/A	15,703	31,135
AMERICOLD INC.	9/28/2009	0	23,979	121,251
CHURCHILL CORP SERVICES	9/19/2007	0	22,776	68,679
MILLER PLUMBING & HEATING INC.	1/20/2010	800	13,517	23,237
SKI WHOLESALE BEER CORP.	N/A	N/A	10,153	16,470
NEW CENTURY TRAVEL INC.	3/12/2010	97,207	126,981	155,956
<b>Commercial Abatement (CA) Program Total</b>		<b>\$192,969</b>	<b>\$356,857</b>	<b>\$1,198,031</b>
<b>Grand Totals</b>		<b>\$195,886</b>	<b>\$923,286</b>	<b>\$3,979,581</b>

<b>SF Percentage of Outstanding Summonses Paid</b>	$(\$566,429 / \$2,781,550)$	<b>20%</b>
<b>SF Reduction Received</b>	$(100-20)\%$	<b>80%</b>
<b>CA Percentage of Outstanding Summonses Paid</b>	$(\$356,857 / \$1,198,031)$	<b>30%</b>
<b>CA Reduction Received</b>	$(100-30)\%$	<b>70%</b>

\* The Department of Finance did not provide the enrollment dates for eight of the sampled participants.



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October 15, 2012

Ms. Tina Kim  
Deputy Comptroller for Audit  
City of New York Office of the Comptroller  
Bureau of Audit  
One Centre Street, Room 1100  
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*Sent via e-mail: tkim@comptroller.nyc.gov*

Re: Draft Audit Report on the Department of Finance's Efforts to Collect Outstanding Parking Fines from Participants in its Stipulated Fine and Commercial Abatement Programs (FM11-110A)

Dear Deputy Comptroller Kim:

**Introduction**

We appreciate the Comptroller's audit regarding the collection of fines for parking summonses issued to vehicles owned by companies participating in the Stipulated Fine and Commercial Abatement Programs. However, the audit fails to recognize that DOF has been developing solutions to the issues the report raises since 2011, and is scheduled to complete the roll out of the new program between November and January.

The Stipulated Fine and Commercial Abatement programs were established in July 2004 to streamline the process for businesses to pay outstanding summonses and more efficiently resolve parking tickets, some of which would have been dismissed had they gone to hearing. For the past eight years, the program has been successful in collecting approximately \$50 million annually in fines issued to the vehicles enrolled in the program while avoiding the cost of processing and holding hearings on disputed tickets. In calendar year 2011, \$54 million was collected from the \$58 million billed in the two programs.

While the programs have been a success and provide an important service to the business community, the Department of Finance (DOF) determined in 2011 that there were recurring problems that needed to be fixed to improve enforcement of unpaid fines and simplify administration of the program.



DOF developed new procedures to clarify program eligibility and participation requirements, improve reporting on outstanding summonses, provide escalating and transparent penalties for non-payment, and apply new enforcement procedures with fixed timelines for action.

The first step of the plan was to ensure that personnel resources and leadership was in place to help craft and implement all the required changes. A seasoned veteran of the program was promoted to the Director of the Unit. In addition, an Operations analyst was appointed to project manage the changes. This leadership team worked with the Assistant Commissioner to develop a comprehensive reform plan.

The new leadership implemented the first critical change immediately: Since February 2012, the enrollment requirements were changed to enforce the rule that any entity newly enrolling in the programs satisfy all parking debt associated with its vehicles prior to admittance to the program. The Comptroller did not identify any instance in which this rule was not followed.

The remaining changes required substantial IT programming. Open tickets came in a massive report for each week, which was not even divided by company. Fleet staff spent their time separating the reports, mailing them out and then responding to questions about tickets and payments. No consolidated report with all open tickets was available for a participating company or Fleet staff and there was no simple way for a company to identify which tickets it was paying if the company did not choose to pay one of the tickets on each week's list. If the company did not want to pay every ticket on the weekly report each summons number had to be typed into the system separately for payment whether on-line or in a business center.

The new leadership's plan required that companies be able to view and create bills for all open tickets from one on-line portal. Since January, DOF IT developers have been working with the new Fleet team to overhaul its web interface for these programs so all violations can be viewed, not just the tickets from the previous week, and so that the violations could be updated in real time. With the new portal, companies will be able to review all open tickets and manage them from one location in real-time through the web. Once companies move to self-manage their outstanding tickets through the web portal, Fleet staff can move from their current emphasis on mailing out lists and straightening out which tickets are open and which have been paid to focus exclusively on enforcement strategies.

While the new portal will solve the information management side of the equation, the Fleet team also developed a system to resolve all unpaid penalties and enforce collection of debt. Staff worked with Finance Counsel's office to revamp the program rules. The enforcement related changes include:

- All participating companies will have to pay off all debt and sign a new enrollment agreement to stay in the program.
- Penalties will be imposed if a violation is not paid timely.

- Unpaid summonses will be moved to judgment.
- Companies that accumulate over \$350 in judgment debt will be removed from the program and all their tickets will be subject to enforcement including booting, towing and other standard forms of debt collection.

The roll out for this new program is scheduled for next month. All companies will be noticed about the changes to these programs and be required to pay all existing debt and sign an updated enrollment agreement. We anticipate having all companies that would like to join the enhanced program re-enrolled by January 2013. All companies that do not reenroll will be removed from the programs.

The substantial work we have done to revise these programs was discussed with the Comptroller's team at the entrance and exit conferences. It is disappointing that the report completely ignores that the Department of Finance and Fleet staff have been working since January to revamp the Stipulated Fine and Commercial Abatement Programs to make them more effective. The changes that started in February and will be completed by January 2013 were put into place long before the audit started and go far beyond the audit recommendations. Our changes provide a better program for companies doing business in New York City.

### **Audit Findings**

#### ***No collection efforts made to pursue over \$9M in outstanding summonses***

DOF disagrees that no collection effort has been made to collect outstanding summonses. DOF collects approximately \$50M from companies enrolled in the program every year. DOF also disagrees that there is \$9.2M outstanding and awaiting collection. It is inherent in a large program managing thousands of tickets a month that new payables constantly arise and old payables are resolved. The \$9.2M cited by the Comptroller is merely a snapshot in time of all possible payments due. We told the auditors at the exit conference that they should trace how much of the \$9.2M remained unpaid six months later, but they did not pursue this elementary question. Based on our experience, only the debt listed as over 180 days old was potentially at risk, and the remaining debt would have long since been paid. Looking at the debt from CY 2011, approximately 6% of the dollar amount billed remains unpaid (\$58M was billed and \$54M was paid). The Comptroller's finding that there is \$9.2M in unpaid receivables from these programs demonstrates a failure to understand the program they are trying to analyze.

The Comptroller's staff's failure to ask how much of the debt remained unpaid over time led them to inappropriately cast aspersions on good corporate citizens that have long been compliant members of the Stipulated Fine program. The Comptroller cites almost \$2 million owed the City by the so called "top debtors" listed in Table 1 from the Stipulated Fine program. There is no collection problem involving these companies. To the extent they have unpaid tickets, it is due to the complexity of administration. While large delivery companies had trouble working with lists of

tickets that were not rolled up or kept current, we anticipate they will have very little trouble working with a web portal that provides detailed ticket information for each company and permits management of tickets in real time from the site.

Our changes to the program are also directed at eliminating the possibility of long term unpaid debt. We do not think it is acceptable that there was \$3.7M in outstanding summonses older than 180 days on the Comptroller's list. The many steps we have already prepared to revamp the program from the major upgrade to our web interface which will allow participants to see and manage their open violations in real-time, to requiring all companies to pay all outstanding debt to rejoin the program and the new system of escalating fines and expulsion from the program once \$350 in judgment debt is accumulated will eliminate this problem.

***Failure to enforce payment on debt incurred prior to entering the programs***

DOF had changed its policy as of February 2012 to require companies to pay off outstanding debt prior to enrollment in the Commercial Abatement or Stipulated Fine programs so this is no longer a problem for new program members. Existing members will be required to rejoin the programs and pay all outstanding debt consistent with the new program we are rolling out in November.

***Failure to terminate participation in programs***

DOF had established as a key component of its revamped program that it needed to be able to impose penalties and eliminate from the Commercial Abatement and Stipulated Fine programs any companies that did not make the required payments. Our newly updated enrollment agreement and drafted program rules clearly lay out the progressive penalties for not complying with program requirements. These include the reversal of the abatement, addition of penalties for late payment, placement of debt into judgment and the removal of company from the program. The new agreement and updated program rules give companies a clearer idea of program benefits and requirements allowing for improved compliance and set the stage for fair and uniform enforcement against companies not in compliance. Coupled with clearer reporting this update will allow DOF to administer debt tracking and program terminations efficiently and effectively.

**Audit Recommendations and DOF Responses:**

1. DOF should revise its Weekly Fleet Summons Issuance Report to include all (not just newly issued) outstanding summonses sent to participants.

DOF Response: DOF is near the end of the IT development project to upgrade the web portal for program participants to allow anyone enrolled to log on and see all open violations issued to enrolled plates in real-time. Therefore DOF disagrees that there is a reason to continue to send paper reports as recommended by the Comptroller.

2. DOF should closely monitor Program participants' debt to ensure their compliance with Programs' policies.

DOF Response: One of the primary goals of DOF's extensive upgrade to the web portal is to allow companies to not only better understand their open debt but also give them the tools to self-manage it. As the revised program goes live, fleet unit personnel will move from explaining the contents of reports and answering questions to focusing on enforcement efforts.

3. DOF should establish formal written policies of enforcement actions to be taken against non-compliant companies, such as:
  - a) Implement enhanced notification efforts of any participant that does not pay all outstanding summonses listed on the Weekly Fleet Summons Issuance Report;
  - b) Set criteria to remove non-compliant companies from the Programs (i.e., set a monetary threshold or specify payment deadlines); and
  - c) Institute penalties and/or late fees for untimely payments.

DOF Response: DOF Fleet and Counsel staff have been drafting detailed rules regarding our program enhancements over many months. In addition, as noted earlier, starting in November an updated enrollment agreement will be mailed to all existing participants that clearly delineates all changes to the program.

4. DOF should remove companies that are not abiding by the terms of their enrollment agreement and restore the summonses to the unreduced amount. Then DOF should pursue collection of restored summonses through default judgment in the amount of the original unreduced fine amount and impose all penalties and interest in accordance with the RCNY, §39-03.1.

DOF Response: DOF has incorporated this requirement as a part of our long-term plan. As noted earlier, we have specified a timeline in our rules draft regarding payment, penalties, judgment and removal from the program.

Sincerely,



Elizabeth Botwin

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