



NEW YORK CITY COMPTROLLER  
**BRAD LANDER**

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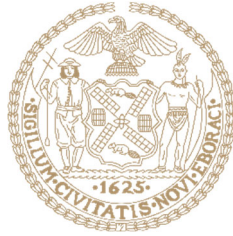
# Report to the Mayor and City Council on City Comptroller Audit Operations Fiscal Year 2022

BUREAU OF AUDIT AND INVESTIGATIONS

**MARCH 1, 2023**







## **Brad Lander**

Comptroller

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The City of New York  
**Office of the Comptroller**  
Brad Lander

March 1, 2023

The Honorable Eric Adams, Mayor  
City of New York  
City Hall  
New York, NY 10007

The Honorable Adrienne Adams, Speaker  
New York City Council  
250 Broadway, Suite 1850  
New York, NY 10007

New York City Council  
City Hall  
New York, NY 10007

Dear Mayor Adams, Speaker Adams, and Members of the City Council:

Attached please find the Annual Report on the operations of the Audit Bureau of the New York City Comptroller's Office for Fiscal Year 2022. Under the City Charter, the Comptroller's Office must audit some aspect of every City agency at least once every four years and is mandated to perform financial audits of City transactions, revenues, and expenditures to determine whether agencies are meeting their goals, and whether funds are being used effectively and efficiently.

During FY 2022, the Audit Bureau issued 55 reports,<sup>1</sup> containing 349 recommendations. City agencies and other related entities reported implementing or being in the process of implementing 56% of these, and partially implementing 7.2%. Agencies did not respond to 3.4%. Agencies are still considering implementation of 2% and reported not implementing 12.9% of the recommendations issued. We will continue to monitor implementation efforts through CY 2023.

Ten of the 55 reports issued in this period identified total potential estimated savings of \$278.3 million. These consist of actual and recommended recoupments and other fiscal savings that could be realized if all recommendations were implemented.

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<sup>1</sup> Although all 55 reports contained recommendations, not all resulted in the collection of responses to recommendations. Responses from subjects of investigative reports, for example, were not collected.

There were many audits of note completed during this period, including the audit of the NYC Ferry system, which led to nearly immediate changes in fare policy and a commitment by the Economic Development Corporation (EDC) to improve the transparency of financial reporting. EDC also agreed to expeditiously issue a new RFP to solicit a ferry operator, which is now underway. The assessment of NYPD's efforts to civilianize key positions by moving uniformed officers away from desks and into enforcement identified weaknesses for improvement. The audit of the Department of Consumer and Worker Protection related to price gouging drove several improvements in oversight. Other audits of note included infrastructure-related audits, such as the Department of Transportation audit involving the rehabilitation of the Brooklyn Bridge; and a special report which identified an opportunity to increase the Department of Education's claims for federal reimbursement by \$180 million, for health care services provided to students. Several audits also assessed compliance with local laws that are intended to strengthen the City's anti-discrimination awareness and language access services.

The Audit Bureau's mission is to conduct informative and meaningful audits, independent assessments, and objective reviews to examine and report on City operations and services, and to strive to improve the City's financial position, identify and mitigate risks, and ensure that services are provided efficiently, effectively, and equitably. By reporting their findings to City officials, oversight bodies, and the public, the Audit Bureau increases transparency and accountability, promotes integrity, and strengthens public trust.

This report includes a summary of all major reports issued during Fiscal Year 2022, representing significant work of the staff of the Audit Bureau to identify risks, areas for improvement, and opportunities for significant potential monetary savings. The report is organized by audits with fiscal outcomes and those with operational impacts, by subject, within each category.

The benefits of audit work are best quantified by measuring the effective implementation of audit recommendations. For the first time, the Audit Bureau is conducting regular and ongoing follow-ups with agencies to track implementation status of all recommendations. This change is in effect for all reports issued since January 1, 2022, and implementation statuses are now made public, in an online [Audit Recommendations Tracker](#).

As the City's Chief Fiscal and Accountability Officer, it is my duty to do everything in my power to improve the City's fiscal health, to support overall effectiveness and efficiency, and to hold City agencies accountable to all New Yorkers. We welcome any feedback on this report, either to specific audits referenced in this Annual Report, or to how we can perform our audit responsibilities under the City Charter as effectively and constructively as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander", written in a cursive style.

Brad Lander

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\*Note: summaries of major audits/special reports are included.

# Summary of Audit Results

The Comptroller’s Audit Bureau issued 55 audits and special reports in Fiscal Year 2022 (FY22). Of the 55 audits issued during FY22, 10 resulted in either recouped amounts, recommended recoupment amounts, or expenditures identified as unnecessary or foregone revenue, totaling \$278.3 million. These are estimates of what could be achieved if all the audit and special report recommendations were implemented.

Of the \$278.3 million, \$204.2 million was recommended for recoupment; \$73.6 million was identified as unnecessary expenditures; \$358,475 was foregone revenue; and \$201,432 was reported as recouped.

Included in this Annual Report are summaries of major audits and special reports issued during FY22. All audits were performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as required by the New York City Charter, and certain non-GAGAS reports, such as the analysis of welfare payments, were also performed.

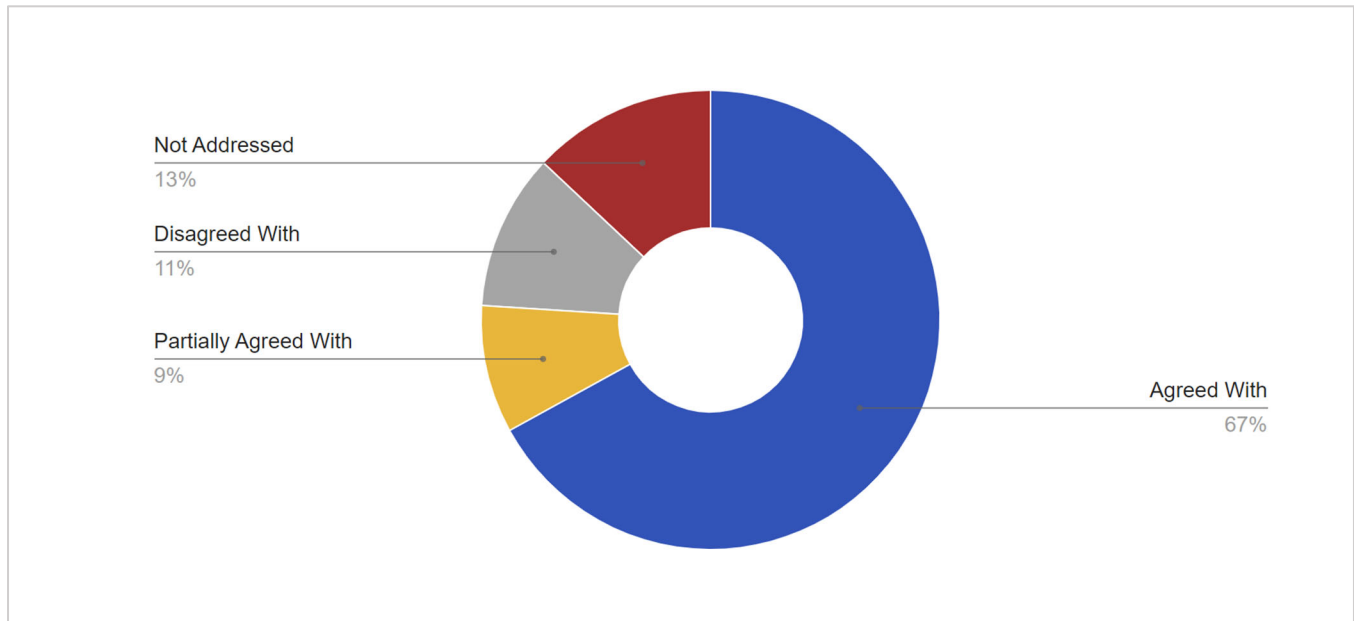
This report is divided into two sections. The first section covers audits, special reports and analysis of City agencies and public authorities with identified fiscal outcomes. The second section covers audits and special reports that focused on operational impact.

Many of the audit recommendations have been implemented either in whole or in part. Information on implementation status of the recommendations (as described in the “Audit Follow-up” section of each audit summary) was provided by the auditees in response to our follow-up inquiries.

Beginning with recommendations issued on or after January 1, 2022, routine follow-ups with agencies who agreed to implement our recommendations will continue regularly.

The chart below highlights the percentage of agency responses from audits issued between July 1, 2021 to June 30, 2022.

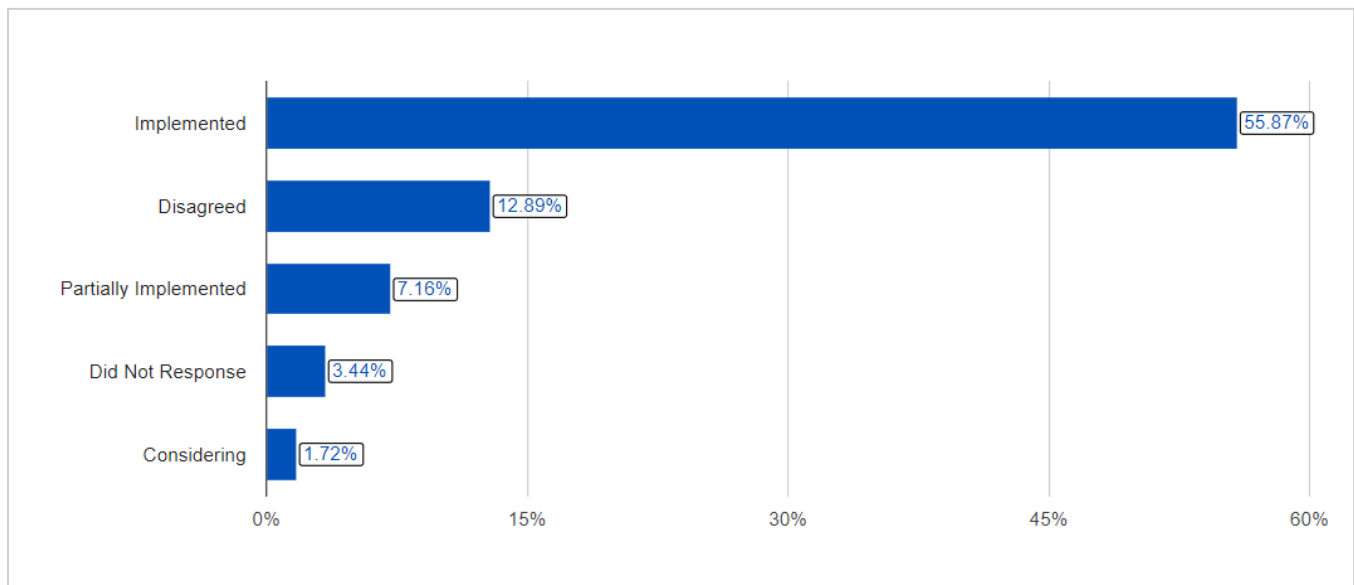
### Agency Responses by Percentage



Note: Agency agreement is captured at response.

The chart below highlights the overall percentage of implemented recommendations as of February 10, 2022.

### Agency Implemented Recommendations by Percentage



Note: Implemented recommendations are captured during follow-up, and the numbers may change.

# List of Fiscal Year 2022 Audits with Fiscal Outcomes

The following ten (10) audits had a financial impact during FY22:

Total Amount*	Agency	Title
\$188,173,873	Department of Education	Audit Report on the Department of Education's Efforts to Maximize Medicaid Reimbursement Claims for Special Education Services (FK18-111A)
\$67,080,438	Economic Development Corporation	Audit Report on the New York City Economic Development Corporation's Administration of the NYC Ferry Operation (FM20-071A)
\$7,642,770	Department of Design and Construction	Audit Report on the Department of Design and Construction's Oversight of Maintenance of Rain Gardens during the Guarantee Period (SE20-101A)
\$5,906,207	Department of Transportation	Audit Report on the Department of Transportation's Management and Procurement of the Brooklyn Bridge Rehabilitation Contract (SE18-084A)
\$3,900,000	Department of Education	NYC Comptroller's School Food Investigations
\$3,076,362	Department of Finance	Audit Report on the New York City Department of Finance's Administration of Senior Citizen Homeowners' Exemption Program (SR21-080A)
\$1,106,305	Bronx County DA's Office	Audit Report on the Bronx County District Attorney's Controls Over Personal Services Expenditures (FM21-070A)
\$983,304	Department of Finance	Audit Report on the New York City Department of Finance's Oversight over the Collection of 911 Surcharges (FN20-107A)
\$358,475	Department of Citywide Administrative Services	Audit Report on the Department of Citywide Administrative Services' Controls over the Transfer, Sale, and Disposal of Surplus Goods (FK19-088A)
\$92,163	Queens County DA's Office	Audit Report on the Queens County District Attorney's Controls Over Personal Services Expenditures (FM21-069A)

\*Note: Amounts reported as recouped, recommended for recoupment, or identified as unnecessary expenditures or foregone revenue

# Major Audits and Special Reports with Fiscal Outcomes (organized by subject)

## 911 Surcharges

### **Audit Report on the New York City Department of Finance's Oversight over the Collection of 911 Surcharges (FN20-107A); and Audit Report on Verizon New York, Inc.'s Compliance with New York City's Enhanced 911 Surcharge Regulations (FN21-082A)**

#### **Introduction**

The objective of these audits was to determine whether the New York City Department of Finance (DOF) and Verizon New York, Inc. appropriately assessed and collected the 911 surcharge—a monthly fee charged to each telephone line in the City to cover costs associated with the enhanced 911 emergency telephone system.

Telecommunications companies (Service Providers) must remit the net 911 surcharge to the City, through DOF, within 30 days of the last business day of the preceding month, and must submit Form NYC-E-911 (E-911 return) to report the amounts collected from their customers. DOF maintains all E-911 returns in its electronic Business Tax System (BTS), in individual accounts associated with the respective Service Providers.

DOF was audited to determine whether it had controls in place to ensure that it could readily identify all Service Providers subject to the law's requirement to collect the 911 surcharge; that Service Providers were paying the correct amount of surcharges due and paying in a timely manner; and that Service Providers were submitting the annual reports and monthly lists of customers who do not pay the 911 surcharge.

Verizon—the largest Service Provider in the City—was audited to determine whether it complied with the regulations relating to the billing, collection, remitting, and reporting of the 911 surcharge. For Calendar Year 2020, Verizon remitted approximately \$10.3 million in 911 surcharges to DOF.

## Results

### **Audit Report on the New York City Department of Finance's Oversight over the Collection of 911 Surcharges (FN20-107A)**

DOF lacked adequate oversight over its collection of 911 surcharges. Auditors determined that, as of August 24, 2020, Service Providers had not remitted at least \$862,310 in overdue 911 surcharges owed to the City. DOF had not established procedures to identify all Service Providers required to collect the 911 surcharge; and had not adequately overseen the Service Provider accounts to ensure 911 surcharges were paid timely and reported accurately in the E-911 returns. In addition, DOF had not ensured that the Service Providers submitted the required annual reports and monthly lists of non-paying customers and amounts owed to DOF and, as a result, had no assurance that all Service Providers collected and remitted the 911 surcharge to the City as required.

The audit made six recommendations to DOF including establishing procedures to identify all Service Providers required to collect 911 surcharges, enforcing Service Provider accounting and reporting requirements, and developing policies and procedures that enable DOF to enforce the NYC Administrative Code, monitor non-filing by Service Providers, and notify Service Providers of their filing requirements.

In its written response DOF agreed with all six recommendations.

### **Audit Report on Verizon New York, Inc.'s Compliance with New York City's Enhanced 911 Surcharge Regulations (FN21-082A)**

Although Verizon promptly remitted monthly 911 surcharges to DOF, the auditors were unable to determine whether Verizon billed and collected the 911 surcharge from all customers required to pay the surcharge, or whether Verizon paid all 911 surcharge revenues that it collected from customers to DOF. This is because Verizon did not provide requested access to relevant information and staff. As a result, the auditors were unable to determine the accuracy and completeness of Verizon's data and obtain sufficient evidence to verify that Verizon properly billed, collected, and remitted the correct 911 surcharge amounts.

In addition, Verizon did not submit the required annual report and monthly lists of non-paying customers to DOF. As a result, there was no assurance that Verizon complied with the requirements set forth in the NYC Administrative Code.

To address these issues, a total of four recommendations were made—two to Verizon, that it fully supports the 911 surcharge amounts reported to DOF and that it ensures its billing and payment information is readily available for review; and two to DOF—that it ensures that Verizon submits the annual reports and monthly lists of non-paying customers, as required by the NYC Administrative Code.

In its response, Verizon generally disagreed with the report's findings and stated that "no action needs to be taken" to comply with its two recommendations. In DOF's response, the agency agreed to take steps to try to implement its two recommendations.

## **Audit Follow-up**

DOF reported that it has partially implemented the three recommendations concerning collecting overdue service charges and enforcing Service Providers to submit the accounting and reporting requirements, noting that it “has very limited statutory enforcement authority concerning the E-911 Surcharge.” In addition, DOF stated that it was unable to implement the remaining three recommendations to develop procedures that enable and require DOF to identify Service Providers that must collect 911 surcharges, and to develop written policies and procedures for monitoring non-filing by Service Providers and to notify them of the 911 surcharge filing requirements.

In Verizon’s response to the follow-up request, it resent its original response and did not provide any updated comments or status. DOF requested to postpone submitting a formal follow-up response because DOF and the Comptroller’s Office received a subpoena from Verizon relating to E-911 surcharge information and Verizon’s disagreement that the City can require Verizon to submit additional information. DOF will submit a formal follow-up response once all matters involved with the subpoena have been settled.



# Brooklyn Bridge Rehabilitation

## Audit Report on the Department of Transportation's Management and Procurement of the Brooklyn Bridge Rehabilitation Contract No. 6 (SE18-084A)

### Introduction

The objective of this audit was to determine whether the Department of Transportation's (DOT's) management and procurement of the Brooklyn Bridge Rehabilitation Contract No. 6 complied with federal, New York State (State), and City regulations.

DOT owns, operates, and maintains 793 bridges and tunnels throughout the City, including the Brooklyn Bridge. DOT manages many bridge construction projects, including maintenance and rehabilitation, and manages an annual operating budget of about \$900 million and a five-year capital program valued over \$10 billion.

In June 2006, in-depth inspections found significant deterioration of the Brooklyn Bridge. In 2008, final approval for a rehabilitation plan was obtained from the Federal Highway Administration (FHWA). At that time, URS Corporation (URS) prepared an initial engineer's estimate of approximately \$378 million. By 2009, the engineer's estimate was revised to over \$425 million due to an expanded scope of work. The construction time was estimated to be 51 months.

URS conducted a bid analysis of the sole bid by the construction firm Skanska, and subsequently provided DOT with a recommendation to award. DOT awarded the contract at the proposed cost of \$508,612,678, which was 19.5% higher than the DOT engineer's estimate of \$425,484,342. The initial term of the contract was from January 19, 2010 to April 12, 2014, but due to additional work and delays, it was extended until January 20, 2017. The original contract amount of \$508,612,678 was revised to \$657,418,051. Of the revised approved contract amount of \$657 million, the City funded \$322 million, and the federal share was \$335 million.

While managing a construction contract, hidden conditions may be revealed, actual conditions may vary from plans, and obstacles to completing the work may arise. These events may require changes to the original scope of work. That additional work is performed based on change orders (COs). According to DOT records, Contract No. 6 had 93 COs totaling \$186,516,337 as of August 17, 2017 (the auditors' cut-off date for CO reviews).

According to DOT records, there were 113 payments made to Skanska totaling \$628,913,885, including \$147,337,567 for Time and Material (T&M) charges, as of September 21, 2017 (the auditors' cut-off date for payments reviews).

## Results

The audit found that DOT generally complied with federal, State, City and its own internal requirements when procuring and managing Contract No. 6. However, certain weaknesses were found in DOT's internal controls that resulted in inefficient use of funds and reflected a lack of transparency and accountability in some of the agency's public procurement and contract administration processes. The auditors found that DOT accepted an inadequate bid analysis by URS and did not require a revision of the engineer's initial estimate, as necessitated by New York State Department of Transportation Procedure Code 7.1-5. In particular, the total price variation of \$173,986,259 between the high bids and the engineer's estimate should have signaled to DOT that a revision to the engineer's estimate was warranted. A revision was crucial for DOT to establish baseline costs necessary for gauging the extent of the City's cost beyond the engineer's estimate and to enable DOT to perform reasonable comparisons and assessments of prices of future bids.

The audit also found weaknesses in DOT's CO and payment processes. Specifically, two schedule acceleration COs totaling \$4 million were inadequately supported, and five additional COs totaling \$1,853,979 were inappropriately approved, including \$15,508 in disallowable charges.

Further, DOT's REI consultants and its Engineer-in-Charge and Engineering Audit Bureau—the parties responsible for checking and approving all payment requests before they are passed on to the Fiscal Affairs Division—did not consistently follow DOT's standard procedure and did not exercise adequate due diligence during review and processing of payment requests. As a result, DOT approved payment requests that included erroneous Federal and State Unemployment Tax Act (FUTA/SUTA) charges, unsupported Workers' Compensation charges, and labor rates inconsistent with relevant certified payrolls and without explanation. Weaknesses in the payment approval process resulted in overpayments to contractors, totaling \$52,228 in disallowable charges.

To address the issues raised, the audit made 17 recommendations to DOT focused on ensuring that the bid analysis follows standard procedure, that engineers' estimates reflect full scope of work in the bid documents, and that detailed justifications are prepared before DOT awards a contract, among others. In its response, DOT agreed with eight of the 17 recommendations, partially agreed with five, and disagreed with four.

## Audit Follow-up

DOT reported that six recommendations were implemented, four recommendations were in process of being implemented, and the remaining seven recommendations were not implemented.

# Medicaid Reimbursement

## Audit Report on the Department of Education's Efforts to Maximize Medicaid Reimbursement Claims for Special Education Services (FK19-111A)

### Introduction

This audit was designed to determine whether the Department of Education (DOE) had adequate controls over its Medicaid claims to maximize its Medicaid reimbursement revenue for special education services.

DOE is required by the federal Individuals with Disabilities Education Act (IDEA) to ensure that special education and related services are available to students with disabilities. DOE is required to develop, review, and regularly update an Individualized Education Program (IEP) for students who require special education services. DOE's Office of Medicaid Operations (OMO) is responsible for coordinating Medicaid reimbursement claims for the services provided to Medicaid-eligible students with disabilities including Physical Therapy (PT), Occupational Therapy (OT), and Speech Therapy. OMO is also charged with ensuring that Medicaid reimbursement claims submitted by DOE meet federal and State requirements, and with finding efficiencies to increase claims.

In the City's Annual Comprehensive Financial Report, DOE reported net annual adopted budget and actual Medicaid reimbursement revenue of \$97,000,000 for both Fiscal Year 2018 and Fiscal Year 2019. Currently, the State and City share gross Medicaid reimbursements equally—50% each.

### Results

DOE did not make adequate efforts to maximize Medicaid reimbursement claims for special education services or have adequate controls in place to ensure that services provided met all federal and State Medicaid reimbursement documentation requirements. As a result, DOE could not submit Medicaid reimbursement claims where such documentation was unavailable. For School Year 2018–2019, the auditors estimated that DOE failed to realize as much as \$179.69 million in reimbursement claims for OT, PT, and Speech Therapy services.

Additionally, DOE did not, as a matter of policy, submit any Medicaid reimbursement claims for evaluations and re-evaluations, certain Speech Therapy services, Psychological Counseling, Special Transportation, and Skilled Nursing provided to public and non-public school students; and for covered services provided to pre-school students who attend public schools and certain private schools and those who receive instruction at home. For the 2018–2019 School Year, the auditors estimated that DOE failed to realize as much as \$9.97 million for Psychological Counseling, certain Speech Therapy services, and covered services provided to pre-school public and non-public school students.

The auditors made 30 recommendations to improve DOE’s reporting and documenting processes and enable DOE to maximize Medicaid reimbursement revenue and potentially save the City hundreds of millions of dollars. DOE agreed to implement 25 of them.

### **Audit Follow-up**

DOE reported that it implemented or was in the process of implementing 21 of the report’s 30 recommendations. Specifically, DOE reported that it was in the process of implementing four recommendations related to contractually requiring certain providers to write referrals for Speech Therapy services and claiming for Special Transportation, Skilled Nursing, and covered services provided to preschool-age students.

# NYC Ferry Operations

## Audit Report on the New York City Economic Development Corporation's Administration of the NYC Ferry Operation (FM20-071A)

### Introduction

The objective of this audit was to determine whether the New York City Economic Development Corporation (EDC): (1) properly documented and disclosed all costs of the ferry operation; (2) diligently administered the NYC Ferry system for and on behalf of the City; and (3) ensured that the Operator accurately reported the ferry ridership and ticket revenue and complied with the other terms of the Agreement.

On February 12, 2016, EDC entered into a five-year agreement with HNY Ferry, LLC to operate the NYC Ferry, a citywide ferry service that serves waterfront communities, parks, and recreation areas for residents, commuters, tourists, and leisure riders. As of the report's issuance, services included six routes and one seasonal weekend shuttle with 38 ferries and 25 ferry landing stops.

For the period June 2015 through December 2021, EDC's Executive Committee approved approximately \$829 million in expenditures related exclusively to NYC Ferry, including roughly \$559 million approved for the Operator and a further \$270 million approved for other vendors. Per EDC's audited financial statements, the net losses of the ferry operations for Fiscal Years 2017, 2018, 2019, 2020, and 2021 were \$30 million, \$44 million, \$53 million, \$53 million, and \$33 million, respectively. In addition, EDC reported approximately \$1 million, \$7 million, and \$9 million in vessel depreciation costs for Fiscal Years 2019, 2020, and 2021, respectively, and \$218 million as ferry operation related net capital assets as of June 30, 2021.

### Results

The audit found that EDC did not disclose over \$224 million in ferry-related expenditures in its audited financial statements and that EDC understated the City's subsidy by \$2.08, \$2.10, \$3.98, and \$4.29 for Fiscal Years 2018, 2019, 2020, and 2021, respectively.

The audit also found that EDC's financial decisions resulted in over \$66 million in unnecessary expenditures. Furthermore, EDC did not plan for a smooth transition to a new operator by the end of the initial contract, did not maximize shuttle bus services by fully utilizing the fees paid to the Operator, and adopted an inefficient process for collecting and reimbursing landing fees. EDC did not enforce agreement terms and conditions or review related documents to ensure that the Operator complied with certain insurance and reporting requirements, that payments made to the Operator were accurate, substantiated, and justified, and that ridership and ticket revenue was accurately reported by the Operator.

The audit made 11 recommendations aimed at increasing transparency, improving oversight over the ferry system, and protecting the City's fiscal integrity. These recommendations focused on disclosing all ferry-related expenditures, initiating an open competitive bidding process to select a new ferry operator, recouping millions in overpayments, and ensuring accurate reporting of ferry ridership. EDC agreed to implement two of the 11 recommendations, disagreed with four, partially agreed with three, and stated that two were already implemented.

### **Audit Follow-up**

EDC reported that three recommendations have either been implemented or were in the process of being implemented, and that three have been partially implemented. EDC continued to claim that two recommendations were already in practice and to disagree with the remaining three recommendations. EDC stated that it will not modify the current agreement concerning discount program payments, does not plan to recoup the money from the Operator, and does not plan to replace the GPS tracking device. Notably, EDC has issued a new RFP to identify an operator for the future.

# Pension Funds

## **Audit Reports on Controls over Improper Benefit Payments to Deceased Recipients of the New York City Employees' Retirement System (FN20-102A), the New York City Fire Pension Fund (FN20-105A), the New York City Police Pension Fund (FN20-106A), and the Teachers' Retirement System of the City of New York (FN20-104A)**

### **Introduction**

The objective of the audits was to determine whether the four New York City pension funds had adequate controls in place to prevent improper benefit payments to deceased recipients.

The four pension funds process monthly pension payments through the City's Pension Payroll Management System (PPMS) and terminate benefit payments in PPMS after a benefit recipient dies. The four pension funds essentially follow the same methods for identifying whether a benefit recipient is deceased or potentially-deceased, including through:

- Notification from the decedent's family, friends, unions, banks, and agency/department; or via returned mail;
- HR-11 SSA Death Match reports generated through the City Human Resources and Management System and/or death match reports provided by contracted vendors; and
- Non-responsiveness to requests mailed by the funds to benefit recipients to provide attestations and documentation as proof the benefit recipient is alive.

### **Results**

The audits found that all four pension funds had established control procedures to detect and prevent improper pension benefit payments to or in the names of deceased benefit recipients. However, certain weaknesses were found in each of the fund's procedures, detailed by pension fund below.

The audits also found that the pension funds could obtain more comprehensive death match data as well as potential cost savings by centralizing their death match service contracts, with FISA, and recommended that each fund consider doing so.

**Audit Report on the New York City Employees' Retirement System's Controls over Identification of Improper Benefit Payments to Deceased Recipients (FN20-102A)**

The audit found the New York City Employees' Retirement System (NYCERS) did not demonstrate it consistently followed its control procedures since it did not mail affidavit requests to all beneficiaries who were aged 85 and above during Calendar Year 2019.

The audit recommended that NYCERS send affidavit requests periodically to all benefit recipients aged 85 and above and properly document all changes in procedures in writing. In its response, NYCERS generally agreed with two recommendations. NYCERS effectively disagreed with the recommendation concerning sending periodic affidavit requests, although it did not directly state so.

#### Audit Report on the New York City Fire Pension Fund's Controls over Identification of Improper Benefit Payments to Deceased Recipients (FN20-105A)

The audit found that the Fire Pension Fund (FPF) did not consistently send affidavit requests to all benefit recipients aged 80 and over and did not follow up on outstanding affidavit requests after 90 days. The audit also found that PPMS contained inaccurate Dates of Birth (DOBs) for 76 benefit recipients; and that the FPF cannot utilize its Electronic Uniform Pension System (EUPS) to determine the accuracy of the benefit recipients' information maintained in PPMS.

The audit recommended that the FPF use benefit recipients' DOBs when preparing the affidavit requests to ensure that it sends affidavit requests to all benefit recipients, including parent-beneficiaries; follow up timely on outstanding affidavits and establish alternate procedures to ensure continuous review and follow-up during emergencies; correct the DOB inaccuracies in PPMS; and consider entering in EUPS standard required data for all members who retired prior to EUPS' 2012 implementation to enable that system to serve as a comprehensive, current information system, and to enable the FPF to monitor its payments and prevent unauthorized payments in the names of deceased recipients more effectively and efficiently.

In its response, the FPF agreed to implement four of the five audit recommendations. The FPF disagreed with the audit's finding that it did not follow up on outstanding affidavit requests, and with the recommendation that it follow up timely on all outstanding affidavits and establish procedures to ensure continuous review and follow-up.

#### Audit Report on the New York City Police Pension Fund's Controls over Identification of Improper Benefit Payments to Deceased Recipients (FN20-106A)

The audit identified two deficiencies in the Police Pension Fund's (PPF) procedures that hinder PPF's ability to identify deceased recipients timely, which increases the risk that funds are improperly paid out and never recouped: (1) PPF's infrequent use of contracted third-party death-matching services; and (2) PPF's practice of applying its supplemental control procedure—obtaining affidavits as proof of life—primarily to recipients who live overseas, who collectively represented less than 0.3% of the total number of PPF's benefit recipients during the audit scope. In addition, the audit found that PPF does not always maintain accurate names, Social Security numbers, and/or DOBs for benefit recipients in PPMS.

The audit made six recommendations to PPF including that it use a third-party death-matching service on a regular basis; request attestation affidavits from a broader segment of the overall population of benefit recipients based on risk-assessment criteria; send affidavit requests periodically to all benefit recipients who live overseas; conduct a comprehensive review of beneficiaries' personal information to compare with external records to ensure accuracy; and correct all SSN and DOB issues that were identified in the audit.



In its response, PPF did not directly state whether it agreed with and would implement the six recommendations, but it expressed at least partial agreement with five of them (all except for the recommendation that it send affidavit requests periodically to all overseas benefit recipients).

## **Audit Report on the Teachers' Retirement System of the City of New York's Controls over Identification of Improper Benefit Payments to Deceased Recipients (FN20-104A)**

The audit found that the Teachers' Retirement System (TRS) did not send affidavit requests to all recipients who received annual pension income exceeding \$100,000 as required; and found deficiencies in the TRS' death-matching review process. In addition, both PPMS and the Unified Pension System (UPS) contained inaccurate DOBs.

The audit made five recommendations including that the TRS send affidavit requests periodically to all benefit recipients who are under 85 and receive annual pension income exceeding \$100,000 from the TRS; timely suspend payments to persons whose deaths are reported to the TRS and follow up in accordance with its policies and procedures; conduct a comprehensive and comparative review of DOBs maintained in PPMS and UPS to ensure accuracy of information; and ensure that it corrects the erroneous and inconsistent DOBs in UPS and PPMS for the members and beneficiaries identified in the report.

In its response, the TRS generally agreed with the recommendations and provided the corrective actions for their implementation.

### **Audit Follow-up**

In response to the follow-up requests:

NYCERS reported that one recommendation was implemented, that it continued to disagree with the recommendation to send affidavits to all beneficiaries over 85 years old and had updated its procedures to reflect the current process, and that it was taking the recommendation to centralize the death match service contracts under advisement.

The FPF reported that most of the recommendations were either implemented or in the process of being implemented, and that one was not yet implemented. The FPF noted it was developing a process for loading into EUPS members that retired prior to 2012. In addition, the FPF stated that it "intends to explore all options including the centralization of contracts for death match services" after the current contract expires.

PPF reported that it had implemented five of the six recommendations. Concerning the remaining recommendation, PPF stated that "[a]lthough, there is a potential to lower costs by centralizing the death match service, we are not sure if this would be the best approach due to the complexity and sensitivity of the information."

The TRS reported that four of the five recommendations were either implemented or in the process of being implemented, and that the remaining recommendation would not be implemented because they “explored opportunities with the other pension systems and concluded [they] cannot move forward.”

# Personal Expenditures

## Audit Report on the Bronx County District Attorney's Controls over Personal Services Expenditures (FM21-070A); Audit Report on the Queens County District Attorney's Controls over Personal Services Expenditures (FM21-069A)

### Introduction

The objective of these audits was to determine whether the Bronx County District Attorney's (BCDA) and Queens County District Attorney's (QCDA) Offices maintained adequate fiscal controls over their Personal Services (PS) expenditures.

New York City's five District Attorneys (DAs) are public officers elected to terms of four years who are responsible for investigating and prosecuting crimes, assisting victims, and implementing crime prevention strategies in their respective boroughs. Both DA offices are primarily City-funded. Their budgets are also supplemented with proceeds from asset forfeitures.

During the audit scope period, Fiscal Years 2019 and 2020, the BCDA employed or administered the City-funded compensation for 1,554 individuals, consisting of 644 legal staff members (Assistant District Attorneys, or ADAs) and 910 support staff members, mostly unionized members, and included 12 rackets investigators previously retired from law enforcement agencies within New York State. According to the City's Annual Comprehensive Financial Reports (ACFR), the BCDA paid \$80,733,397 to its employees during FY 2019 and \$81,626,682 during FY 2020, including \$1,180,175 in cash overtime payments with associated meal stipends across both fiscal years.

The QCDA employed and administered the City-funded compensation of 978 individuals, consisting of 405 legal staff members and 581 support staff members, mostly unionized staff. According to the City's ACFR, the QCDA paid \$59,134,653 during FY 2019 and \$63,333,209 during FY 2020. Those sums included a total of \$1,785,039 in cash overtime payments with associated meal stipends across both fiscal years.

### Results

## Audit Report on the Bronx County District Attorney's Controls over Personal Services Expenditures (FM21-070A)

The BCDA did not maintain adequate controls over its PS expenditures to ensure that the compensation paid to its employees was appropriate, adequately supported, and properly approved. Specifically, the BCDA did not comply with Comptroller's Directive #13, Payroll Procedures, regarding the maintenance of payroll records. In addition, the BCDA did not fully comply with DCAS requirements for conducting performance evaluations and could not provide performance evaluations for 21 of the sampled 41

employees (51%). The auditors therefore could not determine whether \$199,710 in bonuses paid to these 21 employees was merited and properly calculated according to the BCDA's procedures.

Deficiencies were also found with the BCDA's approval of 15,547 overtime requests. The audit identified inappropriate cash payments for voluntary overtime worked, improper justifications or no documented justifications at all for some overtime requests, and approval of overtime requests for periods of less than 15 minutes. As a result, the BCDA may have improperly paid as much as \$906,595 in cash overtime and improperly awarded an additional 5,987 hours of compensatory time to its employees.

Further, the BCDA did not provide an approved waiver for one employee pursuant to Section 211 of the New York State Retirement and Social Security Law, nor did it provide copies of any documentation to support its Section 211 waiver requests. Finally, the audit found control weaknesses with the BCDA's calculation of steno pay.

The audit made 13 recommendations to improve the BCDA's controls over its PS expenditures, including that it comply with Comptroller's Directive #13 regarding maintenance of personnel records and proper segregation of duties of payroll functions, maintain complete payroll records and performance evaluations as required, and ensure it follows established overtime procedures.

In its response, the BCDA accepted the audit findings and stated it had "already taken steps to implement corrective actions based on the recommendations."

## **Audit Report on the Queens County District Attorney's Controls over Personal Services Expenditures (FM21-069A)**

The QCDA did not maintain sufficient controls over its PS expenditures. The QCDA did not maintain written management policies and procedures governing the agency's PS operations and did not comply with Comptroller's Directive #13 regarding maintenance of employee personnel files.

The QCDA inappropriately approved overtime compensation for support staff and paid employees cash overtime after they had exceeded the Citywide overtime cap. The audit identified 458 approved overtime requests that lacked either any justification or valid documented justification and 277 inappropriately approved overtime requests for periods of less than 15 minutes. Auditors estimated that, during the audit scope period, the QCDA paid at least \$92,163 in cash overtime benefits that either exceeded the cap or lacked valid documented justifications, and inappropriately awarded an additional 380 hours in compensatory time.

The audit also found weaknesses in the QCDA's timesheet review process, including timesheets that lacked fields for ADAs to enter their arrival and departure times as required by Comptroller's Directive #13. Further, the QCDA did not provide auditors with the sign-in sheets it referred to as support for extra pay it awarded to ADAs.

The audit made 14 recommendations to the QCDA, including that it develop detailed written policies and procedures governing the staff's responsibilities that are aligned with Citywide policies; maintain complete employee personnel records as mandated by Comptroller's Directive #13; require and ensure

proper timesheet review and approval procedures; and require that ADAs record arrival and departure times on their timesheets.

In its response, the QCDA agreed to implement all audit recommendations.

### **Audit Follow-up**

The BCDA reported that all audit recommendations have been implemented.

The QCDA reported that all audit recommendations have either been implemented or are in the process of being implemented.

# Price Gouging on Essential Products

## Audit Report on the Department of Consumer and Worker Protection's Response to Price Gouging on Essential Products (MD21-076A)

### Introduction

The objective of this audit was to determine whether the Department of Consumer and Worker Protection (DCWP) established proper procedures and internal controls to ensure compliance with the emergency rule it instituted to address price gouging during a declared state of emergency.

On March 15, 2020, DCWP promulgated an emergency rule which declared unconscionable the practice of price gouging for any good or service needed to prevent, limit the spread of, or treat COVID-19. The emergency rule covered personal and household goods and services such as disinfectants, soap and cleaning products, diagnostic products and services, medicines, and tissues. The rule made it illegal to increase prices for these goods by 10% or more during a declared state of emergency and became permanent on June 24, 2020. DCWP received price gouging complaints via email and from other agencies, but the majority of complaints were received through the City's 311 system.

### Results

DCWP had established procedures and implemented internal controls to help ensure compliance with the emergency rule it instituted to address price gouging. However, the audit identified some operational limitations. Specifically, the agency did not formalize written protocols for how the General Counsel Division should prioritize price gouging complaints for inspection, nor did it establish an independent review process for priority determinations. As a result, DCWP's ability to ensure that counsel's priority determinations aligned with established protocols was limited.

In addition, DCWP did not establish productivity measures, including timeliness standards, for its inspections in response to price gouging complaints. The audit found that DCWP conducted inspections in response to approximately 28% of complaints. Those inspections occurred on average 43 days after complaints were received, and in 16% of the cases, more than 90 days after receipt. Without time targets (or other productivity measures), DCWP's ability to ensure that complaints were addressed as soon as possible and without unnecessary delays was diminished.

To address these issues, the audit made four recommendations to DCWP related to the establishment of written criteria for enforcement, an independent review process, inspection procedures for businesses with multiple complaints, and performance monitoring.

In its response, DCWP agreed to implement all four of the audit's recommendations.

### Audit Follow-up

DCWP reported that all four audit recommendations have been implemented.

# Rain Gardens

## Audit Report on the Department of Design and Construction's Oversight of Maintenance of Rain Gardens during the Guarantee Periods (SE18-086A)

### Introduction

This audit was conducted to determine whether the Department of Design and Construction (DDC) ensured that rain gardens were properly maintained by contractors during the stipulated guarantee periods following installation.

Rain gardens reduce the amount of stormwater going to the City's wastewater treatment plants by absorbing rainwater into their plant beds and the ground below, thereby also helping to reduce the combined sewer overflows (CSOs) that enter New York Harbor and other waterbodies. Rain gardens need regular maintenance to ensure that they function properly and retain their appearance. DDC contracts for the construction of rain gardens as part of the City's Green Infrastructure (GI) Plan. Since the GI Plan's inception up to early 2020, the City has spent \$800 million in connection with it, and an additional \$850 million is budgeted for the program through Fiscal Year 2030.

DDC is responsible for administering rain garden construction contracts to ensure that the City receives full value for its contract spending. After each rain garden's installation, the construction contractor is responsible for maintaining its trees, landscaping, and hardscape to ensure the trees and landscaping become established and that the rain garden functions as intended and retains its appearance. This audit focused on DDC's oversight of its construction contractors' maintenance of 545 rain gardens during the contractually stipulated guarantee periods of 18 and 24 months.

During the audit scope, DDC used two different processes for overseeing the maintenance of 545 rain gardens. For 233 rain gardens (43%), DDC relied on its contracted Resident Engineer Inspection (REI) consultants to oversee the contractors' maintenance obligations. The REI consultants reported to DDC's in-house Engineers in Charge (EICs), who were responsible for managing follow-up activities, including coordinating with contractors and other City agencies to address maintenance issues identified by the REI consultants. For the remaining 312 rain gardens, DDC had instituted a pilot program in October 2019 that assigned Green Infrastructure Monitor (GIM) tasks to GIM consultants, and DDC oversaw the GIM consultants' work by having them report to DDC's Design Project Managers, who in turn reported deficiencies to the EICs.

The Department of Environmental Protection (DEP) assists DDC with oversight and management of various milestones in the construction of rain gardens. According to DDC, DEP frequently takes ownership and control of rain gardens prior to the end of their contract guarantee periods, effectively releasing the construction contractors from their contractual maintenance responsibilities and, in practice, ending DDC's oversight of those rain gardens' contractual maintenance.

## Results

The audit found deficiencies in DDC’s enforcement of contract requirements for the full duration of the guarantee periods; oversight of contractors’ performance of the required maintenance work; and management of, and follow-up on, the inspections by the consultants DDC retains to oversee rain garden maintenance.

In particular, DDC’s records of the dates on which contract obligations began and ended were inadequate and inconsistent, blurring what should have been clear lines of responsibility for contractors’ guarantees. Because contractors were supposed to oversee planting and maintenance while the rain gardens established themselves, a risk arose that some or all of the City’s investment in landscaping—in total, \$6,812,500—might be wasted.

Additionally, the contractual guarantee periods for DDC’s rain gardens were shortened, eliminated, or otherwise not enforced, which resulted in the waiver of maintenance work that had already been paid for valued between \$608,000 to \$821,000 (on average, \$715,433). DDC did not ensure that its consultants performed the required number of inspections during the shortened timeframes.

DDC did not require the REI consultants to maintain appropriate records of their oversight of maintenance during the audit period, nor did it ensure that the GIM consultants provided complete and accurate inspection reports, for which DDC paid \$114,837. In addition, DDC did not sufficiently follow up on the inspection reports the GIM consultants did provide.

The auditors provided DDC with 19 recommendations primarily centered on enforcing contract terms to ensure that contractors perform landscaping and maintenance responsibilities, and on coordinating with DEP to ensure that DDC transfers rain gardens after the contractual guarantee periods. Other recommendations focused on revising contract terms to allow the City to obtain a credit in any instance in which a contractor does not perform its obligations; establishing record-keeping practices to track planting dates and ensure proper maintenance; and reviewing internal policies and procedures to facilitate proper oversight and timely follow-up by EICs and other qualified DDC staff.

In its response, DDC did not explicitly state whether it agreed with or disagreed with any of the 19 audit recommendations. However, it stated that 12 of the 19 recommendations were “already in place.” Of the remaining seven recommendations, DDC appeared to agree with five, disagreed with one, and took one under consideration.

## Audit Follow-up

DDC reported that it believes it addressed the audit and did not plan to pursue further actions relating to the recommendations. DDC continued to maintain that 12 of the 19 recommendations were already in place and continued to disagree with one recommendation. Of the five recommendations it appeared to agree with in its initial response, DDC stated that three were either implemented or in the process of being implemented, and two were no longer applicable.



# School Lunch Programs

## Final Special Letter Report on the New York City Department of Health and Mental Hygiene’s Compliance with Section 23-702 of the New York City Administrative Code Regarding School Food Service Establishment Inspection Results (Manhattan – SZ21-096SL); NYC Comptroller’s School Food Investigation (RI22-086SL)

### Introduction

The Office of the Comptroller conducted both an audit and an investigation related to New York City’s school lunch programs.

An audit was conducted on the Department of Health and Mental Hygiene’s (DOHMH) food service inspections in City public schools. Article 81 of the City Health Code regulates the operations of food preparation and food establishments. DOHMH, through its Bureau of Food Safety and Community Sanitation, inspects all food service establishments to ensure that they meet City Health Code requirements. In 2017, the City Council amended Section 23-702 of the City Administrative Code regarding the results of inspections of food service establishments operated in schools. The amendment requires DOHMH to post on its website no fewer than three years of school cafeteria inspection results, beginning with any inspection after September 1, 2017. Inspection results must show the degree of compliance with the provisions of the City Health Code, the State Sanitary Code, and other applicable laws.

An investigation was conducted on DOE’s public school food procurement practices. This noncompetitive and opaque approval process was extraordinarily vulnerable to abuse—indeed, federal prosecutors have charged the former Chief Executive Officer of DOE’s Office of School Support Services and three food company executives with felonies related to DOE’s procurement of “approved brand” food products.

## Results

### **Final Special Letter Report on the New York City Department of Health and Mental Hygiene’s Compliance with Section 23-702 of the New York City Administrative Code Regarding School Food Service Establishment Inspection Results (Manhattan – SZ21-096SL)**

The audit found that DOHMH made genuine efforts to comply with Section 23-702 of the City Administrative Code by automating the process for posting all inspection results for all public schools as inspections are completed. However, over the course of the audit, auditors were unable to locate postings for many Manhattan schools for School Years 2018–2019 and 2021–2022.

During School Year 2018–2019, the City Administrative Code required DOHMH inspectors to inspect the 461 public schools in Manhattan at least twice, which would result in 922 sets of posted inspection results. The auditors did not locate any inspection results for 310 of the 461 (67%) schools. Of the remaining 151 schools for which DOHMH posted inspection results, the auditors could locate only one set of results for 24 schools and two sets of inspection results for 121 schools. The auditors found that just six schools posted three sets of inspection results.

The auditors recommended that DOHMH ensure that all public school cafeteria inspection results be readily available on its website for the required number of years.

As of June 22, 2022, DOHMH had implemented the recommendation.

### **NYC Comptroller’s School Food Investigation (RI22-086SL)**

The investigation found that, over a four-year period (Fiscal Years 2015–2018), DOE spent more than a half-billion dollars, averaging \$134,585,721 per year, on scores of food products called “approved brands,” with no competitive bids or proposals, no published rules or procedures, no transparency, and little if any oversight. The investigation also found that these products were overpriced, and that DOE’s data indicated that the agency paid \$7.8 million more for just five “approved brand” food items in two years than it paid for the same items in subsequent competitive bidding.

The review made six recommendations with the goal of implementing and publishing a written policy for “approved brands,” procuring food competitively, reexamining pricing, improving the vetting of suppliers, and increasing transparency.

#### **Audit Follow-up**

Follow-up to the investigation was not applicable as the agency was not given the opportunity to respond.

# Seized Property – NYPD

## Audit Reports on the New York City Police Department’s Controls over Seized Property (MD20-078A); and Controls over Seized Property Inventory (MD22-057A)

### Introduction

The objective of these two audits was to determine whether the New York City Police Department (NYPD) had an adequate system in place to account for the collection, recording, and reporting of seized property, and whether the department had adequate controls over property once it was seized.

The NYPD’s Property Clerk Division (PCD) is charged with accepting, cataloging, safeguarding, storing, returning, or otherwise legally disposing of all property that comes into the custody of the NYPD. The NYPD acquires two types of seized property: property taken in connection with arrests or as evidence that may be forfeited; and property retained for safekeeping purposes.

State law authorizes the NYPD to pursue forfeiture of any property that was used to facilitate a crime or constitutes the proceeds of a crime. As stated on NYPD’s website, approximately two-thirds of all property NYPD takes in is evidence related to criminal cases. Other categories include found, decedent, or prisoner property; contraband; serological evidence; property confiscated pursuant to forfeiture proceedings; and property seized from peddlers pending release. The types of property seized by NYPD include cash, jewelry, weapons, vehicles, and other.

As of January 2021, the total number of seized property invoices in NYPD’s possession was 2.9 million.

### Results

## Audit Report on the New York City Police Department’s Controls Over Seized Property (MD20-078A)

The audit found that the NYPD did not have adequate controls over the collection, recording, and reporting of seized property and related revenue. Specifically, NYPD’s Property Evidence Tracking System (PETS)—the computer system used by the NYPD during the audit scope period to track seized property—had significant weaknesses, including that it could not be used to track seized property on an aggregate level, and that it did not have adequate data input controls, which weakened its reliability. The audit also identified gaps in PETS invoice numbers, which indicated that transactions might not have been recorded or could have been inappropriately deleted.

The audit also identified discrepancies in the data concerning seized property and retained property that NYPD reported to the public for Calendar Years 2017 and 2018, pursuant to the requirements of Local Law 131. Specifically, for four of the eight categories of information that the NYPD was mandated to report, the information reported was not supported by the backup documentation supplied by the NYPD

for one or both years. In addition, the NYPD did not maintain supporting documentation for the amounts recorded in the City's FMS that represented revenue received by the District Attorneys' Offices. Further, the NYPD did not report the required data on seized and returned property timely.

The audit made 16 recommendations to bolster the NYPD's internal controls and improve its tracking, documentation, and reporting procedures, which would ensure compliance with Local Law 131 and account for the proper maintenance of seized property. In its response, the NYPD agreed with 13 of the audit's 16 recommendations; however, in contrast to the audit's findings, officials claimed that the department was already in compliance with seven of them. Of the remaining recommendations, the NYPD stated that it disagreed with one and would take another under advisement. Officials did not address one recommendation.

## **Audit on the New York City Police Department's Controls Over Seized Property Inventory (MD22-057A)**

This audit found that the NYPD was generally able to account for such property; with two exceptions, auditors were able to locate items listed on sampled invoices. However, the NYPD did not ensure that periodic counts and inspections of property were regularly conducted, and when they were, the department did not apply an established standard for the number of invoices to be reviewed or the types of property to be included. For example, none of the counts conducted included vehicles, and only one included jewelry.

In addition, although the NYPD generally met the minimum retention periods before disposing of held property, many items were held well beyond their retention periods. Approximately 50% of the property for open sampled invoices had been kept at least 725 days past the retention dates.

Finally, the auditors found issues with NYPD's notification letter process for found property and its documenting of claimants' identification when property is returned. For returns made at precincts, NYPD did not require documents presented by claimants to be retained.

To address these issues, the audit made six recommendations focused on improving documenting and reporting processes, establishing protocols for the timely disposal of seized property held past the retention period, and standardizing and following protocols for integrity inspections and audits. In its response, NYPD agreed to implement all of the audit's recommendations.

### **Audit Follow-up**

NYPD reported that it implemented most of the recommendations and complies with Local Law 131's reporting requirements and continues to disagree with the final recommendation. NYPD stated that it has decided not to report the Treasury Revenue it receives through the Equitable Sharing Program in the Local Law 131 report because it is not required to report such revenue.

Regarding the recommendations related to seized property inventory, NYPD reported that most of the recommendations were either implemented or in the process of being implemented, and that the remaining recommendation was under advisement. NYPD stated that it had submitted a disposal plan to the Deputy Commissioner, Management, and Budget which was pending review, and had submitted

a request to change the policy at the precinct level to require that a claimant’s identification information be recorded on invoices which was also pending review. NYPD also stated that “PCD is in the process of obtaining a legal opinion on certain issues prior to the implementation of the automatically generated letters.”

# Senior Citizen Homeowners' Exemption

## Audit Report on the New York City Department of Finance's Administration of the Senior Citizen Homeowners' Exemption (SR21-080A)

### Introduction

The objective of this audit was to determine whether the Department of Finance (DOF) ensured that property owners receiving the Senior Citizen Homeowner's Exemption (SCHE) met the eligibility requirements of the program. DOF is responsible for administering the SCHE, which provides a partial property tax exemption for senior citizens who own one-, two-, or three-family homes, condominiums, or cooperative apartments in the City, and can reduce the assessed value of a property by five to 50% depending on the owners' income.

Homeowners must complete an initial tax benefits application prior to receiving the exemption the first time, and a renewal application every 24 months from the date the exemption was granted. A homeowner can own more than one property; however, they may only have one primary residence and receive the SCHE only on that property. For a property with four or more residential units, the SCHE must be prorated to the percentage of space being utilized as the owner's primary residence.

### Results

DOF generally followed its process to ensure that all owners and co-owners receiving the SCHE met eligibility requirements. Moreover, the audit found that DOF improved certain aspects of its controls over the exemption process identified in a prior audit, which found that DOF had granted the SCHE to ineligible properties including those owned by corporations. DOF reduced the number of ineligible properties granted the SCHE by 95%.

Nevertheless, the auditors identified errors that resulted in \$3,076,362 in lost tax revenue during Fiscal Years 2019 and 2020. Specifically, DOF granted the SCHE to 107 properties after the homeowner(s) had died, resulting in property tax revenue losses of \$1,522,078. DOF also incorrectly prorated the SCHE granted to 87 properties containing four or more units, resulting in a loss of \$1,554,284 in property tax revenue.

The audit made three recommendations to DOF centered on rigorously following its own procedures and removing the exemption for deceased homeowners, recouping owed tax revenue, and ensuring that the SCHE is only applied to the owners' primary residence in properties that contain four or more units.

In its response, DOF stated that it had implemented two recommendations and would not implement one recommendation.

## **Audit Follow-up**

DOF reported that two recommendations have been implemented and continued to disagree with the remaining recommendation that it pursue the recovery of owed tax revenue. DOF stated that its “longstanding policy is not to recover monies from individual homeowners due to an agency oversight, such as the late discovery of ineligibility.”

# Transfer, Sale, and Disposal of Surplus Goods

## Audit Report on the Department of Citywide Administrative Services' Controls over the Transfer, Sale, and Disposal of Surplus Goods (FK19-088A)

### Introduction

The objective of this audit was to determine whether the Department of Citywide Administrative Services (DCAS) maintained adequate controls over the transfer, sale, and disposal of surplus goods, and accurately reported sales revenue.

DCAS provides support services to City agencies, including, among other things, coordinating and disposing of surplus goods. The Office of Surplus Activities (OSA) is the unit responsible for managing surplus City assets relinquished from agencies. When possible, OSA ensures that the City reuses surplus property by facilitating transfers between agencies. At other times, OSA coordinates the resale of surplus property at public auction.

In cases when reusing or reselling surplus property is not feasible, OSA will discard metal goods via a Scrap Metal Contract, working with one of three authorized vendors. These vendors pay the City based on either an agreed-upon price per lot which is adjusted annually, or the metal weight and an agreed-upon percentage of the applicable American Metal Market (AMM) price on the collection date. The AMM is a subscription-based online provider of metal-pricing information that includes the United States scrap metal markets.

DCAS' Office of Citywide Procurement Policies and Procedures states that agencies must maintain an accounting of the value/revenue of any transfer or sale.

During Calendar Year 2018, DCAS reported revenue of \$1,793,956 and cost savings of \$444,035.

### Results

DCAS did not maintain adequate controls over the disposal of surplus metal goods, in part because it did not perform quantitative analyses to determine the disposal method that would yield the most revenue for the City. Specifically, DCAS did not estimate and compare potential revenue generated from the bulk disposal of surplus metal goods through online public auctions and through its authorized Scrap Metal Contracts. Based on an analysis of bulk disposals of voting machines, the auditors estimated that DCAS failed to realize revenue totaling \$315,135 during Calendar Year 2018.

Additionally, DCAS did not enforce contract terms for weight scale standards and locations, observe weighings, or maintain other adequate controls over the disposal of surplus metal goods. Consequently, DCAS cannot be reasonably assured that vendors accurately reported scrap metal weights and, ultimately, that the City received all of the revenue to which it was entitled.



DCAS also did not maintain adequate controls over billings for both online public auctions and scrap metal disposals and did not ensure that payments were collected in all instances or appropriately. Specifically, the agency may have improperly refunded \$32,050 to public auction bidders. Regarding its authorized scrap metal vendors, DCAS improperly waived late payment charges of \$11,290, did not evaluate the impact of AMM pricing structure changes on scrap metal revenue, and did not bill for Class E and Class G scrap metals using the correct AMM markets. Consequently, the City did not receive all of the revenue to which it was entitled. DCAS also did not appropriately separate the duties between staff members, which increased the risk that assets could be misappropriated.

With regard to the interagency transfer of surplus goods, DCAS did not reliably estimate or document reported savings of \$444,035 for Calendar Year 2018.

The audit made 20 recommendations regarding the documenting of scrap metal revenue, regularly calibrating weight scales and observing weighings, enforcing salvage rules and policies, and ensuring that billings are made and collected in all feasible instances.

In its response, DCAS stated that it agreed or partially agreed with 13 of the report's 20 recommendations. DCAS stated that it did not agree with five recommendations and did not specifically address the remaining two recommendations.

### **Audit Follow-up**

DCAS reported that it has taken action to address 15 recommendations but continues to disagree with five recommendations.

# Union-Administered Benefit Funds

## Analysis of the Financial and Operating Practices of Union-Administered Benefit Funds with Fiscal Years Ending in Calendar Year 2019 (FN20-118S)

### Introduction

Union-administered benefit funds were established under collective bargaining agreements between the unions and the City. They provide City employees, retirees, and dependents with a variety of supplemental health benefits not provided under City-administered health insurance plans. Certain other benefits are also provided at the discretion of the individual funds (e.g., annuity accounts, life insurance, disability, and legal benefits).

This report contained a comparative analysis of 92 of the welfare, retiree, and annuity funds whose fiscal years ended in Calendar Year 2019, and comprised data received in response to Comptroller's Directive #12, Employee Benefit Funds - Uniform Reporting and Auditing Requirements. These funds received approximately \$1.45 billion in total City contributions for the fiscal year.

### Results

As in previous reports, the analysis found that several funds expended significantly more in administrative expenditures than other funds of a similar type and size. Moreover, several funds maintained high reserves while expending lower-than-average amounts for benefits—a possible indication that excessive reserves were accumulated at the expense of members' benefits. Further, some funds did not comply with various aspects of Comptroller's Directive #12 and of fund agreements with the City.

The report contained 11 recommendations made to trustees and to the Office of Labor Relations, including that:

- Trustees of funds with higher-than-average administrative costs as a percentage of total revenue should reduce administrative expenses and determine whether the savings can be redirected to increased benefits for members.
- Trustees of funds with higher-than-average reserve levels, particularly those whose funds that spend less than average amounts of their revenue on benefits, should consider enhancing their members' benefits.
- Trustees should ensure that annual submissions to the Comptroller's Office showing the funds conditions and affairs are made within nine months after the close of a fund's fiscal year-end as required by Comptroller's Directive #12.

In addition, the report identified 15 funds that had potential financial issues that should be addressed by fund management.

## **Audit Follow-up**

During FY23, the Audit Bureau will be requesting follow-up meetings with individual funds to discuss potential risk factors.

# Major Audits and Special Reports with Operational Impact (*organized by subject*)

## Anti-Discrimination Awareness and Language Access

**Audit Reports on the Compliance of the Commission on Human Rights with Local Law 120 of 2020 (SZ22-065AL), Local Law 25 of 2016 (SZ22-066AL), and Local Law 30 of 2017 (SZ22-067AL), and on the New York County District Attorney's Office's Compliance with Local Law 30 (SZ22-058AL)**

### Introduction

The Commission on Human Rights (CCHR) was audited to determine whether it complied with Local Law 120 of 2020, which is intended to make agencies, and ultimately the City as a whole, aware of forms of discrimination prohibited by the New York City Human Rights Law. Local Law 120 requires CCHR to create an anti-discrimination poster that provides information on the forms of discrimination prohibited by the City Human Rights Law, including age discrimination, and how to contact CCHR. All City agencies are required by the law to conspicuously display the anti-discrimination poster. CCHR is also required to include informational resources on age discrimination as part of its regular outreach and education efforts, and to make available on its website both the poster and the educational resources.

CCHR was also audited to determine whether it complied with Local Law 25 of 2016, which governs the translation of City agency websites and is intended to make City agencies more accessible to foreign-born residents whose primary language is not English. Translation services must be provided in the top 10 designated Citywide languages: Spanish, Chinese (Cantonese and Mandarin), Russian, Haitian/French Creole, Bengali, Korean, Arabic, Urdu, French, and Polish.

CCHR and the New York County District Attorney's Office (DANY) were audited to determine their compliance with Local Law 30 of 2017, which requires City agencies that provide direct public services or emergency services to have a Language Access Plan that allows residents access to City services regardless of their proficiency in English. These translation services must also be provided in the designated top 10 languages.

## Results

Audit Report on the Compliance of the Commission on Human Rights with Local Law 120 of 2020 (SZ22-065AL)

CCHR complied with Local Law 120 and developed an anti-discrimination poster, also known as the Notice of Rights poster. The audit recommended that CCHR continue to maintain its compliance to ensure that it effectively maximizes awareness regarding discrimination protected by the City Human Rights Law to help reduce discrimination and encourage positive community relations. CCHR agreed with the recommendation.

Audit Report on the Compliance of the Commission on Human Rights with Local Law 25 of 2016 (SZ22-066AL)

CCHR complied with Local Law 25 in that its website included a translation feature for viewing text and essential information in various languages, including the top 10 designated languages other than English. The audit recommended that CCHR continue to maintain its compliance with Local Law 25 to ensure that it effectively meets the needs of residents with limited English proficiency who access City services online. CCHR agreed with the recommendation.

Audit Report on the Compliance of the Commission on Human Rights with Local Law 30 of 2017 (SZ22-067AL)

CCHR complied with Local Law 30. The agency had developed and updated its Language Access Plan as required and designated its Policy Analyst as its Language Access Coordinator. CCHR contracts with several language access vendors for translations, telephonic interpretation, and in-person/virtual interpretation and has multilingual staff that provide language access services. As a result, CCHR can provide on-site interpretation and document translation in the top 10 designated languages and phone interpretation services in more than 100 languages. The auditors recommended that CCHR continue to maintain its compliance with Local Law 30 to ensure that it adequately meets the language needs of the communities it serves.

## **Audit Report on the New York County District Attorney's Office's Compliance with Local Law 30 of 2017 (SZ22-058AL)**

The audit found that DANY generally complied with the translation standards prescribed by relevant laws, standards, and guidelines. Specifically, DANY had a Language Access Plan and a dedicated email address and telephone number for language access services, and it also monitored the provision of language access to its clients. DANY's Interpreter Services Unit and Spanish Language Unit provided support to DANY's Witness Aid Services Unit and the office's Assistant District Attorneys, as well as support staff and investigators, the groups that generally interact with members of the public who may require language access services.

However, the audit found that DANY provided its website in only two of the top 10 designated Citywide languages, Spanish and Chinese, the languages other than English used by the majority of DANY's service population in Manhattan. DANY stated that it was working with its independent online webhosting

provider to enable translation services in additional languages on its website before the end of 2022. The audit recommended that DANY maintain its general compliance with the standards for providing language access services to its constituents and implement its website translation plan by the end of the year. DANY agreed with the recommendations.

### **Audit Follow-up**

Follow-up on the CCHR reports was not required because the recommendations were implemented.

DANY reported that the recommendation to have its website translatable as required by Local Law 30 by the end of the year was implemented.

# Civilianization – NYPD

## Audit Report on the New York City Police Department's Civilianization Efforts (MG20-117A)

### Introduction

The objective of this audit was to assess the NYPD's efforts to identify positions that can be civilianized and to evaluate the department's ongoing efforts toward this goal.

Civilianization is a process by which the NYPD identifies positions in the department that do not need to be performed by uniformed personnel and replaces them with civilian employees. A City Comptroller's Office audit report issued in 2002 determined that the City lost \$24.4 million in annual potential cost savings because the NYPD did not civilianize positions in administrative units. The City Council called for civilianization "[t]o reduce the number of police officers working in civilian positions to maximize enforcement strength of the [NYPD], and to allocate City resources as budgeted."

The NYPD designed its most recent formal civilianization initiative in Fiscal Year 2016, which called for the NYPD to hire 415 civilians. The NYPD completed this initiative by March 31, 2019. By then, the NYPD had identified an additional 368 positions that it intended to civilianize. This initiative has not been completed as of the issue date of this report.

According to the Fiscal Year 2020 Mayor's Management Report, the NYPD employed nearly 36,000 officers and 17,500 civilians during that year. According to the Annual Comprehensive Financial Reports issued by the Comptroller's Office for Fiscal Years 2019 and 2020, the NYPD spent \$5.3 billion and \$5.45 billion, respectively, for personal services during those years. The adopted budget for Fiscal Year 2021 included \$4.8 billion for personal services in the NYPD.

### Results

While the NYPD has made efforts to civilianize some positions within various units in the agency, those efforts were not systematic and lagged behind the department's own timetables. Moreover, the NYPD was not able to provide supporting data for the progress it reported to the City Council.

The NYPD reported to the City Council that its efforts resulted in the civilianization of 415 positions in Fiscal Years 2016 through 2019 in the following titles: Police Administrative Aide, Crime Analyst, Auto Service Worker, and Evidence Property Control Specialist. However, the auditors' review of the data provided by the NYPD found that the department could not substantiate its reported civilianization of these positions. Rather, the evidence the NYPD provided was not internally consistent, nor was it consistent with the corresponding data it submitted to the City Council. Consequently, the audit could not assess the degree to which the figures reported to the City Council accurately represented actual civilianized positions.

Additionally, according to the NYPD's own reports, it did not civilianize the target 415 positions until March 31, 2019, 21 months past the due date. Although the NYPD reportedly identified as many as 368

additional civilianizable positions as of May 2019, the department acknowledged that as of April 2021, it had not yet actually civilianized any of those positions.

The NYPD also lacked documented policies and procedures governing the civilianization process which may have contributed to the weaknesses in its efforts found by the auditors. Moreover, the department declined to provide a comprehensive list of uniformed staff. As a result, auditors were unable to estimate the savings that the NYPD had achieved, could have achieved, and could potentially achieve in the future through civilianization efforts.

The above-described weaknesses, if not corrected, would likely continue to hinder management's efforts to effectively utilize civilianization to help increase the number of officers it can assign full-time to policing duties and to realize related cost savings.

To address the issues raised by this audit, the report included four recommendations focused on identifying civilianizable duties and positions, documenting and verifying progress towards converting these positions, implementing standardized policies and procedures for civilianization, and ensuring that appropriate personnel data is captured and shared with the public.

In its response, the NYPD agreed to implement one of the audit's four recommendations—that it develop, disseminate, and implement written management policies and procedures related to civilianization. The department contended that it was already in compliance with the recommendation to maintain supporting evidence of its activities, determinations, and results. Of the remaining two recommendations, the NYPD disagreed with one and did not address the other.

## **Audit Follow-up**

The NYPD reported that three recommendations were in the process of being implemented and the remaining recommendation had been partially implemented. NYPD stated that it has identified positions to be civilianized and will submit these positions to the Civilianization Unit, that it will convert these positions when OMB approves NYPD budget requests, and that it has drafted a policy and procedure for documenting civilianization efforts. NYPD also stated that it may not be able to maintain records related to personnel and the civilianization due to personnel changes and attrition. The maintenance of such records would enable both NYPD and the public to assess the degree to which it is meeting its goals regarding the civilianization efforts.



# Community Boards

## **Audit Reports on Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites – Bronx (K21-072A & FK21-097SL), Brooklyn (FK21-071A), Manhattan (FK21-075A), Queens (FK21-073A), and Staten Island (FK21-074A)**

### **Introduction**

The objective of these audits was to determine whether each Community Board complied with New York City Charter and New York City Administrative Code requirements for conducting public meetings and hearings, and for websites.

Community Boards are local representative bodies authorized by the City Charter to advocate for the residents and needs of their districts. The City is divided into 59 districts, each served by a Community Board, and several City agencies are responsible for assisting them in fulfilling their overall responsibilities, including each Borough President's Office, the Civic Engagement Commission, and the Mayor's Office of Community Affairs.

Each Community Board comprises up to 50 non-salaried members, each of whom must reside, work, or have some other significant interest in the district. One of the Community Board members is elected by the other members to serve as the Chairperson. In addition, each Community Board appoints a District Manager and may employ other staff and consultants to fulfill its duties, all of whom are paid by the City. The City budget allocates funds to each Community Board to cover staff salaries and non-salary expenses, including rent, utilities, and other miscellaneous expenses.

In total, the Comptroller's Office audited 59 Community Boards covering all five boroughs—the Bronx (12 boards), Brooklyn (18 boards), Manhattan (12 boards), Queens (14 boards), and Staten Island (3 boards).

### **Results**

The audits found that the Community Boards generally complied with City Charter requirements. However, the audits also found that none of the Community Boards consistently conducted monthly public hearings, and that some did not consistently conduct monthly general board meetings, did not set aside time to hear from the public before the board took actions, did not provide public notice for meetings and hearings, did not make meetings and hearings available for broadcasting/cablecasting, and did not publish past meeting minutes on their websites.

Additionally, the audits found that only some Community Boards fully complied with NYC Administrative Code requirements related to maintaining websites. Certain Community Boards did not consistently

maintain websites that are translatable into the seven most commonly spoken languages in the City, and/or did not maintain websites which were fully accessible for persons with disabilities.

For the majority of findings discussed in the reports, Community Board officials from across the boroughs informed the auditors that the main reasons they were not in compliance were due to a lack of: (1) guidance, instructions, assistance, and support from other City agencies that are responsible for assisting the Community Boards; and (2) financial and professional resources necessary to fulfill the requirements.

The audits recommended that Community Boards conduct public hearings and meetings in accordance with the City Charter, adequately publicize all hearings and meetings, take the necessary steps to ensure meetings are recorded and broadcasted, post meeting minutes on the boards' public-facing websites, and provide adequate translation services on their websites.

In December 2021, the auditors submitted Draft Reports to the Bronx, Brooklyn, Manhattan, Queens, and Staten Island Community Boards, with requests for written comments. Written responses were received from most of the boards, some of whom agreed to implement the recommendations, some to partially implement the recommendations, and a few did not provide responses at all.

## **Audit Follow-up**

All three Staten Island Community Boards reported that all audit recommendations have been implemented.

Of the 12 Bronx Community Boards, seven boards (#1, #2, #5, #6, #7, #10, and #12) reported that they are in the process of implementing most of the audit recommendations. The remaining five boards did not provide a response.

Of the 14 Queens Community Boards, half of them (#1, #2, #4, #5, #6, #10, and #14) reported that they are in the process of implementing most of the audit recommendations. The remaining seven boards did not provide a response.

Of the 18 Brooklyn Community Boards, 10 boards (#1, #3, #8, #9, #10, #11, #13, #15, #16, and #17) reported that they are in the process of implementing most of the audit recommendations. The remaining eight boards did not provide a response.

Of the 12 Manhattan Community Boards, five boards (#1, #3, #4, #5, and #7) reported that they are in the process of implementing most of the audit recommendations. The remaining seven did not provide a response.

## **Special Letter Report on Bronx Community Board #11's Compliance with the Freedom of Information Law, Open Meetings Law, and Its By-laws (FK21-097SL)**

While conducting fieldwork on these audits, the auditors became aware of allegations of improper conduct in one Community Board. Specifically, a resident reported that Bronx Community Board #11 failed to comply with the New York State Freedom of Information Law (FOIL), Open Meetings Law, and its own by-laws.

The resident reported that Bronx Community Board #11 did not respond to FOIL requests at all, did not respond to FOIL requests timely, improperly limited FOIL requests, improperly stated that it may charge certain fees for records, and improperly redacted information from FOIL responses. In addition, with regard to the Open Meetings Law and the Bronx Community Board #11 Bylaws, the resident reported that the Bronx Community Board #11 Community Development & Budget Priorities Committee did not hold public meetings and that the Committee Chair and the District Manager determined the district's Fiscal Year 2021 budget needs and priorities. As a result, the resident reported "public input was circumvented."

# Contract Nursing Assignments

## Letter Report of the New York City Comptroller's Contract School Nurses Investigation (RI22-087SL)

### Introduction

On December 20, 2021, the Comptroller's Office issued a letter report concerning its investigation of the management of contract nursing assignments by the Office of School Health (OSH), an office jointly administered by DOE and DOHMH. Although OSH employs permanent staff nurses to provide nursing coverage in schools, it must also rely on contract nurses to cover various nursing assignments. From July 1, 2016 through March 28, 2019, DOE made more than \$130 million in payments to vendors for more than 400,000 contract nursing assignments.

DOE and DOHMH, jointly through OSH, collaborated with the Comptroller's Office's investigation to identify likely causes of billing discrepancies identified during the investigation and to seek solutions to prevent them going forward.

### Results

The investigation identified three primary findings. First, OSH did not require vendors to submit timesheets for four of six types of nursing assignments. As a result, DOE paid \$53,593,287 (approximately 41% of total payments) without verifiable evidence that the corresponding services had been provided.

Second, because DOE's payments were based on pre-scheduled nursing assignments, rather than on services detailed in timesheets, the payments often reflected uncorrected discrepancies between services scheduled and services provided. For example, DOE paid vendors who billed for services using the scheduled nurse's name even though the vendor's timesheets indicated that a different nurse provided the service.

Third, because OSH's scheduling and payment systems lacked necessary edit and input checks, vendors billed and received payment from DOE for precluded activities, including double coverage of a single school by multiple contract nurses, unallowable combinations of assignments to nurses on single days, and incorrect, excessive, and overlapping work hours.

OSH acknowledged deficiencies during the investigation and reported that it implemented changes to its systems and procedures to improve its oversight of nursing assignment scheduling and billing. The Comptroller's Office made additional recommendations for recouping and preventing overpayments, establishing audit and review procedures to monitor corrective actions implemented during the investigation, and ensuring appropriate and allowable nursing assignments and billing procedures.

# COVID-19 Planning, Preparation, and Initial Response

## Interim Findings and Recommendations of the New York City Comptroller's Investigation of the City's COVID-19 Planning, Preparation, and Initial Response (R122-071S)

### Introduction

The Comptroller's Office investigated the City's planning, preparation, and response to the COVID-19 pandemic to identify the problems encountered by the City and to recommend actions to prevent similar fiscal and operational challenges in future public health emergencies. Although the investigation was still ongoing at the time, the Office issued interim findings and recommendations to help the City improve its ongoing response to the COVID-19 pandemic and to help prepare in advance for the next emergency. The report was issued based on information gathered by the Comptroller's Office to the date of the report, including contemporaneous emails, internal documents, testimony taken in connection with the investigation, and public records.

### Results

The four primary findings of the report established ways in which the City's initial response to COVID-19 was hampered by a lack of planning, coordination, and preparedness across City government.

First, the City never completed a Citywide operational plan for responding to a pandemic prior to COVID-19. The City created a strategic pandemic plan in 2006 setting out goals for responding to a pandemic, but it lacked operational guidance specifying how the City should respond. Subsequent attempts to create an operational pandemic plan were never completed.

Second, even after the City became aware of the threat of COVID-19, Citywide operational planning for a moderate to severe outbreak was delayed. The City's efforts to create a Citywide operational plan to respond to the potential worst-case scenario—a moderate to severe COVID-19 outbreak in the City—did not begin in earnest until mid to late February 2020. Indeed, in February, City agencies were discussing whether to begin planning for the worst-case scenario. Furthermore, substantive inter-agency efforts to develop Citywide plans for the COVID-19 response also did not begin until early March 2020 and were incomplete weeks into the crisis.

Third, the City struggled to identify and locate emergency resources, particularly its supply of personal protective equipment, as it prepared for COVID-19. City agencies had to be individually surveyed for the City to determine how many N95 masks it owned—and to discover that its entire supply of surgical-grade N95 masks, which provide the highest level of protection, had expired years earlier.

Fourth, the roles and responsibilities of New York City Emergency Management (NYCEM) were insufficiently clear. Although the City Charter and the Citywide Incident Management System set forth

specific leadership and support roles for NYCEM, persistent confusion as to the agency's role in the preparation for and response to the pandemic was evident from the City's uncoordinated and sometimes inconsistent preparation and response activities.

Based on the interim findings, the Comptroller's Office made recommendations to the City to improve the City's preparation, planning, and response to the next public health emergency.

# Daycare Centers at NYCHA

## Audit Report on the New York City Housing Authority's Repairs of Day Care Centers Located in NYCHA Buildings (MG20-056A)

### Introduction

The objective of this audit was to examine the New York City Housing Authority's (NYCHA's) oversight of the daycare and childcare centers located on NYCHA property.

NYCHA's mission is to provide safe affordable housing and facilitate access to social and community services to increase opportunities for low- and moderate-income New Yorkers. NYCHA residents have access to a network of over 400 community centers, senior centers, healthcare centers, and day/childcare centers.

Each childcare center is operated by a not-for-profit corporation which is responsible for overseeing the operations of the centers. In turn, childcare centers have contracts with City agencies that serve as their primary funding source. Prior to July 1, 2019, the Administration for Children's Services (ACS) was the primary funding source for most childcare centers. On July 1, 2019, that role was assumed by DOE.

Pursuant to internal policy, NYCHA enters into leases with the not-for-profit corporation that sponsors each childcare center for use of NYCHA space. The leases should define the rights and responsibilities of each party, including who is responsible for making repairs. In connection with NYCHA's repair responsibilities, the childcare centers are required to submit repair requests to NYCHA's customer contact center, where NYCHA staff document all requests received in Maximo, NYCHA's asset management computer system.

According to documentation obtained from NYCHA, 104 childcare centers were located within NYCHA facilities as of September 2019. As of November 2020, NYCHA remained responsible for the overall repair of the buildings housing 90 of these childcare centers.

### Results

The audit found that NYCHA management did not have adequate controls over repairs performed at the childcare centers in its buildings. Among other things, NYCHA: (1) did not ensure that it documented the responsibilities of each party for making repairs; (2) did not have a uniform procedure in place to notify the childcare centers of repair requests that it determined were not the responsibility of the authority; and (3) was not able to readily track the status and resolution of repairs that required the creation of multiple work orders.

Overall, the combination of NYCHA's failure to consistently clarify the parties' respective responsibilities for making repairs and its lack of a formal process for notifying the operators when it determines a repair to be a center's responsibility, increases the likelihood that repairs will not be made or will not be made timely. Accordingly, these weaknesses, if not corrected, increase the risk that the children being cared

for in childcare centers located in NYCHA buildings will not be provided with a safe and healthy environment.

To address these issues, the audit made eight recommendations to NYCHA that centered on clarifying and setting forth each party's responsibilities in written leases, establishing formal repair notification procedures, documenting all communications, independently verifying that work orders are closed out, and efficiently tracking repair requests.

In its response, NYCHA generally agreed with the audit's eight recommendations.

### **Audit Follow-up**

NYCHA reported that four of the eight audit recommendations have been partially implemented, three were in the process of being implemented, and one has been fully implemented. NYCHA stated that it is working on Development Staff Guidance to Operations that will detail the obligations of the tenants and NYCHA. In addition, NYCHA has completed a Job Centric View in Maximo to track repair requests from childcare centers. The implementation of these recommendations will help ensure that the centers located in NYCHA buildings are safe.



# Financial Reporting – Public Administrators

## Audit Reports on Compliance with Financial Reporting Requirements for the Bronx County Public Administrator (FK21-064A), New York County Public Administrator (FK21-065A), Queens County Public Administrator (FK21-067A), and Staten Island Public Administrator (FK21-066A)

### Introduction

The objective of these audits was to determine whether four county Public Administrators complied with the financial reporting requirements of the United States Code, Title 26 – Internal Revenue Code.

New York City has one Public Administrator (PA) in each of the five counties that make up the City, each of whom is appointed by the judge or judges of the Surrogate’s Court of their respective counties. The PAs are responsible for administering the estates of individuals who die intestate (i.e., without a will), or when no other appropriate individual is willing or qualified to administer the estate.

As estate administrators, the PAs have a fiduciary duty to the estates that requires them to conduct thorough investigations to discover all assets and safeguard them, pay decedents’ bills and taxes, account for and maintain documentation to support estate activities and transactions, and distribute estate proceeds to decedents’ heirs and distributees.

The Public Administrators’ and Deputy Public Administrators’ salaries are included annually in the expense budget of the City pursuant to the State Surrogate’s Court Procedure Act (SCPA). The PAs are also authorized to appoint other employees “as may be allowed annually in the budget of the [C]ity,” pursuant to SCPA §1108(1). In addition, the Operations of the PAs of New York State (PA Guidelines) authorize PAs to maintain a “suspense account,” which may be used to pay vendors and employees of the PA office, among other expenses.

The audits found that, in general, the four PAs did not consistently comply with Internal Revenue Service (IRS) regulations, discussed below by county PA.

### Results

## Audit Report on the Bronx County Public Administrator’s Compliance with Financial Reporting Requirements (FK21-064A)

The Bronx County Public Administrator (BCPA) did not comply with IRS requirements for collecting and validating vendors’ tax information and IRS requirements for reporting income that it disbursed from the suspense account to several employees.

The audit made five recommendations to BCPA focused on improving collection and documentation of vendors' tax information, properly recording and reporting to the IRS payments made to vendors and employees, and withholding federal income tax, Social Security, and Medicare taxes for employees.

The auditors submitted a Draft Report to BCPA with a request to provide written comments. However, BCPA did not provide written comments in response to the report.

## **Audit Report on the New York County Public Administrator's Compliance with Financial Reporting Requirements (FK21-065A)**

The New York County Public Administrator (NYCPA) did not comply with IRS requirements for collecting and validating vendors' tax information.

The audit made three recommendations to NYCPA focused on improving the collection and documentation of vendors' tax information. In its response, NYCPA disagreed with the report's findings, despite not complying with applicable IRS requirements.

## **Audit Report on the Queens County Public Administrator's Compliance with Financial Reporting Requirements (FK21-067A)**

The Queens County Public Administrator (QCPA) did not consistently comply with IRS requirements for collecting and validating vendors' tax information, nor did it comply with regulations for reporting income disbursed to its employees.

The audit made six recommendations focused on improving collection and documentation of vendors' tax information, properly recording and reporting to the IRS payments made to vendors and employees, and withholding federal income tax, Social Security, and Medicare taxes for employees. In its response, QCPA objected to the report's findings but stated that it complies or will comply with five of the six audit recommendations.

## **Audit Report on the Richmond County Public Administrator's Compliance with Financial Reporting Requirements (FK21-066A)**

The Richmond County Public Administrator (RCPA) did not comply with IRS requirements for collecting and validating vendors' tax information, nor did it comply with IRS regulations for reporting income disbursed to its employees.

The audit made five recommendations focused on improving collection and documentation of vendors' tax information, properly recording and reporting to the IRS payments made to vendors and employees, and withholding federal income tax, Social Security, and Medicare taxes for employees. In its response, RCPA agreed to implement all recommendations, stating that "we have been in touch with our accountant, and he agrees with all findings and will correctly handle all filing requirements for 1099s in 2021 and all years going forward."

## **Audit Follow-up**

In response to the follow-up requests, NYCPA reported that it implemented all three audit recommendations; QCPA reported it implemented five of six recommendations; and RCPA reported it implemented all five recommendations. The BCPA did not provide follow-up information.

# Home Care Services

## Audit on the New York City Department for the Aging's Controls over Payments for Home Care Services (MD22-079A)

### Introduction

The objective of this audit was to determine whether the New York City Department for the Aging (DFTA) had adequate controls over its payments to Home Care Agencies for home care services.

DFTA contracts with hundreds of community-based organizations to provide a variety of services, including home care services. For these services, DFTA contracts with Case Management Agencies (CMAs) and Home Care Agencies (HCAs) to assist older adults with daily living activities including household chores, being escorted to doctor's appointments, and assistance with walking. Home care services are provided by four HCAs throughout the five boroughs.

CMAs are responsible for determining eligibility for home care services and the number of authorized hours of service, and for recording that information in its Senior Tracking Analysis and Reporting System (STARS). HCAs are responsible for recording and tracking times worked by the aide.

To monitor compliance with the contracts and the program, DFTA conducts an annual performance evaluation of each HCA. In addition, DFTA is required to perform a contract close-out audit and to arrange for a CPA firm to conduct a programmatic audit at the end of each fiscal year.

The total amount paid to the HCAs during Fiscal Years 2020 and 2021 was \$67,000,158.

### Results

The audit found several deficiencies in DFTA's controls over payments to HCAs for home care services. DFTA lacked an adequate review and reconciliation process to assess HCAs' reporting and invoicing of services. Specifically, DFTA did not review time records to ensure that payments rendered were for service hours actually provided. Additionally, a review of STARS found that some clients were reported as receiving services while their services were suspended. DFTA did not reconcile invoiced hours with hours recorded in STARS before remitting payment, ensure that authorized hours recorded in client service plans were accurate, and have sufficient controls in place to ensure that it was not paying for hours of services that exceeded the authorized amount. In addition, DFTA did not have adequate policies and procedures relating to the billing issues noted above. Lastly, DFTA did not ensure that it referred home care contracts for year-end audits or that it performed its own internal year-end close-outs of HCAs.

On a positive note, the audit found that DFTA ensured that invoices paid to HCAs for services provided during FYs 2020 and 2021 were generally calculated correctly, that all paid invoices were approved by a DFTA supervisor or director, and that all advances provided to HCAs during Fiscal Years 2020 and 2021 had been recouped.

The audit made nine recommendations related to improving DFTA's controls over payments and strengthening the agency's oversight over the home care program. In its response, DFTA agreed to implement all of the audit's recommendations.

### **Audit Follow-up**

DFTA reported that five recommendations have been implemented and the remaining four are in the process of being implemented.

# Homeless Services

## Audit Letter Report on the Department of Homeless Services' Controls over Its Hotel Lodging Contract with the Hotel Association of New York City, Inc. (MG21-060AL)

### Introduction

The objective of this audit was to determine whether DHS had adequate controls over: (1) the awarding of a contract to the Hotel Association of New York City, Inc (HANYC); and (2) the approval and processing of payments to HANYC and participating hotels.

DHS, in collaboration with other public agencies and nonprofit entities, works to prevent homelessness before it occurs, reduce street homelessness, and assist New Yorkers in transitioning from shelter into permanent housing. DHS is also mandated to provide temporary emergency shelter in a safe and respectful environment to those experiencing homelessness.

At the beginning of the COVID-19 pandemic, DHS entered into an emergency contract with HANYC to facilitate booking, tracking, reporting, and invoicing for hotels serving as temporary housing for New Yorkers testing positive for COVID-19, in accordance with the Centers for Disease Control and Prevention's social distancing guidelines. This agreement began on April 15, 2020, and remained in effect through October 12, 2020.

According to the terms of the contract, HANYC was responsible for identifying available hotel locations that could accommodate the provider, staff, services, security, and capacity needs of shelters. In addition, HANYC was to act as a third-party administrator to collect information for each hotel, secure signed hotel agreements, manage invoicing for lodging, laundry, and damages for the contracted hotels, and make payments to the hotels for their services per the hotel agreements. In turn, DHS' main responsibility was to review the invoices that HANYC prepared, as well as the original hotel invoices, and approve the payments. Once approved, DHS paid HANYC directly, and HANYC paid the hotels for their services and any damage claims approved by DHS.

DHS' contract with HANYC had a total value of \$78.1 million—including a \$20,000 monthly administrative fee for HANYC—and utilized up to 25 hotels. As the need for additional hotels increased, DHS amended the contract and extended it twice. The final extension of the contract was through December 31, 2021, and included a contract amount of \$617.3 million and an increased monthly administrative fee of \$60,000 to HANYC—for up to 80 hotels.

According to data provided by DHS, as of October 1, 2020, DHS' Housing Emergency Referral Operations (HERO), Capacity Planning and Development, and Program units, in collaboration with DHS' Social Service providers, moved approximately 8,800 clients from the shelters into the hotels. According to DHS, as of March 31, 2021, the occupancy rate was 93%.

## Results

The audit found that DHS followed the Mayor’s Office of Contract Services’ (MOCS) guidance for COVID-19 related emergency procurements in awarding the contract to HANYC. The auditors reviewed 434 lodging invoices (totaling \$212.6 million) submitted between April and November 2020 and found that they were supported by documentation and generally paid in a timely manner.

In addition, with few exceptions, the payments that DHS approved relating to damage claims submitted by the hotels were adequately supported. As of November 16, 2021, DHS approved payments for 319 claims for all 14 hotels, totaling \$255,573. Of these, 313 (98%) approved claims totaling \$252,901 were fully supported as required—only six approved claims totaling \$2,672 were unsupported, hindering DHS’ ability to ensure that the monies paid for these claims were for actual damages caused by DHS clients.

However, DHS did not always ensure that its invoice tracking spreadsheet accurately reflected the contract and payment information associated with the hotels. The auditors found that invoice numbers recorded in the tracker did not match the numbers on the invoices submitted by HANYC.

To address the issue raised, the audit recommended that DHS continue to record, review, and reconcile all future contracts, review invoices in a timely manner, and ensure that all supporting evidence and documents are included with submitted invoices.

In its response, DHS agreed to implement the recommendation.

## Audit Follow-up

DHS reported that the audit recommendation has been implemented.

# Mobile Food Vendors

## Audit Report on the Department of Health and Mental Hygiene's Oversight of Mobile Food Vending Units (ME20-054A)

### Introduction

This purpose of audit was to determine whether DOHMH effectively monitored mobile food vendors' compliance with applicable sanitary laws and regulations. DOHMH is responsible for, among other things, enforcing laws and regulations designed to protect and promote public health and safety, including those related to the permitting and inspection of mobile food vending units.

To obtain a permit to operate a unit, the owner or lessee must first obtain a vendor license. Applicants must then take the Food Protection Course for Mobile Vendors and pass a food safety exam. Mobile food vendors must also pass a food safety exam to renew their licenses. Once an owner or lessee obtains a license and passes a pre-permit inspection, DOHMH will issue a permit. Full-term permits are valid for two years; seasonal permits are valid for seven months (from April 1 through October 31).

For full-term permits, DOHMH is required to conduct at least two initial full-sanitary inspections during the two-year permit period. The length of time between each inspection should not exceed one year. DOHMH also attempts to conduct at least one initial full-sanitary inspection of each seasonal unit operating during the seven-month season. DOHMH issues letter grades to units after performing full-sanitary inspections—a unit earns an "A" grade if it accrues fewer than 14 violation points. Units that receive an "A" grade are not re-inspected until the next full-sanitary inspection, up to one year later. A unit that receives 14 or more violation points is subject to re-inspection.

### Results

The audit found that DOHMH did not consistently conduct inspections as required or within the timeframes established in the Rules and by DOHMH guidelines. The audit also found that DOHMH had not established timeframes for the completion of re-inspections that are required after violations have been found during initial inspections. Additionally, DOHMH did not consistently follow its own protocols concerning follow-up inspections. Finally, the audit found that controls over the issuance and tracking of permits, permit decals, and grade cards could be improved.

The audit made 11 recommendations focused on improving the tracking of inspections within certain timeframes, establishing written policies and procedures for follow-up inspections, ensuring that only authorized individuals can update permit decal and letter grade inventory records, and doing a better job of monitoring vendors.

DOHMH agreed with four of the 11 recommendations and agreed to implement some changes in response to two recommendations. DOHMH disagreed with the remaining five recommendations. DOHMH also disagreed with certain audit findings related to the number of units that did not undergo an initial full-sanitary inspection and to the maintenance of permit decal and grade card inventory



records. After carefully reviewing DOHMH’s response, the auditors found no basis for modifying any of the report’s findings or recommendations.

### **Audit Follow-up**

DOHMH reported that four recommendations concerning inspection timeliness, data accuracy, and the development of a vendor license renewal course were “in progress;” that it would partially implement two recommendations related to the target percentage of inspections that supervisors should monitor and to the updating of permit decal and grade card inventory records; and that it continued to disagree with the remaining five recommendations.

# Overtime Costs

## Audit Report on the Management and Control of Overtime Costs at the NYC Department of Probation (FP21-081A)

### Introduction

The objective of this audit was to determine whether the New York City Department of Probation (DOP) appropriately approved, authorized, and paid overtime in compliance with State and City labor laws, City regulations and guidelines, and its own policies and procedures; and whether it effectively managed and controlled its overtime costs.

DOP is responsible for supervising adults and juveniles who are placed on probation by judges in the Supreme, Criminal, and Family Courts. DOP provides information and recommendations to the courts to help inform sentencing and disposition decisions and provides a range of services to those on probation. DOP is responsible for investigating over 50,000 cases per year and directly supervises more than 24,000 adults and 2,000 juveniles.

According to the Comptroller's Annual Comprehensive Financial Report for Fiscal Years 2019 and 2020, DOP's Personal Services expenditures totaled approximately \$80.3 million and \$80.2 million, respectively. The City's Payroll Management System and Open Data show that DOP paid a total of \$3.2 million in overtime costs to 695 of its 1,409 employees on payroll during Fiscal Year 2019, and \$3 million to 672 of its 1,416 employees on payroll during Fiscal Year 2020.

### Results

The audit found that while DOP generally complied with the City's overtime regulations and its own policies and procedures, the agency did not obtain overtime cap waivers as required by the Office of Labor Relations and Office of Management and Budget for some employees who exceeded the overtime cap. These individuals were paid cash overtime instead of compensatory time, as required. In addition, the audit found that no staff documented meal breaks during their overtime shifts, despite the mandate to provide such breaks under NYS Labor Law. While employees may voluntarily waive this right, the waiver is intended to be occasional and at the option of the employee. The absence of documented meal breaks and/or waivers raises compliance concerns. The audit also found weaknesses in DOP's monitoring and control of overtime usage.

The report made a total of three recommendations related to the granting of overtime waivers, administering and enforcing meal breaks, and creating a centralized review and monitoring process that would allow DOP to assess whether overtime is necessary and equitably distributed.

In its response, DOP agreed to implement the three recommendations.

### Audit Follow-up

DOP reported that all audit recommendations have been implemented.

# Remote Learning Devices

## Audit Report on the Department of Education's Controls over the Distribution of Remote Learning Devices (MD21-061A)

### Introduction

The objective of this audit was to determine whether DOE had adequate controls in place over the distribution of remote learning devices.

Due to the COVID-19 pandemic, DOE was forced to close its schools and transition to remote learning in March 2020. However, many students were unable to participate because they did not have a device or internet at home. Some schools provided devices they had in their inventory to students last year during the beginning of remote learning, but this was done independently from the distribution of devices by DOE's Division of Instructional and Information Technology (DIIT). To address the needs of these students, DIIT was tasked with procuring, preparing, and distributing internet-enabled iPads to the hundreds of thousands of students who needed them. To receive one, a family needed to submit a request using the online request form or by calling DOE's Helpdesk or 311.

According to DOE officials, 357,000 iPads were purchased for distribution during School Year 2019–2020 and 104,000 during School Year 2020–2021, and an additional 50,000 were purchased in December 2020 to fulfill the remaining outstanding requests. According to DOE, the agency spent approximately \$287 million for the 511,000 iPads. DOE was also paying approximately \$4 million a month for the data plans for these devices.

### Results

The audit found several inadequacies in DOE's controls over the distribution of remote learning devices which increased the risk of waste, fraud, and abuse. DOE did not centrally track devices that schools issued from their in-house inventories to ensure that DIIT did not issue additional devices to students who already received them. It also did not develop and disseminate detailed written policies and procedures governing the agency's validation of student requests for devices, and for distributing, tracking, and recalling devices. In addition, DOE did not perform timely reviews of device-related data and did not have an ongoing process for tracking and reconciling requests for devices and devices that were distributed. Finally, the audit found deficiencies in DOE's management of control numbers, specifically, the sequential numbering of request IDs from DOE's request data and for asset tag numbers assigned to iPads.

DOE did develop controls that provided reasonable assurance that DIIT did not issue more than one device to students. While these controls did not address the possibility that additional devices could be issued by the schools, these controls could have reduced the chance that DIIT itself issued more than one device to an individual student. However, based on the abovementioned data deficiencies, the audit was unable to identify the actual number of students who were issued devices by DIIT and the number of devices that were shipped to all students who received a device from DIIT.

To address these issues, the audit made 10 recommendations including establishing a central tracking system to account for all devices issued to students; developing written policies and procedures governing the distribution and oversight of devices; and ensuring proper reconciliation of device request and device distribution data.

In its response, DOE agreed to implement eight of the audit's 10 recommendations. However, for five of the recommendations, officials asserted that the agency was already in compliance despite the audit's findings. DOE disagreed with two of the audit's recommendations that it ensure that Request IDs and asset tag numbers are issued in sequential order and tracked.

### **Audit Follow-up**

DOE reported that four recommendations have been implemented but did not directly address four recommendations related to developing written procedures, generating reports, investigating "under review" or "unresolved" requests, and providing devices to those students whose requests were "under review" and "unresolved." Instead, DOE stated that it has "fulfilled all outstanding valid requests," established a new process for schools to identify students in need of devices, and improved its school-based management of asset data and of devices and assignments to students. DOE continued to disagree with the remaining two recommendations concerning Requesting IDs and asset tag numbers.

# Temporary Housing Benefits for Homeless Families

## Audit Report on the Department of Homeless Services' Determination of Temporary Housing Benefits for Families with Children (MG20-070A)

### Introduction

The objective of this audit was to determine whether DHS had adequate controls over the determination of eligibility for temporary housing benefits for homeless families with children.

DHS' mission is to prevent homelessness when possible, address street homelessness, provide safe temporary shelter, and connect New Yorkers experiencing homelessness to suitable housing. Families with children seeking public shelter begin the process of obtaining temporary housing assistance by filing an application at DHS' Prevention Assistance and Temporary Housing (PATH) intake centers. There, families are subject to an eligibility verification process that includes an investigation that determines whether the families have an available, safe, and appropriate temporary or permanent housing option they could use instead of a public shelter. The family is asked about their two-year housing history and is required at that time or later to submit supporting documents such as letters from landlords, eviction notices, medical reports, and school records. DHS maintains applicants' information in its Client Assistance and Rehousing Enterprise System (CARES).

DHS is also required by New York State Administrative Directive 94 ADM-20 to assist applicants "in obtaining information or documentation relevant to the verification of eligibility," and the agency's own Guidelines for Eligibility Investigations require that DHS "make reasonable efforts to verify eligibility" including "through phone calls, interviews, [and] computer checks."

DHS determines that a family is eligible for DHS-provided shelter if PATH employees: (1) can verify, through field and/or phone investigations, that the family stayed at the residences listed in its two-year housing history; and (2) conclude that the family has no viable housing options at any of those residences. Families found eligible for temporary housing assistance remain in the shelter where they were conditionally placed, and DHS works with the family to make the transition to permanent housing.

The audit focused on 46,200 applications from 20,095 families with children, from the period January 1, 2019 through March 23, 2020.

### Results

DHS lacked adequate controls over critical aspects of its eligibility investigations. Specifically, DHS did not ensure that its personnel complied with agency policy, guidelines, and procedures, and with State Administrative Directives regarding actions it was required to take to verify applicants' two-year housing histories. The audit found that DHS denied families' applications and reapplications despite having failed to investigate one or more of the prior residences the applicants identified, and without staff assisting the applicants with efforts to obtain the necessary information, as DHS and State policy require.

In a sample of 50 applicant families, DHS deemed 33 ineligible due to their reported non-cooperation. However, the audit found that DHS did not adequately attempt to assist 21 of those 33 families (64%) with efforts to obtain the information DHS needed for its investigations. Although DHS identified three electronic information systems its staff can use to help identify and locate sources of information that may not be in the possession of the applicants and to assist applicant families in establishing verifiable housing histories, the audit found little evidence that DHS used those systems to assist the 21 families in the sample.

These 21 families filed multiple reapplications—averaging more than 15 applications per family—during the 14-month audit scope period, and DHS ultimately found 14 of the families eligible, but only after denying anywhere from one to 38 of their previous applications. Of the 249 applications that DHS denied during this period, it also failed to conduct or document one or more of the required field/phone investigations of the families’ reported prior residences in 103 cases.

Finally, the audit found that DHS lacked clear written policies and procedures that adequately reflected the agency’s current policies. Senior officials had not disseminated written agency procedures or otherwise clearly communicated expected procedures regarding the process for determining eligibility. This may have contributed, in part, to some of the weaknesses identified in the audit.

To address the issues raised, the audit made five recommendations intended to strengthen DHS’ investigation and verification processes, as well as the agency’s written guidelines and procedures governing DHS’ eligibility verification and determination processes.

In its response, DHS agreed to implement four of the five recommendations. DHS believed that it was already in compliance with one recommendation to identify and utilize additional investigative methods and resources to assist applicants in verifying their housing histories. However, that assertion is belied by the audit findings.

## **Audit Follow-up**

DHS reported that it has implemented or was in the process of implementing all five of the audit recommendations. The agency stated that it was in the process of updating its policies and guidelines to reflect current practice and that it has begun training staff on the updated guidelines.





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