

AUDIT REPORT

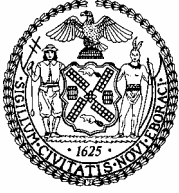


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Monitoring of School Bus Safety By the Department of Education

MJ04-116A

June 30, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has audited the Department of Education (DOE) to determine whether the agency adequately monitors bus contractors to ensure that they comply with safety regulations as they relate to school buses. DOE provides primary and secondary education to more than one million students from pre-kindergarten through grade 12 at more than 1,200 schools and has contracts with 51 school bus vendors to provide transportation services to approximately 172,000 students. The results of our audit, which are presented in this report, have been discussed with DOE officials, and their comments have been considered in the preparation of this report.

Audits such as this provide a means of ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

Report: MJ04-116A
Filed: June 30, 2005

Table of Contents

AUDIT REPORT IN BRIEF 1
 Audit Findings and Conclusions 1
 Audit Recommendations 2

INTRODUCTION..... 3
 Background 3
 Objective 4
 Scope and Methodology..... 4
 Discussion of Audit Results 6

FINDINGS 7
 DOE Has Adequate Controls to Ensure That Buses Used to Transport Students Pass
 New York State Vehicle Inspections 7
 Fewer Than One Percent of School Bus Routes Experienced Delays Due to School
 Bus Equipment Safety and Maintenance Failure..... 10
 One DOE Bus Contractor Had an Out-of-Service Rate Exceeding 20 Percent Over a
 Two-Year Period..... 11

RECOMMENDATIONS..... 14

ADDENDUM — DOE Response

City of New York
Office of the Comptroller
Bureau of Management Audit

**Audit Report on the
Monitoring of School Bus Safety
By the Department of Education**

MJ04-116A

AUDIT REPORT IN BRIEF

This audit determined whether the Department of Education (DOE) adequately monitors bus contractors to ensure that they comply with safety regulations as they relate to school buses. DOE provides primary and secondary education to more than one million students from pre-kindergarten through grade 12 at more than 1,200 schools. DOE has contracts with 51 school bus vendors to provide transportation services to approximately 172,000 students. DOE's Office of Pupil Transportation (OPT) is responsible for monitoring these contracts. In Fiscal Year 2004, DOE spent more than \$576 million for yellow school bus pupil transportation.

Audit Findings and Conclusions

DOE inspectors adequately monitor school bus contractors to ensure that they comply with safety regulations as they relate to school buses they use to transport students. Based on reported delays, less than one percent of school bus routes experienced delays during the morning pickups due to school bus equipment safety and maintenance failure. When we accompanied inspectors during their inspections of buses maintained by three bus contractors, we found the inspectors to be knowledgeable regarding the inspection standards used by DOE. In School Year 2004, covering the period September 2003 through June 2004, DOE reported that it conducted 9,450 vehicle field inspections of contractors' fleet of 6,948 school buses, an average of 1.36 inspections per bus. For the year, DOE inspectors issued 6,991 violations against contractors. Of these, 1,912 were upheld, and liquidated damages totaling \$185,620 were assessed against contractors. Of the 1,912 upheld violations, only two were for having an invalid New York State Department of Transportation (NYSDOT) inspection certificate.

However, DOE has inadequate controls to ensure that bus contractors meet their contractual requirement that the percentage of their buses placed out of service as a result of failed NYSDOT inspections (OOS rate) not exceed an average of 20 percent over three consecutive six-month inspection periods. Of DOE's 51 bus contractors, 15 (29%) had OOS rates that exceeded 20 percent for State Fiscal Year 2004. Of these, one—R & C Transit—had a rate exceeding 20 percent in State Fiscal Year 2003 also. However, DOE took no disciplinary action against this contractor in light of its poor performance.

Audit Recommendations

We made five recommendations to DOE. DOE should:

- Improve its monitoring efforts of bus contractors to ensure that it is aware of contractors who fail to ensure that their out-of-service rates resulting from failed NYSDOT inspections do not exceed an average of 20 percent over three consecutive six-month inspection periods.
- Require that bus contractors with high out-of-service rates improve their preventive maintenance efforts to reduce those rates.
- Include a provision in its transportation contracts that identifies the disciplinary action (e.g., assess liquidated damages, decertify from contracting for student transportation) to be taken against bus contractors who do not comply with the contractual requirement that no more than 20 percent of a contractor's buses be placed out of service for failing a NYSDOT inspection over three consecutive periods.
- Formally put on notice any contractors who exceed the average 20 percent out-of-service rate over two consecutive six-month inspection periods that disciplinary action may be taken against them if they do not lower their out-of-service rate to 20 percent or lower in subsequent periods.
- Take disciplinary action against bus contractors who exceed the average 20 percent out-of-service rate over three consecutive six-month inspection periods.

INTRODUCTION

Background

The Department of Education (DOE) provides primary and secondary education to more than one million students from pre-kindergarten through grade 12 at more than 1,200 schools. DOE's mission is to prepare students to meet grade-level standards in reading, writing, and math and to prepare high school students to meet graduation requirements.

DOE has identified a number of objectives which complement its overall mission. These objectives include: increasing student attendance, improving performance on standardized English Language Arts and math tests, increasing graduation rates, and ensuring the availability of resources to support student academic performance. One of these resources is transportation services.

DOE's Office of Pupil Transportation (OPT) is responsible for ensuring that eligible students receive safe, reliable, and clean transportation to and from school. General Education students in kindergarten through grade six who live one mile or more from school are eligible for yellow school busing. (For kindergarten through grade-two students, the minimum distance is half a mile.) All Special Education students are eligible for pupil transportation services, which may include yellow school busing.

DOE has contracts with 51 school bus vendors to provide transportation services to students. For School Year 2004, the 51 school bus contractors provided 6,948 buses serving 6,049 routes to transport approximately 172,000 students daily. For Fiscal Year 2004, DOE expenditures for pupil transportation totaled approximately \$663 million. Of this amount, more than \$576 million was spent for yellow school bus pupil transportation.

New York State requires inspection of all vehicles transporting passengers under the age of 21 to and from schools, for hire, or owned and/or operated by school districts. Vehicles are required to be inspected by a New York State Department of Transportation (NYSDOT) Motor Vehicle Inspector (MVI) at an operator-provided facility every six months.

The main purpose of the inspections is to determine whether the buses are in safe and sound operating condition and are appropriately maintained by the bus operators. These inspections address approximately 300 safety points, including tires, brakes, doors, and safety equipment (e.g., hydraulic wheelchair lifts, fire extinguishers). The NYSDOT *Standard School Bus Safety Inspection* manual specifies in detail the steps that MVIs are expected to undertake to assess a vehicle's condition. In addition to placing the vehicle on a lift and physically inspecting it, the MVI is required to check the vehicle's maintenance records, its preventive maintenance program, and the driver's inspection reports. In New York State Fiscal Year ending March 31, 2004, the latest date for which these figures are available, NYSDOT reported that its inspectors conducted 11,040 vehicle field inspections of DOE school bus contractors.

DOE has 29 inspectors who perform spot inspections of contractors. These inspections can be random or scheduled and may occur at the bus yards or at the schools where the students

are picked up and dropped off. One of the major safety items DOE inspectors search for is a valid NYSDOT inspection sticker to indicate that the bus passed a State inspection within the prior six months. A DOE inspection does not go into depth regarding the mechanical operating safety of the school buses; rather, the DOE inspections address the overall service provided, as required under its contract with the bus contractors, and a few general safety issues, such as making sure signal lights, emergency buzzer, two-way radio, seat-belts, fire extinguishers, and windows are in good working order. DOE inspectors complete a *School Bus Inspection Report* listing items to be inspected. Some of the items listed include reviewing the driver's log, the bus and route number, license plate, and vehicle type. When inspectors observe violations, they note them on the inspection report and issue a Notice of Violation form to the contractor for not adhering to the standards of its contract, the Contract Amendment Agreement, and the *School Bus Contractors Manual*.

Borough Supervisors (Supervisors) review all violations issued by inspectors and make the initial determination of the extent of a contractor's liability. If a Supervisor determines that a violation is not the fault of a contractor, the violation is dismissed and liquidated damages waived. If the Supervisor determines that the contractor is at fault, liquidated damages are assessed in accordance with the contract, and the contractor is sent a notice of the amount to be deducted from payments due the contractor.

Following a Supervisor's determination, the contractor is given two weeks to arrange an appointment with an Administrative Review Officer (Officer) to discuss any mitigating circumstances the contractor believes warrants a reduction in the amount of liquidated damages. The Officer may decide to reduce or waive the damages. If the contractor does not appeal the Supervisor's decision, or if the Officer determines to uphold the Supervisor's decision, the liquidated damages are deducted from the contractor's next regular monthly payment. DOE officials refer to violations with assigned liquidated damages as *assessed violations*.

In School Year 2004, covering the period September 2003 through June 2004, DOE reported that its inspectors conducted 9,450 field inspections. During the same period, DOE reported that OPT inspectors, staff, and school personnel issued 6,991 violations and assessed liquidated damages of \$185,620 on 1,912 assessed violations.

Objective

To determine whether DOE adequately monitors bus contractors to ensure that they comply with safety regulations as they relate to school buses.

Scope and Methodology

We reviewed DOE's monitoring of school bus contractors and the inspection of school buses during the 2004 School Year, covering the period September 2003 through June 2004.

To obtain background information and attain a general understanding of DOE monitoring of school bus contractors, we interviewed DOE central office OPT officials, including officials from the Contract Compliance Unit.

To obtain an understanding of DOE's role in monitoring the school bus contractors and the contractual obligations of the contractors to DOE, we reviewed the *School Bus Contractors Manual of Procedures and Requirements* that was initially issued on June 1, 1982, and subsequently amended with extensions and revisions. This manual, which is actually the binding contract that is signed between DOE and its bus contractors, states each signatory's obligations, including their specific duties and responsibilities regarding the inspection procedures to be undertaken by OPT inspectors, and the vehicle maintenance requirements of each contractor. To determine whether DOE is ensuring that school bus contractors are complying with the terms of their contracts regarding the safety of the school buses, we interviewed OPT officials, including the chief inspector and the contract compliance manager. To determine whether DOE inspectors are knowledgeable and thorough when they conduct their inspections, we also interviewed and observed seven of DOE's 29 inspectors checking off and filling out their *School Bus Inspection Reports* while they performed field inspections of school buses.

To obtain an understanding of DOE's and the school bus contractors' legal requirements as they pertain to school bus maintenance and safety issues, we reviewed the federal National Highway Traffic Safety Administration *Federal Motor Vehicle Safety Standards for School Buses*, the pertinent New York State and City laws and regulations, and the School Bus Manufacturers Technical Council's *School Bus Technical Reference* manual.

To obtain a general understanding of minimum school bus inspection and technical requirement specifications, we reviewed the New York State Department of Transportation's *Bus and Passenger Vehicle Regulations*. We also reviewed key federal safety requirements, including those of the National Highway Traffic Safety Administration. In addition, we looked at the New York State Comptroller's Web site to determine whether this area has been previously reviewed.

To achieve our objectives and gain an understanding of how DOE monitors school bus contractors, we visited three contractors—Dak, Consolidated, and Hoyt—and conducted walkthroughs of their facilities over two separate dates. We selected these three contractors because they were the ones whose yard inspections were scheduled to be performed on the dates we randomly selected to conduct an observation of vehicle inspections at a garage. We did not give OPT inspectors any advance notice of our observation dates.

Hoyt and Dak shared the same Bronx garage facility, and our observations covered both contractors on the same date, January 13, 2004. Our observation of Consolidated's field inspection took place on April 15, 2004, at its Junius Street garage in Brooklyn. These three contractors had 663 (9.5%) of the 6,948 vehicles contracted by DOE. We also observed OPT inspectors conducting school bus inspections at those facilities, at school sites, and along the bus routes. We obtained copies of inspection logs and the violations issued to the three school bus contractors we visited. In addition, we obtained a list of all contractors who provided school bus transportation services and the violations issued and assessed by OPT inspectors against all the contractors for the scope period. We also asked for the yearly school inspection reports for those three contractors and compared those with the inspections reports for the days of our observations at the yards.

To determine the average delays per morning, we obtained a list of school bus delays caused by mechanical breakdowns that occurred in the morning runs during School Year 2004, covering the period October 2003 through June 2004, as it appeared in OPT's Web site. We chose to look at the morning delays, because we were told by OPT officials that the likelihood of delays occurred most often during the morning runs. When a school bus is delayed, parents and school officials call an OPT hotline to report the delay. OPT posts these delays on its Web site so that parents and OPT personnel can keep track of real-time delays taking place. In addition, complaints about delayed school buses that DOE received from parents and school officials occurred mostly for the morning run.

To determine whether DOE exercises its power to assess violations against contractors for noncompliance of their contractual obligations, we obtained a list of all violations issued against all contractors for the school year and the total amount of liquidated damages assessed against them. Pursuant to its contracts, DOE assesses and deducts liquidated damages against a contractor only after the contractor is given an opportunity to submit a statement of mitigating circumstances in writing, with supporting documentation, at an administrative hearing where the alleged violation is reviewed. If the violation is dismissed, the liquidated damages are waived.

To determine whether bus contractors complied with their contractual requirement that they not allow more than 20 percent of their buses to be placed out of service as a result of a NYSDOT inspection over three consecutive six-month inspection periods, we obtained the bus provider inspection results from DOE and reviewed the Out of Service (OOS) Rate for each contractor for State Fiscal Years 2004. We then obtained the same information from the NYSDOT Web site *Bus Operator Profile State Fiscal Years 2003 and 2004* and checked the DOE data against the State's reported OOS figures. Since NYSDOT is the governing body and regulatory authority, we determined that the information contained on its Web site was reliable. For those contractors whose OOS rate exceeded 20 percent for the two years, we contacted DOE to determine the actions taken against them. We also identified the controls established by DOE to monitor the OOS rate of its contractors.

* * * * *

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the New York City Comptroller's audit responsibilities as set forth in chapter 5, § 93, of the New York City Charter.

Discussion of Audit Results

The matters in this report were discussed with DOE officials during and at the conclusion of this audit. A preliminary draft report was sent to DOE officials and was discussed at an exit conference on May 26, 2005. On May 27, 2005, we submitted a draft report to DOE officials with a request for comments. We received a written response from DOE officials on June 13, 2005. In their response, DOE officials generally agreed with the audit's recommendations. Their comments are included as an addendum in this report.

FINDINGS

DOE inspectors adequately monitor school bus contractors to ensure that they comply with safety regulations as they relate to school buses they use to transport students. Based on reported delays, less than one percent of school bus routes experienced delays during the morning pickups due to school bus equipment safety and maintenance failure. When we accompanied inspectors during their inspections of buses maintained by three bus contractors, we found the inspectors to be knowledgeable regarding the inspection standards used by DOE. In School Year 2004, covering the period September 2003 through June 2004, DOE reported that it conducted 9,450 vehicle field inspections of contractors' fleet of 6,948 school buses, an average of 1.36 inspections per bus. For the year, DOE inspectors issued 6,991 violations against contractors. Of these, 1,912 were upheld and liquidated damages totaling \$185,620 were assessed against contractors. Of the 1,912 upheld violations, only two were for having an invalid NYSDOT inspection certificate.

However, DOE has inadequate controls to ensure that bus contractors meet their contractual requirement that the percentage of their buses placed out of service as a result of failed NYSDOT inspections (OOS rate) not exceed an average of 20 percent over three consecutive six-month inspection periods. Of DOE's 51 bus contractors, 15 (29%) had OOS rates that exceeded 20 percent for State Fiscal Year 2004. Of these, one—R & C Transit—had a rate exceeding 20 percent in State Fiscal Year 2003 also. However, DOE took no disciplinary action against this contractor in light of its poor performance.

These findings are discussed in more detail in the following sections of this report.

DOE Has Adequate Controls to Ensure That Buses Used to Transport Students Pass New York State Vehicle Inspections

Regarding its own inspection efforts, DOE has adequate controls in place to ensure that buses used by contractors to transport students have been inspected and approved by NYSDOT. In School Year 2004, covering the period September 2003 through June 2004, DOE reported conducting more than 9,400 inspections. During the year, DOE issued 6,991 violations against contractors and assessed damages totaling \$185,620 on 1,912 of them. However, of these only two were for not having a valid NYSDOT inspection certificate to indicate that the bus passed a State inspection within the prior six months. During our observation of the inspections of three sampled contractors—the Dak, Consolidated, and Hoyt bus contractors—we found all of the 133 buses that the DOE inspectors examined had valid NYSDOT inspection stickers.

To ensure that bus contractors are complying with contractual requirements to provide safe and properly inspected buses, DOE performs spot inspections of contractors. These inspections may occur at the bus yards or at the schools where the students are picked up and dropped off. DOE's inspections cover a different assortment of areas than the NYSDOT inspections. DOE's inspection does not go into depth regarding the mechanical operating safety of the school buses. Instead, the DOE inspections address the overall service provided, as stipulated by its contract with the bus contractors, and a few general safety issues. One of the

items inspectors search for is a valid NYSDOT inspection sticker to indicate that the bus passed a State inspection within the prior six months, as required.

There are 25 different types of DOE violations, grouped into three major categories. These categories are: (1) schedule deficiencies, (2) inadequate or nonperformance of duties by bus contractors, and (3) improperly equipped vehicle or employee.

Schedule deficiency violations deal with such issues as buses arriving too early or too late, buses failing to arrive at scheduled pickup points, buses arriving excessively late, and buses overloaded with students in excess of registered capacity for the type of vehicle in use. Inadequate or nonperformance of duty violations deal with such issues as not providing an escort on buses for handicapped students, operating buses in a hazardous manner, drivers leaving buses improperly secured with students on board, or pupils not allowed to board the vehicle. Improperly equipped vehicle or employee violations deal with such issues as drivers not having valid drivers' licenses, drivers or escorts not certified by OPT, and school bus safety issues such as buses not having fire extinguishers or first-aid kits or not having valid NYSDOT inspection stickers.

To determine whether DOE is ensuring that school bus contractors are complying with the terms of their contracts regarding the safety and maintenance of the school buses, we first interviewed DOE's chief inspector to ascertain the bus inspection procedures. We accompanied him and six other inspectors to three randomly selected bus contractors—the Dak, Consolidated, and Hoyt bus contractors—where the inspectors conducted inspections at the bus yards.

These contractors provided a total of 663 school buses for transporting DOE students; the inspectors examined 133 (20%) of the buses maintained by the contractors. Overall, inspectors issued 16 violations, of which 10 (63%) were related to bus safety and maintenance. None of the violations were for failing to have a valid NYSDOT inspection sticker. The results of the inspections are shown in Table I below.

Table I

Results of Inspections While Auditors Observed DOE Inspectors

Bus Contractor	Number of Buses Inspected	Number of Buses with Valid NYSDOT Inspection Sticker	Number of Buses with a Violation	Buses with Violation Related to Bus Equipment Safety & Maintenance	Total Violations Issued	Number of Bus Equipment Safety & Maintenance Violations
Hoyt	86	86	11	7	14	8*
Dak	11	11	2	2	2	2
Consolidated	36	36	0	0	0	0
Totals	133	133	13	9	16	10

*One or more violations can be issued for any one bus.

We also obtained the number of inspections that DOE performed of these contractors for School Year 2004 (September 2003 through June 2004). DOE reported that it conducted 1,178 inspections during the year. As a result of these inspections, DOE reported that it issued 64 violations. Of the 64 violations, 35 (55%) were related to bus equipment safety and maintenance. None of the violations issued resulted in a vehicle's being taken out of service. In addition, none of the violations were for failing to have a valid NYSDOT inspection sticker. For the year, DOE reported that it assessed liquidated damages totaling \$12,574 against these three contractors for violations. The results of the inspections for School Year 2004 are shown in Table II below.

Table II

Results of DOE Inspections of Selected School Bus Contractors
School Year 2004

Bus Contractor	No. of Inspections	No. of Violations Issued	Number of Bus Equipment Safety & Maintenance -Related Violations Issued	Percent of Total Violations with Bus Equipment Safety & Maintenance Issues	Number of Vehicles Taken Out of Service Due to Violations Issued	Number of Vehicles Without a Valid NYSDOT Inspection
Hoyt & Dak*	318	38	21	55%	0	0
Consolidated	860	26	14	54%	0	0
Total	1,178	64	35	55%	0	0

*Our analysis for Hoyt & Dak was combined since their inspection logs were co-mingled. Both contractors shared the same storage and maintenance facilities.

As shown in Table II, of the 1,178 inspections DOE reported that it conducted of these contractors for the year, 64 violations were issued, of which 35 were for bus equipment safety and maintenance. Similarly, as shown in Table I, of the 133 buses that auditors observed being inspected by DOE inspectors, 13 buses were issued 16 violations, of which 10 were for bus equipment safety and maintenance. To ascertain how the inspection results for these contractors compared with the results for the other contractors under contract with DOE, we requested and obtained the results for all reported inspections conducted by DOE in School Year 2004. For the year, DOE officials reported that inspectors conducted 9,450 vehicle field inspections of the 6,948 buses provided by contractors, an average of 1.36 field inspections per bus.

In addition to issuing field inspection violations, DOE also issues violations based on complaints received from parents, school officials, or from police and DOE inspectors themselves who make routine observations of infractions. For School Year 2004, DOE reported that it issued 6,991 violations against its 51 bus contractors. Of these, 1,912 were upheld, and liquidated damages totaling \$185,620 were assessed against the contractors. Of the 1,912 violations that were upheld, 177 of them, totaling \$20,607, were for bus equipment safety and maintenance issues. (The remaining violations were for scheduling or inadequate or nonperformance of duties.) A breakdown is shown in Table III below.

Table III

Bus Equipment Safety and Maintenance Violations
Assessed by DOE to All Contractors
School Year 2004

Category	Number of Violations Assessed	Percent of all Violations Assessed
ALL VIOLATIONS	1,912	100.0%
17.3 Vehicle has Inadequate Seatbelts, Wheelchair Brackets or Other Defects	130	6.8%
17.4 Vehicle has No Fire Extinguisher, First Aid Kit or Two-Way Radio	45	2.4%
17.6 Vehicle has Invalid DOT Inspection Sticker	2	0.1%
Total Bus Equipment Safety and Maintenance Violations	177	9.3%

Fewer Than One Percent of School Bus Routes Experienced Delays Due to School Bus Equipment Safety and Maintenance Failure

In School Year 2004, there were approximately 6,050 school bus routes per day. Of these, an average of only seven routes per day were delayed during the morning pickups as a result of malfunctioning safety equipment.

An indicator of DOE's effectiveness in ensuring that school bus contractors properly maintain school bus safety equipment is the number of instances that school buses are delayed or taken out of service because such equipment is malfunctioning.

School bus contractors are required to report all school bus delays to OPT, which then posts the delays on DOE's Web site. In addition, parents or a school may report a delay to OPT, which is also posted on the Web site. We retrieved all reported delays from the morning pickups for School Year 2004 covering the period October 2003 through June 2004 from the DOE Web site. During the period, there were a total of 1,045 delays due to equipment malfunctions. We included only mechanical delays reported, such as a dead battery or stalled bus. Over the 160 school days reviewed, this amounted to an average of seven delays per day. Since DOE school buses had 6,049 routes per day in School Year 2004, reported delays due to equipment malfunctions amount to less than a fraction of one percent of all daily morning pickups. (It should be noted, however, that we were unable to verify that all delays were reported on DOE's Web site, as required by DOE procedures.)

One DOE Bus Contractor Had an Out-of-Service Rate Exceeding 20 Percent Over a Two-Year Period

Fifteen (29%) of DOE's 51 bus contractors had OOS rates in excess of 20 percent in State Fiscal Year 2004. Of these, one—R & C Transit—had an OOS rate in excess of 20 percent in State Fiscal Year 2003 also, covering a minimum of three consecutive six-month inspection periods. However, DOE took no disciplinary action against this contractor, although it was not in compliance with the contractual requirement that no more than 20 percent of a contractor's buses be placed out of service for failing a NYSDOT inspection over three consecutive periods.

Defects discovered by MVIs while performing NYSDOT inspections result in different types of ratings issued, depending on the class of defect found:

- *"A" Rated Defect.* This is the most serious rating requiring the vehicle be placed out of service, and no inspection certificate is issued until the defect(s) is repaired and a reinspection is conducted. Examples of an "A" defect are an inoperable air-operated door emergency release or a missing or broken required interior mirror.
- *"B" Rated Defect.* This rating requires that the vehicle be issued an inspection certificate, but requires that the defect be corrected prior to the vehicle's carrying passengers. Examples of a "B" defect are a non-working horn or the lack of a fire extinguisher.
- *"C" Rated Defect.* This rating is the least serious. In this circumstance, the vehicle is issued an inspection certificate, but the defect must be corrected within 15 days from the date of the original inspection. Examples of a "C" defect are a defective oil or volt gauge, or a non-illuminated speedometer or brake system gauge.

A vehicle is placed out of service as a result of the discovery of a serious safety defect (an "A" rated defect), is not issued an inspection certificate and may not carry passengers. An out-of-service decal is affixed to the vehicle which permits the vehicle to be operated on the highway for the purpose of getting repairs for a period of 15 days.

If the out-of-service defect can be repaired and the MVI remains in the operator's inspection facility, the vehicle can be reinspected the same day. If the defects are properly repaired, a valid inspection certificate is then issued. If repairs are not completed before the MVI leaves the facility, the operator must arrange with the MVI for a date for reinspection of the vehicle. Vehicles that have accumulated in excess of 100 miles or that have not been reinspected within 15 days after being placed out of service require a complete inspection rather than a reinspection of only the items found to be in defect.

In 1995, NYSDOT established the High Inspection Out of Service Rate Operator Enforcement Program. The agency established and notified all school bus and passenger carriers that inspection performance goals were being established, with the intent of moving the industry to an average OOS rate of less than 10 percent.

In March 2000, DOE (then known as the Board of Education) extended its contracts with yellow school bus contractors. As part of its extension, DOE also added an amendment regarding the OOS rate for bus contractors. Section J, Part 4, of the amendment states:

“NYSDOT Bus Inspection System. The Contractor shall not allow its New York State Department of Transportation ‘Out of Service Rate’ to exceed an average of twenty percent (20%) over any three consecutive six-month inspection periods during the Term of this Extension and Amendment Agreement.”

DOE officials stated that they may suspend a contractor from transporting DOE students if it exceeds the 20 percent OOS rate benchmark. To determine whether DOE contractors met this contractual standard, we obtained the overall inspection results for the contractors from DOE officials and from NYSDOT’s Web site. During State Fiscal Year 2004 (April 1, 2003, through March 31, 2004), NYSDOT reported that it performed 11,040 field inspections of school bus vehicles belonging to DOE school bus contractors. Of these inspections, NYSDOT reported that 1,460 (13%) resulted in the buses being placed out of service because of a failed inspection. Of DOE’s 51 school bus contractors, 36 (71%) had OOS rates of 20 percent or less for their vehicles. The best performing contractors, those with zero percent OOS rates, were Able Bus Inc., Allied Transit Corp., Boyton Bus Inc., N.Q.T. Bus Inc., and Ocean Avenue Transportation. The remaining 15 (29%) contractors had OOS rates exceeding 20 percent. The worst performers were R & C Transit Inc., and Gotham Transportation Corp., with OOS rates of 85 percent and 55 percent respectively. Table IV below contains a list of the 15 contractors with OOS rates exceeding 20 percent for State Fiscal Year 2004.

Table IVDOE Bus Contractors with OSS Rates Exceeding 20 Percent

Bus Contractor	State FY04			State FY03		
	Number of buses Inspected	Out of Service (OSS)—Failed Inspection	OOS Rate	Number of buses Inspected	Out of Service (OSS)—Failed Inspection	OOS Rate
R & C Transit	13	11	84.6%	12	5	41.7%
Gotham Transportation Corp.	20	11	55.0%	---	---	NA
Mountainside Trans	65	27	41.5%	66	11	16.7%
Caravan Transit Inc	130	51	39.2%	120	21	17.5%
USA United Bus Express, Inc.	146	47	32.2%	232	19	8.2%
Boro Wide Buses Inc.	49	14	28.6%	34	6	17.6%
Dak Transportation Corp.	76	21	27.6%	26	5	19.2%
Lorissa Bus Services Inc	84	22	26.2%	75	13	17.3%
Tufaro Transit Co Inc.	68	17	25.0%	62	10	16.1%
Jofaz Transportation Inc.	445	108	24.3%	401	73	18.2%
USA United Transit, Inc.	139	32	23.0%	118	5	4.2%
Mini Bus Service Corp	133	30	22.6%	92	7	7.6%
Consolidated Bus Transit Inc.	740	166	22.4%	568	34	6.0%
Logan Transportation Systems	56	12	21.4%	52	4	7.7%
Lonero Transit Inc	467	99	21.2%	375	19	5.1%

As shown in Table IV, one contractor—R & C Transit—had an OOS rate of more than 20 percent for State Fiscal Years 2003 and 2004. This contractor’s record is particularly high for State Fiscal Year 2004, with a failure rate of almost 85 percent. Since buses are required to be inspected every six months, this two-year period covers at least three inspection periods. Therefore, this contractor appears to be in violation of the contractual requirement that its OOS rate not exceed 20 percent in three consecutive inspection periods. However, DOE did not provide us any evidence of disciplinary action taken against this contractor in light of its poor performance.

It should be noted that we found no evidence that any contractors are allowing vehicles that are placed out of service to transport students. As stated previously, DOE assessed only two violations in School Year 2004 for not having a valid NYSDOT inspection sticker. Nevertheless, a high OOS rate is an indication that a contractor’s regular maintenance of its vehicles needs to be improved. A high OOS rate also means that a contractor has fewer vehicles available to transport students, which increases the risk that the contractor may have trouble providing satisfactory substitute vehicles if a bus breaks down.

We asked DOE officials to describe the monitoring methods OPT uses to determine whether contractors are complying with the OOS rate contract provision. DOE officials stated that in the past, OPT sent letters to contractors who exceeded the 20 percent OOS rate in any rating period. More recently, according to officials, OPT called a meeting with those contractors

whose OOS rates exceeded 20 percent in State Fiscal Year 2004 to discuss the measures they would take to improve their performance. (DOE officials provided no documentation of this meeting, such as a sign-in sheet or minutes.) The officials stated that they will require contractors who exceed the 20 percent OOS rate over any three consecutive six-month inspection periods to submit a plan detailing how they will improve their performance. The officials said that the agency will review and follow up on the plans to ensure compliance.

NYSDOT has instituted a program intended to move the passenger carrier industry to an average OOS rate of less than 10 percent. Almost one-third of DOE's contractors have OOS rates more than twice the rate instituted by NYSDOT. As a consequence, DOE's contractors must maintain their fleet of buses so they are less susceptible to breakdowns and service failures in order to perform up to the new industry standards.

RECOMMENDATIONS

The Department of Education should:

1. Improve its monitoring efforts of bus contractors to ensure that it is aware of contractors who fail to ensure that their out-of-service rates resulting from failed NYSDOT inspections do not exceed an average of 20 percent over three consecutive six-month inspection periods.

DOE Response: "OPT looks at the NYSDOT inspection report every six months to identify bus contractors exceeding NYSDOT's twenty percent 'Out-of-Service (OOS)' rate. OPT sends a letter of warning to a contractor failing to achieve an OOS rate less than twenty percent. If the same contractor has not reduced its OOS rate to less than twenty percent during the next six-month inspection period report, the contractor will be required to meet with the Contract Compliance Unit of OPT and submit a detailed preventive maintenance plan on how the contractor plans to resolve this issue."

Auditor Comments: In its response, DOE states its policy but does not state when this policy was initiated. We were provided no evidence that the contractors cited in this report for having OOS rates in excess of 20 percent were sent warning letters or submitted detailed preventive maintenance plans to DOE. Nevertheless, we are pleased that DOE is now taking steps to address this issue.

2. Require that bus contractors with high out-of-service rates improve their preventive maintenance efforts to reduce those rates.

DOE Response: "Bus contractors with greater than twenty percent out-of-service rate after the first six-month NYSDOT inspection report will receive a letter reminding them of the need to improve their OOS rates. Contractors who do not reduce their OOS rates to less than twenty percent on the next six-month report will be called into a meeting and be required to submit a written plan detailing how they will improve their performance and preventive maintenance."

Auditor Comments: As was the case for recommendation #1, DOE does not state when this policy was initiated, and we were provided no evidence that letters were sent to the bus contractors cited in our audit. Nevertheless, we are pleased that DOE is now taking action to encourage contractors to improve their OOS rates.

3. Include a provision in its transportation contracts that identifies the disciplinary action (e.g., assess liquidated damages, decertify from contracting for student transportation) to be taken against bus contractors who do not comply with the contractual requirement that no more than 20 percent of a contractor's buses be placed out of service for failing a NYSDOT inspection over three consecutive periods.

DOE Response: "DOE will include a provision in its new transportation contract extensions that will identify the disciplinary action OPT may take against bus contractors who do not comply with the requirement of not having more than 20% of a contractors fleet being placed out of service for failing a NYSDOT inspection over three inspection periods."

4. Formally put on notice any contractors who exceed the average 20 percent out-of-service rate over two consecutive six-month inspection periods that disciplinary action may be taken against them if they do not lower their out-of-service rate to 20 percent or lower in subsequent periods.

DOE Response: "Bus contractors who exceed the 20% NYSDOT out-of-service rate over two consecutive six-month periods are called into a meeting by a Contract Compliance Unit of OPT at which time they have to submit an amelioration plan detailing what steps will be taken to improve their preventive maintenance efforts. The Contract Compliance Unit will advise the contractors that if their OOS rate is not below the 20% in the next inspection period, contractors will not be allowed to add work for a period of one year or until their OOS rate is less than twenty percent and they may be subject to further disciplinary action."

Auditor Comments: We commend DOE on its plan to have contractors who exceed the 20 percent out-of-service rate submit a plan detailing steps that will be taken to improve their preventive maintenance effort. However, we feel that simply preventing the contractors from taking on more routes for a period of one year or until their OOS rate falls below 20 percent is not a sufficient incentive for contractors to improve their maintenance. Therefore, DOE should consider taking additional disciplinary action, such as the assessment of liquidated damages.

5. Take disciplinary action against bus contractors who exceed the average 20 percent out-of-service rate over three consecutive six-month inspection periods.

DOE Response: "A meeting with the Director of OPT will be held for contractors who fail to achieve a NYSDOT OOS rate under twenty percent over three consecutive six-month periods. Contractors will be issued a violation. They will also be informed that

they will not be allowed to add work for a period of one year or until the out-of-service rate is less than twenty percent and they may be subject to further disciplinary action.”

Auditor Comments: As stated previously, we believe that DOE should take other disciplinary action against contractors who exceed the 20 percent OOS rate instead of merely preventing them from adding work.



OFFICE OF THE DEPUTY CHANCELLOR

Kathleen Grimm, Deputy Chancellor for Finance and Administration
52 Chambers Street, Room 320 • New York, New York 10007
(212) 374-0209 (Voice) (212) 374-5588 (Facsimile)

June 8, 2005

Greg Brooks
Deputy Comptroller for Policy, Audits, Accountancy & Contracts
The City of New York
Office of the Comptroller
1 Centre Street
New York, NY 10007-2341

Re: Draft Audit Report: Monitoring of School Bus Safety by the Department of Education for School Year 2004 (MJ04-116A)

Dear Mr. Brooks:

This letter, with attachments, reflects the New York City Department of Education's ("Department") response to the findings and recommendations made in the above referenced Draft Audit Report ("Draft Report") of the New York City Office of the Comptroller for School Year 2004.

We are pleased the Draft Report acknowledged that the Department's inspectors are knowledgeable and that they adequately monitor school bus contractors to ensure that they comply with safety regulations as well as to ensure that the contract vehicles used have been inspected and approved by NYS Department of Transportation (DOT).

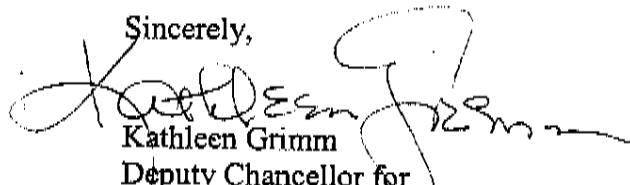
We are also pleased the report concluded that less than one percent of approximately 6,050 school bus routes per day experienced delays during the morning pickups and that only one of the Department's 51 bus contractors had an Out-of-Service (OOS) rate exceeding 20% (and that contractor provides service for only five of the total 6,050 bus routes per day).

The Department's current policy requires that a warning letter be sent to any bus contractor failing to achieve a NYSDOT OOS rate under 20% for one six-month period. Additionally, a meeting will be held with the Contract Compliance Unit with contractors having a NYSDOT OOS rate greater than 20% for two consecutive six-month periods, at which time the vendor will be required to submit a corrective action plan detailing what specific steps will be taken to improve their preventive maintenance efforts.

Page 2
Greg Brooks
Deputy Comptroller for Policy, Audits, Accountancy & Contracts

The Department would like to take this opportunity to thank the Comptroller's managerial staff for the professional and responsive manner in which they have supervised this audit and we believe that the Comptroller's and the Department's mutual interests in school bus safety has been well served.

Sincerely,



Kathleen Grimm
Deputy Chancellor for
Finance and Administration

KG:
Enclosures

C: Joel I. Klein Kristen Kane Carmen Farina LaVerne Srinivasan
 Michele Cahill Michael Best Martin Oestreicher Lorraine Burke
 Richie Scarpa Angela Addamo-Gill Nadine Eiring Lucille Elin-Smith
 Brian Fleischer Marlene Malamy Mary Coffey Nader Francis
 Dominick Cavallo Candido Magnaye

NEW YORK CITY DEPARTMENT OF EDUCATION
OFFICE OF AUDITOR GENERAL
External Audit Services

ADDENDUM
Page 3 of 7

Audit Implementation Plan Form A

PAGE 1 OF 5

RESPONSE DATE: June 6, 2005

AUDIT TITLE: Monitoring of School Bus Safety by the Department of Education

AUDITING AGENCY: New York City Office of the Comptroller

DIVISION: Office of Pupil Transportation

DRAFT REPORT DATE: May 27, 2005

AUDIT NUMBER: MJ04-116A

**A. RECOMMENDATION WHICH THE AGENCY
HAS IMPLEMENTED**

1 - Improve monitoring efforts of bus contractors to ensure that DOE is aware of contractors who fail to ensure that their out-of-service rates resulting from failed NYSDOT inspections do not exceed an average of 20 percent over three consecutive six-month inspection periods.

RESPONSE TO RECOMMENDATION - IMPLEMENTATION PLAN

OPT looks at the NYSDOT inspection report every six months to identify bus contractors exceeding NYSDOT's twenty percent "Out-of-service (OOS)" rate. OPT sends a letter of warning to a contractor failing to achieve an OOS rate less than twenty percent. If the same contractor has not reduced its OOS rate to less than twenty percent during the next six-month inspection period report, the contractor will be required to meet with the Contract Compliance Unit of OPT and submit a detailed preventive maintenance plan on how the contractor plans to resolve this issue.

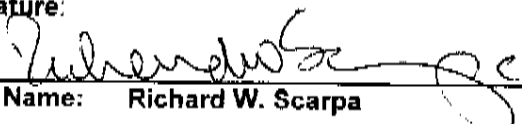
IMPLEMENTATION DATE

On-Going

RESPONSIBILITY CENTER

Office of Pupil Transportation

Signature:


Print Name: Richard W. Scarpa

June 10, 2005
Date

Print Title: Director of OPT

NEW YORK CITY DEPARTMENT OF EDUCATION
OFFICE OF AUDITOR GENERAL
External Audit Services

ADDENDUM
Page 4 of 7

Audit Implementation Plan Form A

PAGE 2 OF 5

RESPONSE DATE: June 6, 2005

AUDIT TITLE: Monitoring of School Bus Safety by the Department of Education

AUDITING AGENCY: New York City Office of the Comptroller

DIVISION: Office of Pupil Transportation

DRAFT REPORT DATE: May 27, 2005

AUDIT NUMBER: MJO4-116A

A. RECOMMENDATION WHICH THE AGENCY
HAS IMPLEMENTED

2 - Require that bus contractors with high out of service rates improve their preventative maintenance efforts to reduce those rates.

RESPONSE TO RECOMMENDATION - IMPLEMENTATION PLAN

Bus contractors with greater than twenty percent out-of-service rate after the first six-month NYSDOT inspection report will receive a letter reminding them of the need to improve their OOS rates. Contractors who do not reduce their OOS rates to less than twenty percent on the next six-month report will be called into a meeting and be required to submit a written plan detailing how they will improve their performance and preventive maintenance.

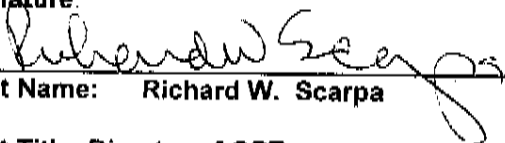
IMPLEMENTATION DATE

On-Going

RESPONSIBILITY CENTER

Office of Pupil Transportation

Signature:


Print Name: Richard W. Scarpa

Print Title: Director of OPT

June 10, 2005
Date

NEW YORK CITY DEPARTMENT OF EDUCATION
OFFICE OF AUDITOR GENERAL
External Audit Services

ADDENDUM
Page 5 of 7

Audit Implementation Plan Form C

PAGE 3 OF 5

RESPONSE DATE: June 6, 2005

AUDIT TITLE: Monitoring of School Bus Safety by the Department of Education

AUDITING AGENCY: New York City Office of the Comptroller

DIVISION: Office of Pupil Transportation

DRAFT REPORT DATE: May 27, 2005

AUDIT NUMBER: MJ04-116A

**C. RECOMMENDATION WHICH THE AGENCY
AGREES WITH BUT IS PENDING IMPLEMENTATION**

3 – Include a provision in its transportation contracts that identifies the disciplinary action (e.g., assess liquidated damages, decertify from contracting for student transportation) to be taken against bus contractors who do not comply with the contractual requirement that no more than 20 percent of a contractor's buses be placed out-of-service for failing a NYSDOT inspection over three periods.

RESPONSE TO RECOMMENDATION

DOE will include a provision in its new transportation contract extensions that will identify the disciplinary action OPT may take against bus contractors who do not comply with the requirement of not having more than 20% of a contractor's fleet being placed out of service for failing a NYSDOT inspection over three inspection periods.

TARGET IMPLEMENTATION DATE

July 2005

RESPONSIBILITY CENTER

Office of Pupil Transportation

Signature:


Print Name: Richard W. Scarpa

Print Title: Director of OPT

June 10, 2005
Date

NEW YORK CITY DEPARTMENT OF EDUCATION
OFFICE OF AUDITOR GENERAL
External Audit Services

ADDENDUM
Page 6 of 7

Audit Implementation Plan Form A

PAGE 4 OF 5

RESPONSE DATE: June 6, 2005

AUDIT TITLE: Monitoring of School Bus Safety by the Department of Education

AUDITING AGENCY: New York City Office of the Comptroller

DIVISION: Office of Pupil Transportation

DRAFT REPORT DATE: May 27, 2005

AUDIT NUMBER: MJ04-116A

A. RECOMMENDATION WHICH THE AGENCY
HAS IMPLEMENTED

4 – Formally put on notice any contractors who exceed the average 20% out-of-service rate over two consecutive six-month inspection periods that disciplinary action may be taken against them if they do not lower their out-of-service rate to 20% or lower in subsequent periods.

RESPONSE TO RECOMMENDATION - IMPLEMENTATION PLAN

Bus contractors who exceed the 20% NYSDOT out-of-service rate over two consecutive six-month periods are called into a meeting by the Contract Compliance Unit of OPT at which time they have to submit an amelioration plan detailing what steps will be taken to improve their preventive maintenance efforts. The Contract Compliance Unit will advise the contractors that if their OOS rate is not below 20% in the next inspection period, contractors will not be allowed to add work for a period of one year or until their OOS rate is less than twenty percent and they may be subject to further disciplinary action.

IMPLEMENTATION DATE

On-Going

RESPONSIBILITY CENTER

Office of Pupil Transportation

Signature:


Print Name: Richard W. Scarpa

Print Title: Director of OPT

June 10, 2005
Date

NEW YORK CITY DEPARTMENT OF EDUCATION
OFFICE OF AUDITOR GENERAL
External Audit Services

ADDENDUM
Page 7 of 7

Audit Implementation Plan Form C

PAGE 5 OF 5

RESPONSE DATE: June 6, 2005

AUDIT TITLE: Monitoring of School Bus Safety by the Department of Education

AUDITING AGENCY: New York City Office of the Comptroller

DIVISION: Office of Pupil Transportation

DRAFT REPORT DATE: May 27, 2005

AUDIT NUMBER: MJ04-116A

**C. RECOMMENDATION WHICH THE AGENCY
AGREES WITH BUT IS PENDING IMPLEMENTATION**

5 - Take disciplinary action against bus contractors who exceed the average 20 percent out-of-service rate over three consecutive six-month inspection periods.

RESPONSE TO RECOMMENDATION

A meeting with the Director of OPT will be held for contractors who fail to achieve a NYSDOT OOS rate under twenty percent over three consecutive six-month periods. Contractors will be issued a violation. They will also be informed that they will not be allowed to add work for a period of one year or until the out-of-service rate is less than twenty percent and they may be subject to further disciplinary action.

TARGET IMPLEMENTATION DATE

July 2005

RESPONSIBILITY CENTER

Office of Pupil Transportation

Signature:


Print Name: Richard W. Scarpa

June 10, 2005
Date

Print Title: Director of OPT