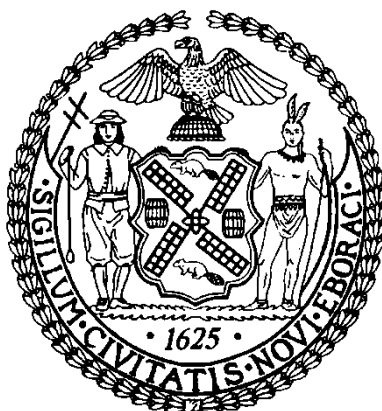


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

BUREAU OF MANAGEMENT AUDIT

**H. Tina Kim
Deputy Comptroller for Audit**



**Audit Report on the Oversight of
Private Ferry Operators by the
Department of Transportation**

MG10-061A

June 24, 2010

<http://comptroller.nyc.gov>



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

John C. Liu
COMPTROLLER

June 24, 2010

To the Residents of the City of New York:

My office has audited the oversight of the Department of Transportation (DOT) over private ferry operators. We audit City operations such as this as a means of increasing accountability and ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

The audit found that DOT ensured that private ferry operators complied with the operational aspects of their permits and license agreements. In addition, the overall structural conditions and routine maintenance for all DOT piers appeared to generally be in good condition. However, DOT's controls over the billing and collection of fees from private ferry operators are inadequate. As a result, DOT was not able to ensure that operators correctly paid their permit fees, landing fees, and security deposits. In addition, staff failed to forward checks for deposit in a timely manner.

The audit makes nine recommendations to DOT, including that it should develop written policies and procedures to ensure that all fees are billed, collected, and deposited in a timely manner, and track all permits issued and reconcile fees collected with corresponding permits. The audit also recommended that DOT reconcile landing fees and security deposit collected and reported by EDC with the corresponding license agreements.

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

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

Sincerely,



John C. Liu

Table of Contents

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

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

FINDINGS AND RECOMMENDATIONS 7
 Inadequate Oversight of the Collection and Deposit of Funds..... 7
 Inadequate Controls over the Collection of Permit Fees..... 8
 Inadequate Controls over the Deposit of Permit Fees 9
 Recommendations 9
 Inadequate Controls over License Agreements 10
 Lack of Monitoring of License Agreements Forwarded to EDC 10
 Lack of Monitoring of Information Received from EDC 11
 Inadequate Controls over Security Deposits 12
 Recommendations 13

ADDENDUM Department of Transportation Response

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

**Audit Report on the Oversight of
Private Ferry Operators by the
Department of Transportation**

MG10-061A

AUDIT REPORT IN BRIEF

The New York City Department of Transportation (DOT) is responsible for regulating public and private ferry operations originating or terminating within New York City. DOT issues all permits and license agreements. Based upon an agreement, DOT is responsible for collecting private ferry permit fees and the New York City Economic Development Corporation (EDC) is responsible for maintaining DOT piers and collecting private ferry landing fees and security deposits.

During Fiscal Year 2009, five private ferry operators provided private ferry service in New York City and DOT reported an average weekday ridership of 30,694 passengers on 20 private ferry routes. During this time, EDC reported collecting \$852,059 in ferry-related revenue, using \$741,863 in pier-related expenses, and receiving \$59,644 for its administrative fee. As of June 30, 2009, EDC had a balance of \$272,550 in the reserve fund.

The objectives of this audit were to determine whether DOT ensured that private ferry operators complied with the requirements of their permits and license agreements and that EDC provided a safe, clean, and well-maintained environment at DOT piers. The audit also determined whether DOT ensured that private ferry operators correctly paid their permit fees, and that EDC collected the landing fees and security deposits.

Audit Findings and Conclusions

DOT ensured that private ferry operators complied with the operational aspects of their permits and license agreements. In addition, the overall structural conditions and routine maintenance for all DOT piers appeared to generally be in good condition.

However, DOT's controls over the billing and collection of fees from private ferry operators are inadequate. As a result, DOT was not able to ensure that operators correctly paid their permit fees, landing fees, and security deposits. In addition, staff in DOT's Office of Private Ferries failed to forward checks to DOT's Revenue Unit for deposit in a timely manner. Consequently, since Fiscal Year 2009, DOT failed to properly administer all 30 permits and 5 (29%)

of 17 license agreements, resulting in \$76,239 in fees and security deposits not being collected. The current collection practices increase the risk that non-collection, or misappropriation, of funds may occur and go undetected.

Audit Recommendations

To address these issues, we make nine recommendations, including that DOT should:

1. Develop written policies and procedures to ensure that all fees are billed, collected, and deposited in a timely manner.
2. Track all permits issued and reconcile fees collected with corresponding permits.
3. Reconcile landing fees collected and reported by EDC with the corresponding license agreements.
4. Reconcile security deposits collected and reported by EDC with the corresponding license agreements.

INTRODUCTION

Background

The New York City Charter gives authority to DOT to regulate public and private ferry operations originating or terminating within New York City. Based upon an October 31, 1995 agreement between DOT and EDC, the two entities share responsibility for managing private ferry services at various DOT ferry landings (piers).¹

To operate private ferries in New York City, a private ferry operator must obtain from DOT a Temporary Ferry Permit (permit). If the ferry uses specified DOT piers, a Landing Slot License Agreement for Ferry Services (license agreement) is also required. A permit allows a ferry operator to operate private ferries for the sole purpose of transporting passengers from one pier to another. A license agreement allows a ferry operator to land private ferries at specified piers for the sole purpose of passenger pick-up and discharge during specified intervals.

DOT permits are issued for a period of 1 to 365 days and have fees ranging from \$50 to \$600 per route. Permits for ongoing routes must be renewed annually. DOT is responsible for collecting permit fees. During Fiscal Year 2009, there were a total of 35 active permits, including 20 for ongoing ferry routes with year-round services. Of these permits, 5 were issued in Fiscal Year 2008 and 30 were issued in Fiscal Year 2009. We estimate the total revenue for the 30 permits issued in Fiscal Year 2009 to be \$15,150.

DOT license agreements also cover a period of 1 to 365 days, include landing fees calculated based upon the number of scheduled landings per month and a price schedule based on the time of day, the DOT pier used, the frequency of landings, and the size of the boat. In addition, a private ferry operator is required to pay a specified amount set by DOT for a security deposit that is returnable upon termination of the license agreement, providing that the operator complied with the terms of the agreement. During Fiscal Year 2009, DOT had 17 active agreements, including 11 for ongoing ferry routes with year-round services. We estimate the total revenue for the 17 agreements active in Fiscal Year 2009 to be \$592,582.

DOT is responsible for setting landing fees, security deposits, and insurance requirements in the license agreements. License agreements for ongoing routes must be renewed annually. DOT sends executed license agreements to EDC, which is responsible for billing and collecting landing fees and security deposits, and for the maintenance and repairs of DOT piers. The landing fees collected by EDC are first to be used to pay for the maintenance and repairs of DOT piers and then are to be used to pay EDC its management fee of seven percent. Any funds remaining are to be placed in an interest bearing reserve fund held by EDC. In Fiscal Year 2009, EDC reported collecting \$852,059 in ferry-related revenue,² using \$741,863 in pier-related

¹ DOT piers in Manhattan include: Battery Maritime Building Slip 5 (foot of Whitehall Street), Pier 11 (near Wall Street), East 34th Street, East 62nd Street, East 75th Street, East 90th Street, Pier 79 (at West 39th Street). In addition, DOT has jurisdiction over the 69th Street Pier in Bay Ridge, Brooklyn, and the Yankee Stadium Pier in the Bronx.

² The revenue reported includes \$328,978 in revenue related to Pier 79 lease.

expenses, and receiving \$59,644 for its administrative fee. As of June 30, 2009, EDC had a balance of \$272,550 in the reserve fund.

During Fiscal Year 2009, the following five ferry operators provided private ferry service in the City: Billybey,³ Liberty Landing, New York Waterway (Port Imperial Ferry), New York Water Taxi, and SeaStreak. During this period, all of these operators used DOT piers except for Liberty Landing, which used a Port Authority pier.

According to the Mayor's Management Report, DOT reported an average weekday ridership of 30,694 passengers on 20 private ferry routes in Fiscal Year 2009, down 9 percent from the 33,627 passengers on 18.7 routes reported in the prior fiscal year.

Objectives

To determine whether DOT ensured that:

1. Private ferry operators complied with the requirements of their permits and license agreements.
2. EDC provided a safe, clean, and well-maintained environment at DOT piers.
3. Private ferry operators correctly paid their permit fees, and that EDC collected the landing fees and security deposits.

Scope and Methodology

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

The scope of this audit was Fiscal Year 2009. We conducted walkthroughs with officials from DOT and EDC to understand each entity's responsibilities in relation to private ferry service in New York City, and we reviewed the October 31, 1995 agreement between DOT and EDC regarding ferry operations at City ferry landings. In addition, we reviewed the Fiscal Year 2009 Mayor's Management Report and other relevant information to develop an understanding of private ferry routes and ridership.

³ Billybey Ferry Company is separate from New York Waterway (Port Imperial Ferry), but it operates its ferry routes under the New York Waterway brand name and contracts with that company for crews and to maintain its fleet and ticketing system.

To assess whether DOT had internal controls as they relate to our audit objectives, we evaluated information obtained from our interviews and various supporting documents. We also determined whether DOT had written internal policies and procedures governing private ferry operations. In addition, we reviewed the following sources, which were used as audit criteria:

- Provisions in DOT-issued permits and license agreements,
- Comptroller's Directive #1, "Principles of Internal Control,"
- Comptroller's Directive #11, "Cash Accountability and Control,"
- New York City Charter, Chapter 71, §2903C.

To determine whether private ferry operators had up-to-date permits and license agreements during Fiscal Year 2009, we reviewed all active DOT permits (35) and license agreements (17) for private ferry service. To confirm that each route had a DOT permit, we compared the permits to all ferry routes and schedules listed on the websites of the five ferry operators.

To gain an understanding of DOT's controls over the collection of permit fees, we interviewed DOT officials in the Office of Private Ferries and in the Revenue Unit. To ascertain whether DOT collected all the fees corresponding to the permits issued, we reviewed documents related to the deposit of all permit fees for Fiscal Year 2009, including: transmittal letters, summaries of cash receipts, deposit slips, and copies of all checks deposited.

To obtain an understanding of how EDC administers the requirements of ferry operator license agreements, we discussed with EDC their billing and collection process of ferry landing fees for DOT and EDC's handling of the security deposits. We reviewed the abstract summaries of license agreements, which EDC uses as the basis of billing landing fees through its Management Reporting Information system and compared these abstracts to the corresponding license agreements to determine whether the landing fees and security deposits matched. In addition, we compared the security deposits held in EDC's escrow account for each of the five ferry operators, according to its June 30, 2009 bank statement, to the security deposits required by their 17 license agreements. We compared the DOT license agreements to the EDC abstracts to determine whether EDC had received and processed all the license agreements issued by DOT.

We reviewed the certificates of insurance from Fiscal Year 2009 to the present for all five ferry operators to determine whether the private ferry operators had active insurance policies, the policies were consistent with the insurance stipulations in their permits and license agreements, and the policies properly named the City of New York and EDC as additional parties insured against all claims. We also contacted the Bureau of Law & Adjustment of the Comptroller's Office to find out if there have been any claims against the City related to private ferry operations. Furthermore, to determine whether DOT accurately reported ferry ridership data, we compared the data in DOT's weekly weekday ridership report for the week of September 28–October 2, 2009, to the underlying data received from ferry operators.

To determine whether DOT ensured that EDC provided safe, clean, and well-maintained piers, we conducted unannounced visits to all DOT piers that were active during Fiscal Year 2009, including: Battery Maritime Building Slip 5 (foot of Whitehall Street), Pier 11 (near Wall Street), East 34th Street, East 90th Street, Pier 79 (at West 39th Street); and the Yankee Stadium Pier in the Bronx. First, on October 6, 2009, we observed activities on Pier 11. Then, on December 14, 2009, along with a specialist from our Engineering Audit group, we visited all of the aforementioned piers to visually evaluate their overall physical condition, cleanliness, and safety.

Discussion of Audit Results

The matters covered in this report were discussed with DOT officials during and at the conclusion of this audit. A preliminary draft report was sent to DOT officials on May 6, 2010, and was discussed at an exit conference on May 18, 2010. On June 1, 2010, we submitted a draft report to DOT officials with a request for comments. We received a written response from DOT officials on June 15, 2010. In their response, DOT officials generally agreed with the audit's findings and its nine recommendations, stating that "the report did point out potential vulnerabilities which should be addressed by improved collection procedures. We are developing, along with EDC, procedures and controls consistent with the audit recommendations."

The full text of the DOT response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

DOT ensures that private ferry operators complied with the operational aspects of their permits and license agreements. The private ferry operators carried adequate insurance policies, properly named the City of New York and EDC as additional parties insured against any and all claims, and submitted reports to DOT detailing the daily passenger totals. In addition, the overall structural conditions and routine maintenance for all DOT piers appeared to be generally in good condition.

However, DOT's controls over the billing and collection of fees from private ferry operators are inadequate. As a result, DOT was not able to ensure that operators correctly paid their permit fees, landing fees, and security deposits. In addition, staff in DOT's Office of Private Ferries failed to ensure that all permit fees collected were recorded and that the checks were forwarded to the Revenue Unit for deposit in a timely manner. Consequently, since Fiscal Year 2009, DOT failed to properly administer all 30 permits and 5 (29%) of 17 license agreements, resulting in \$76,239 in funds⁴ not being collected.

DOT has inadequate oversight with respect to the billing, collection, and deposit of permit fees. This includes the lack of written guidelines and inadequate record keeping. In addition, there is little or no oversight by DOT's Office of Private Ferries to ensure that EDC receives all license agreements so that EDC can bill and collect landing fees and security deposits owed. It should be noted that controls over the fees collected were so deficient that we were unable to determine with reasonable assurance the actual amount of revenue that should have been collected for Fiscal Year 2009 or how to apply to the proper fiscal years all of the amounts that were collected. The current collection practices increase the risk that non-collection, or misappropriation, of funds may occur and go undetected.

The details of these findings are discussed in the following sections of this report.

Inadequate Oversight of the Collection and Deposit of Funds

DOT has failed to institute controls, such as written guidelines and adequate record keeping, necessary to ensure that all applicable fees and security deposits are billed, collected, and deposited in a timely manner. As a result, since Fiscal Year 2009, a total of \$76,239 in fees and deposits pertaining to its five ferry operators were not collected, including \$15,150 (20%) related to permits and \$61,089 (80%) related to license agreements.

According to Comptroller's Directive #1, §2.0, "Internal control is a fundamental component in the successful financial accountability of any public or private entity. Effective internal control provides a necessary and continuing surveillance over the various processes, plans and procedures that are the foundation for which management relies upon to successfully achieve the purpose, goals and objectives of the agency while maintaining appropriate financial accountability for the organizations activities. In addition, internal control serves as the first line of defense in safeguarding assets and help preventing or detecting errors and fraud."

⁴ The \$76,239 in funds includes a Fiscal Year 2009 license agreement for an ongoing ferry route with an outstanding balance of \$56,297 as of April 2010, which includes \$24,860 for landing fees in Fiscal Year 2010.

We found that DOT failed to properly administer \$15,150 in fees pertaining to all of its 30 permits issued in Fiscal Year 2009. Of the 30 permits, DOT failed to collect \$3,100 in permit fees for 7 permits (23%) and collected \$1,250 in permit fees between 110 and 182 days after the start of the permits for 3 permits (10%). While DOT did collect \$10,800 in permit fees when the permits were issued for the remaining 20 (67%) permits, it failed to forward the checks to its Revenue Unit for deposit in a timely manner. Instead, DOT held these checks for 24 to 581 days before depositing them. We also found that DOT failed to properly administer 5 (29%) of the 17 license agreements during the year, resulting in landing fees of \$56,339 not being billed for two license agreements and security deposits estimated at \$4,750 not being collected for four license agreements until our discovery of DOT's inadequate oversight.

The majority of landing fees not billed were owed by one private ferry operator, NY Water Taxi, which operated a route for nearly two years without paying permit fees, landing fees, and any security deposit, which as of April 2010 we estimate to be \$1,200 for permit fees, \$56,297 for landing fees, and an additional \$2,500 for its security deposit. In addition, since there is no formal procedure for ensuring that license agreements are forwarded to and received by EDC, the \$56,339 in landing fees owed (including the \$56,297 owed by NY Water Taxi) were not even billed until March 2010, after we identified the omission.

The lack of written procedures has led to inadequate record-keeping as key steps in the processing of permits and license agreements are not documented. Although DOT maintains a list of permits and license agreements, the list is not complete or organized by issue date. In addition, since DOT does not assign sequential numbers, it is possible for documents to be misplaced and fees to go uncollected without detection. When we reviewed DOT's list and compared it to all permits and license agreements that we received from DOT, we found that as of September 25, 2009, the list contained only 6 of 17 license agreements and 21 of the 35 permits. In addition, DOT does not keep a record of when checks for permit fees are received and forwarded to its Revenue Unit, or when license agreements are forwarded to EDC. As a result, neither we nor DOT were able to determine with certainty the number of permits and license agreements issued or the fees that should have been collected.

In summary, DOT failed to exercise adequate oversight over fees and security deposits to ensure that estimated and actual revenue for all of the private ferry operators reconciled. As stated earlier, DOT's controls were so inadequate that DOT officials were unable to tell us the amount of permit and landing fees and security deposits that should have been received or that were collected during Fiscal Year 2009.

Inadequate Controls over the Collection of Permit Fees

DOT lacks adequate controls to monitor the outstanding permit fees. As a result, DOT failed to collect \$3,100 of the \$15,150 in permit fees during Fiscal Year 2009 and did not collect \$1,550 fees on a timely basis.

Upon the renewal of the permit, ferry operators are supposed to submit a check for the new permit to DOT's Office of Private Ferries. However, since DOT has no procedures in place that would require staff to keep track of the permits issued or to reconcile those permits with the fees collected, private ferry operators are able to renew their permits without paying outstanding balances.

DOT also failed to collect a total of \$1,550 on a timely basis from two ferry operators pertaining to four permits and allowed the ferries to operate for up to six months before collecting the fees. According to DOT officials, on October 15, 2009, New York Water Taxi paid for three permits with one check in the amount of \$1,250. This payment was 110-182 days late. DOT also lost a check for \$300, which was replaced by Seastreak and then held by DOT for another 140 days before it was deposited. Ultimately, the check for this permit was deposited almost one year after the start of the permit.

Inadequate Controls over the Deposit of Permit Fees

DOT lacks controls to ensure that collected permit fees are forwarded to the appropriate unit so that they can then be deposited in the bank on a timely basis. DOT's Office of Private Ferries, which during Fiscal Year 2009 received seven checks totaling \$10,800 in permit fees pertaining to 20 permits, was required to forward the checks to the Revenue Unit for deposit. However, DOT has not instituted controls or standards for this process and as a result, it took 24-581 days for the Office of Private Ferries to forward the checks, representing 20 (67%) of the 30 permits not properly handled by DOT during Fiscal Year 2009.

Regarding deposits, Comptroller's Directive #11 states, "Generally, cash deposits must be made on a daily basis . . . [and] the accumulation of cash is not permitted." Contrary to this directive, the Office of Private Ferries is accumulating the checks received.

In one case, a check in the amount of \$4,200 was held by the Office of Private Ferries for 581 days and only upon our discovery was it forwarded to the Revenue Unit for deposit. In another example, it took DOT 320 days to deposit a check in the amount of \$300, and it was only done after the urging of the ferry operator.

Currently, DOT staff does not keep track of when checks are received and when checks are forwarded to the Revenue Unit for deposit. In fact, it is highly probable that a check would not be detected if it is misplaced, lost, or stolen before it is forwarded for deposit. By not creating standards and procedures in the Office of Private Ferries that require the immediate forwarding of checks to the Revenue Unit for deposit, DOT risks the loss or unauthorized use of these vulnerable assets.

Recommendations

DOT should:

1. Develop written policies and procedures to ensure that all fees are billed, collected, and deposited in a timely manner.

DOT Response: "The Office of Private Ferries (OPF) is in the process of implementing an improved workflow tracking system which includes checklists with written procedures and the maintenance of a Master Log for all permits and license agreements."

2. Track all permits issued and reconcile fees collected with corresponding permits.

DOT Response: “To facilitate tracking, all permits and licenses are now sequentially numbered and entered in the Master Log. . . . The Master Log will be regularly reviewed to ensure that fees have been collected on all permits issued.”

3. Ensure that staff in the Office of Private Ferries promptly forwards all checks to its Revenue Unit for deposit.

DOT Response: “All permit and license fees and any other collections that are received will be forwarded to the Revenue and Accounts Receivable Unit in accordance with the Comptroller’s Directive 11.”

4. Recoup outstanding permit fees identified in this report.

DOT Response: “All outstanding permit fees noted in the draft report have been billed, collected and deposited except for \$600 due from New Liberty Landing Marina who reported mailing it on June 11.”

Inadequate Controls over License Agreements

DOT lacks adequate controls to monitor the license agreements sent to EDC or the collection efforts made by EDC. This includes a lack of monitoring to ensure that all license agreements are forwarded to EDC and performing a reconciliation of data received from EDC. Consequently, during Fiscal Year 2009, DOT failed to forward to EDC 2 (12%) of its 17 license agreements, resulting in lost revenue of \$56,339 in landing fees. This amounted to 74 percent of the \$76,239 in funds that were not collected by DOT.

Lack of Monitoring of License Agreements Forwarded to EDC

As stated earlier, DOT had 17 license agreements for private ferry service in Fiscal Year 2009. DOT must forward executed copies of the agreements to EDC so that it can bill and collect the landing fees and security deposits from ferry operators.

However, DOT does not keep track of when, or if, license agreements are sent to EDC, nor does it require EDC to confirm receipt of the agreements. Therefore, in the event that EDC does not bill the ferry operators for the agreed upon landing fees, DOT does not have any evidence that these license agreements were even sent to EDC. In the absence of prompt forwarding of renewals by DOT, EDC relies on the prior agreement for billing and then bills any adjustments when and if it receives the renewed agreement from DOT. However, if DOT fails to forward the first license agreement of a new route, then EDC will not be aware that it must bill and collect fees from the ferry operator, as was the case with the New York Water Taxi.

One of the two agreements not forwarded for collection was with New York Water Taxi for an ongoing ferry route between Pier 11 in Manhattan and the Red Hook pier in Brooklyn (IKEA).

New York Water Taxi signed a new license agreement with DOT on June 16, 2008, agreeing to pay landing fees of \$1,605 for the month of June 2008 and \$2,486 for each month thereafter, totaling \$56,297 as of April 2010. However, New York Water Taxi was never billed for any landing fees and as a result, the City did not collect the fees for this particular route for 23 months.

On February 11, 2010, when we initially advised DOT officials about the IKEA ferry route, DOT had no evidence that this agreement had ever been sent to EDC for billing and collection of fees. We were later provided with evidence that on April 6, 2010, DOT sent a letter to New York Water Taxi along with copies of the renewed permits and license agreements for the IKEA route, informing the ferry operator that it had been operating this route without a current permit and license agreement, and requesting the ferry operator's signature on those renewed agreements and payment for the overdue fees. Subsequent to the exit conference for this audit, DOT provided us a copy of a canceled check totaling \$32,858.97, which EDC received from New York Water Taxi. The check, dated May 18, 2010, represents payment for the landing fees and security deposit for Fiscal Year 2009 for the IKEA route. EDC officials stated that they will continue to bill New York Water Taxi for this route and make the necessary adjustments if there are any changes to the agreement.

Lack of Monitoring of Information Received from EDC

DOT does not receive adequate information from EDC in order to determine whether the appropriate revenue has been collected. According to an agreement between the two agencies, EDC is required to submit to DOT on a quarterly basis statements of revenues, expenses, and reserve fund activity so that DOT can obtain an overview, by pier, of the income generated and expenditures made. During Fiscal Year 2009, DOT received one copy of the "Analysis of Revenues & Expenses – DOT Piers" for the fourth quarter of the year. EDC officials told us that they did not prepare this report for the first three quarters of Fiscal Year 2009 because there was a change in staffing within EDC and they were not aware that this report was required to be submitted on a quarterly basis. Even if that were the case, had DOT officials been properly monitoring the revenue collected and expenditures made by EDC, they would have immediately notified EDC that they did not receive the report. Moreover, the report is compiled by pier, not by ferry operator, thereby making it more difficult for DOT to monitor the billing and collection of landing fees set in its license agreements.

Without ensuring that they receive, on a regular basis, a detailed report pertaining to the financial activities of the individual ferry operators and then performing a reconciliation of the information, DOT cannot ensure that all funds pertaining to current license agreements and outstanding balances from prior agreements are collected.

Recommendations

DOT should:

5. Keep track of all license agreements, including date forwarded to EDC and request a confirmation of its receipt.

DOT Response: “License Agreements are now sent to EDC with transmittal letters and requests for acknowledgement receipts. Any unconfirmed transmittals will be followed up with EDC. Information on license agreements, including transmittal to EDC, is being tracked in the Master Log.”

6. Ensure that EDC provides DOT with a summary report related to all its billing and collections for each license agreement.

DOT Response: “We will work with EDC to improve the report contents and direct them to provide us with the Revenue, Expense and Reserve Fund Reports within the first five business days following the close of each quarter.”

7. Reconcile landing fees collected and reported by EDC with the corresponding license agreements.

DOT Response: “We will reconcile all landing fees collected with the corresponding license agreements.”

Inadequate Controls over Security Deposits

DOT does not have any controls to ensure that all of the required security deposits are collected from private ferry operators, as required by the license agreements.

Our review of the security deposit accounts held by EDC found that EDC did not hold sufficient security deposits for two ferry operators, which totaled an estimated \$4,750. Sufficient security deposits were not collected for four of the license agreements until our discovery of DOT’s inadequate oversight. Specifically, a \$2,500 security deposit for New York Water Taxi’s IKEA route had never been billed, and \$1,684 for Seastreak’s ongoing route between Highland, NJ, and Pier 11 in Manhattan had insufficient balances. In addition, DOT had erroneously omitted security deposits totaling an estimated \$566 from two license agreements⁵ for a seasonal Seastreak route between Highland, NJ, and Yankee Stadium, and as a result, this amount could not be billed.

When we discussed this matter with EDC and DOT officials, DOT officials stated that they are considering charging a fixed amount of security deposit per ferry operator in the future, as opposed to their current practice of charging per license agreement, where the total amount of security deposits varies depending on the number of license agreements that are signed and adjustments on landing fees that are charged.

⁵ Both license agreements (\$566 total) covered the same ferry route: one was for weekdays (\$370) and the other was for weekends (\$196).

Recommendations

DOT should:

8. Ensure that EDC provides DOT with an annual summary report of all security deposits being held in EDC's escrow account by ferry operator.

DOT Response: "We will direct EDC to provide us with an annual summary report of all security deposits held by them."

9. Reconcile security deposits collected and reported by EDC with the corresponding license agreements.

DOT Response: "OPF will review security deposits collected and reported by EDC against DOT license requirements shown on the Master Log. Any discrepancies noted will be brought to the attention of EDC for explanation and/or appropriate action."



June 15, 2010

Ms. Tina Kim
Deputy Comptroller for Audits
1 Centre Street Room 1100
New York, N.Y: 10007-2341

Re: DOT Response to Draft Audit Report on the Oversight of Private Ferry Operators by the Department of Transportation MG10-061A.

Dear Ms. Kim:

Thank you for the opportunity to reply to the draft report of Audit MG10-061A and the acknowledgment in the report that:

- DOT ensured that private ferry operators complied with the operational aspects of their permit and license agreements.
- DOT and the Economic Development Corporation (EDC) have maintained the DOT piers in good condition.
- DOT and EDC ensured that the private ferry operators carried adequate insurance policies and properly named the City of New York and EDC as additional parties insured against any and all claims.
- DOT received daily passenger ridership data from the private ferry operators

We would further note that the overall financial health of the DOT private ferry program has improved markedly in recent years, despite the current economic situation, and is stronger now than at any point since we assumed jurisdiction over the ferry landings in 1995. By FY 2009, the maintenance program had a positive balance of \$272,550 in the reserve fund. Today, we are in an even stronger position, with the balance in the reserve fund that stands at over \$500,000.

Although no misappropriation occurred, DOT acknowledges that the report did point out potential vulnerabilities which should be addressed by improved collection procedures. We are developing, along with EDC, procedures and controls, consistent with the audit recommendations, as listed in the succeeding paragraphs.

Recommendation 1: DOT should develop written policies and procedures to ensure that permit fees are billed, collected, and deposited in a timely manner.

DOT Response: The Office of Private Ferries (OPF) is in the process of implementing an improved workflow tracking system which includes checklists with written procedures and the maintenance of a Master Log for all permits and license agreements. We are preparing written

*DOT Response to Audit of Oversight of Private Ferry Operators MG10-061A**June 15, 2010*

Page 2 of 3

Standard Operating Procedures (SOPs) to cover the entire permitting process from the receipt of the application, collection of the permit fees before issuance of the permit, transmitting the collection to the Revenue and Accounts Receivable Unit for deposit in accordance with the Comptroller's Directive 11, recording each step of the process in the Master Log and weekly review of the Master Log to ensure accuracy and completeness.

Recommendation 2: DOT should track all permits issued and reconcile fees collected with corresponding permits.

DOT Response: To facilitate tracking, all permits and licenses are now sequentially numbered and entered in the Master Log. The Master Log will be the central repository of information for every permit and license issued and will contain such information as issuance and expiration dates, fees collected, transmittal dates to EDC and other relevant information. All permits and license agreements that were previously issued but are still currently active have been entered in the Master Log. Additionally, the SOPs will include a new requirement that permits and licenses will not be issued unless the corresponding fees are collected. The Master Log will be regularly reviewed to ensure that fees have been collected on all permits issued.

Recommendation 3: DOT should ensure that permit checks are forwarded promptly to its Revenue Unit for deposit.

DOT Response: All permit and license fees and any other collections that are received will be forwarded to the Revenue and Accounts Receivable Unit in accordance with the Comptroller's Directive 11. There will be a weekly review of the Master Log to confirm compliance with the Directive. These procedures will be incorporated in the written SOPs.

Recommendation 4: DOT should recoup outstanding permit fees indentified in this report.

DOT Response: All outstanding permit fees noted in the draft report have been billed, collected and deposited except for the \$600 due from New Liberty Landing Marina who reported mailing it on June 11. DOT did receive proof of mailing and expects to receive the check shortly.

Recommendation 5: DOT should keep track of all license agreements, including date forwarded to EDC and request a confirmation of its receipt.

DOT Response: License Agreements are now sent to EDC with transmittal letters and requests for acknowledgement receipts. Any unconfirmed transmittals will be followed up with EDC. Information on license agreements, including transmittal to EDC, is being tracked in the Master Log.

DOT Response to Audit of Oversight of Private Ferry Operators MG10-061A
June 15, 2010
Page 3 of 3

Recommendation 6: DOT should ensure that EDC provides DOT with a summary report related to all its billing and collections for each license agreement.

DOT Response: We will work with EDC to improve the report contents and direct them to provide us with the Revenue, Expense and Reserve Fund Reports within the first five business days following the close of each quarter. At the close-of-fiscal year meeting which we have scheduled with EDC to review all active and anticipated licenses, we will present to them a report format which will include supporting schedules showing payments by each permittee/licensee for landing fees.

Recommendation 7: DOT should reconcile landing fees collected and reported by EDC with the corresponding license agreements.

DOT Response: We will reconcile all landing fees collected with the corresponding license agreements. The Schedule of Collections by Licensee/License Agreement that EDC will send OPF together with the quarterly Summary Report of Revenue and Expenses, will facilitate this reconciliation. The SOPs will include a requirement that a regular reconciliation be made.

Recommendation 8: DOT should ensure that EDC provides DOT with an annual summary report of all security deposits held in EDC's escrow account by ferry operator.

DOT Response: We will direct EDC to provide us with an annual summary report of all security deposits held by them.

Recommendation 9: DOT should reconcile security deposits collected and reported by EDC with the corresponding license agreements.

DOT Response: OPF will review security deposits collected and reported by EDC against the DOT license requirements shown on the Master Log. Any discrepancies noted will be brought to the attention of EDC for explanation and/or appropriate action.

If there are questions on this response, I can be reached at (212) 839-4408.

Sincerely,


LUCITA C. ANDRES
Auditor General

cc: Comm. J. Sadik-Khan, FDC L. Ardito, COO J. DeSimone, A. Olmsted.