



MARJORIE LANDA
DEPUTY COMPTROLLER FOR
AUDIT

CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

BUREAU OF AUDIT

May 15, 2015

By Electronic Mail

Commissioner Jacques Jiha, Ph.D.
New York City Department of Finance
1 Centre Street, Room 500
New York, NY 10007

**Re: Letter Audit Report on the Follow-up Audit of the Implementation of the 18-B Web System Administered by the Department of Finance
(Audit Number 7F14-081AL)**

Dear Commissioner Jiha:

We are sending this Letter Audit Report to provide you with results of our follow-up audit on the implementation of the 18-B Web system administered by the Department of Finance (DOF). The objectives of this audit were to determine whether the 17 recommendations made in an earlier audit, *Audit of Controls Over Billings and Payments for Work by Panel Members in the Assigned Counsel Plan* (Audit Number 7A08-085, issued February 2, 2009), were implemented and if the 18-B Web system contains adequate system controls to ensure accurate billings and payments.

The prior audit disclosed process and user control weaknesses that had not been corrected in the conversion from the legacy FoxPro system to the 18-B Web system. At the time of our original audit, the 18-B Web system and the legacy FoxPro system were the responsibility of the Office of the Criminal Justice Coordinator (CJC). The 18-B Web system is now the responsibility of DOF.

Our follow-up audit found that most of the issues we identified in our prior audit have been corrected. There are, however, still a few problems we found that require correction. A detailed discussion of our findings and recommendations follow.

Background

The New York City Assigned Counsel Plan (ACP) is a panel of court-approved attorneys who, among other things, provide representation to indigent persons charged with crimes in New York City and those who fall under §262 or §1120 of the New York State Family Court Act. ACP is authorized by Article 18-B of the New York State County Law and funded by New York City. It initially reported to CJC, which was responsible for managing the program. However, in a 2009 Memorandum of Understanding between the Mayor's Office and DOF, the responsibilities for oversight of the 18-B Web system, including the payment voucher process, were transferred from

CJC to DOF.

Article 18-B outlines fees for attorneys, court reporters and expert witnesses who may be used in the course of a representation. In 2003, ACP developed an in-house computer system, the 18-B Web system, to replace a legacy computer system, known as FoxPro.¹ The 18-B Web system was designed to improve the process of assigning attorneys, streamline the payment voucher submission process and improve the system's ability to prevent fraudulent claims from being submitted and paid.

The Comptroller's prior audit found certain control weaknesses within both the legacy FoxPro system and the 18-B Web system. Among other things, we found that the 18-B Web system allowed attorneys to enter future activities and allowed certain mandatory data fields to remain blank. At the time of our prior audit, the FoxPro system was being integrated into the 18-B Web system. Our audit found that the 18-B Web system was not designed to allow the user to enter the specific date and time information recorded in the vouchers. These design problems identified in the prior audit were expected to be corrected when the 18-B Web system was fully implemented. Without detailed date and time information, it was not possible to determine whether attorneys overbilled or double-billed for their services.

The prior audit also found that ACP did not develop a data purification plan to ensure that only correct and corrected data was migrated into the 18-B Web system and did not have overall policies and procedures for the data migration of FoxPro data into the 18-B Web system. In addition, ACP did not have a formal disaster recovery plan for both systems.

Results of the Follow-up Audit

Our review of the implementation status of the 17 previous audit recommendations made in a prior audit determined that 12 recommendations have been fully implemented, one partially implemented, and two were not implemented at all. The remaining two recommendations are no longer applicable. See the Appendix to this report for a list of the 17 prior recommendations and their implementation status. In addition, we found that the 18-B Web system has adequate system controls to ensure an accurate billing and payment process. Our review and tests found that the 18-B Web system has controls to detect overbillings and double billings.

Implemented Recommendations

Based on our review and sample tests, we found that the 18-B Web system corrected internal control and user control weaknesses found in the FoxPro system. Control issues such as blank mandatory fields and the inability to record detail activities were corrected. We also confirmed that the 18-B Web system requires attorneys to fill in daily and hourly activities and will reject vouchers with future dates. In addition, the 18-B Web system enforces the ACP's hourly business rules, identifies overlapping and over billings, and rejects vouchers from being submitted after 45 days. Other control issues have also been addressed.

¹ Although FoxPro is no longer in use, some of the recommendations being addressed in this follow-up audit relate to some aspects of FoxPro that are still in effect, such as the ACP guidelines and the current voucher submission process.

Partially Implemented Recommendation

One of the Comptroller's prior audit recommendations was that CJC should "ensure that prior to providing compensation, ACP staff [should] receive judges' approvals and attorneys' affirmations specifying the time and billable services for all cases exceeding the standard rates and maximum limits."

In our follow-up audit, we found that the 18-B Web system has controls over vouchers that allow the receipt of vouchers that exceed the standard rates for attorneys and expert witnesses. We performed a sample test of vouchers that had been paid that exceeded the maximum limit per case and so under ACP's rules, would require a judge's approval. Based on our test, we found that all of the sampled vouchers over the per case limit did have a judge's approval. However, we found that the 18-B Web system did not have the capability to identify those cases where multiple vouchers within the limits had been submitted, but where when aggregated, they exceeded the per case limit and so would require a judge's approval. Therefore, we consider this recommendation to only be partially implemented.

Recommendations Not Implemented

The prior audit report recommended a formal disaster recovery plan for the 18-B Web system. The audit also recommended that the plan be tested periodically. Currently, the 18-B Web system server is at a Department of Information Technology and Telecommunications (DoITT) facility. However, the system is not part of the DoITT city-wide disaster recovery plan. In addition, DOF does not have a disaster recovery plan for the 18-B Web system.

Recommendations No Longer Applicable

Our audit of the 18-B Web system found that two recommendations made in the prior audit are no longer applicable. The prior audit recommended that CJC develop a data purification plan to ensure that all inadequate data is corrected before it is transferred to 18-B. In addition, the audit had recommended that CJC should also develop written policies and procedures for the FoxPro data migration the 18-B Web system. The migration was completed prior to the DOF assuming the responsibility of the 18-B Web system. Therefore, we consider these two recommendations to be no longer applicable.

New Issue

The draft copy of the "Assigned Counsel Plan for the City of New York Guidelines for Attorneys and Experts" states that "Any attorney billing in excess of 2,000 hours in a calendar year will be audited by the ACP deputy director of audits to ensure accurate billing practices."² During fieldwork, we found that 24 attorneys were each paid in excess of 2,300 hours of service in 2013. However, DOF's ACP internal audit unit only reviews the top ten attorney earners and does not follow these guidelines. An audit of only the 10 highest billers out of the total 1,140 attorneys paid in 2013 is a very limited sample. Accordingly, a sample of 10 highest billers is neither representative nor a reliable indicator for detecting questionable billings.

² Although this document is labeled a "draft," we were informed that there is no final and that these guidelines are generally followed by ACP.

The matters covered in this letter report were discussed with DOF officials during and at the conclusion of this audit. On April 29, 2015, we submitted a draft letter report providing DOF with an opportunity to formally respond. DOF's response was received on May 13, 2015. In their written response, DOF officials did not dispute the letter report's findings and recommendations and described the steps they have taken to implement the report's recommendations. The full text of DOF's comments is attached as an addendum to this report.

Recommendations

To address the prior audit's recommendations, DOF should:

1. Ensure that the 18-B Web system provides the capability to identify and prevent submission of cases that have multiple vouchers which reach an aggregate total exceeding the amount required for a judge's affirmation, absent appropriate evidence of approval from a judge.

Agency Response: "DOF agrees functionality in the 18-B Web system is needed to track multiple vouchers that exceed the aforementioned aggregate total cap. In the interim, DOF will implement a compensating control to track and monitor these multiple vouchers. FIT will generate a monthly report of multiple vouchers from the 18-B Web system which will be audited for compliance by ACP staff."

2. Develop, complete and periodically test a formal disaster recovery plan for the 18-B Web system and coordinate with DoITT to ensure that the system becomes part of the city-wide disaster recovery plan.

Agency Response: "DOF agrees and will produce a formal disaster recovery plan for 18-B. The plan will be tested periodically as suggested. DOF will coordinate with DoITT on inclusion of this system in the City-wide disaster recovery plan."

To address the new issues, DOF should:

3. Expand its audit sample methodology to include all attorneys whose billings exceed 2,300 hours per calendar year, as well as a representative number of attorneys whose billings were less than 2,300 hours.

Agency Response: "DOF agrees to expand its audit sample to include any attorney who bills in excess of 2,300 hours in a calendar year and to include a larger random sample of attorneys whose billings were less than 2,300 hours in a calendar year."

4. Finalize and approve the Assigned Counsel Plan for the City of New York Guidelines for Attorneys and Experts.

Agency Response: "DOF agrees and has diligently been working on the payment portion of the ACP policies and procedures it oversees. Upon completion the 'DOF Payment Unit, Rules and Procedures for Attorneys and Experts' will be posted on the 18-B website as a tool for attorneys and experts to be compliant with voucher submission requirements."

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

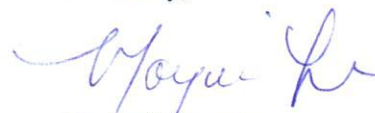
audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit was from January 2013 to December 2013. We conducted the fieldwork from February 2014 to March 2015. To meet our objective, we reviewed the prior audit, *Audit of Controls over Billings and Payments for Work by Panel Members in the Assigned Counsel Plan* (Audit Number 7A08-085, issued February 2, 2009). We reviewed the Assigned Counsel Plan for the City of New York Guidelines for Attorneys and Experts (Draft) to determine whether the attorney voucher payments followed the guidelines. To understand the ACP vouchering process, we interviewed ACP and DOF IT officials, conducted system walkthroughs and tests, and obtained written documentation. As part of the system walkthroughs, DOF provided training for the 18-B Web system and a copy of the attorney's training manual.

To understand the types of reports generated from the Report Manager application, we interviewed DOF and ACP officials and requested and gained access to the application. We also interviewed the ACP auditor and requested documentation of past audits conducted. We tested the system to ensure that the functions that identify and prevent invalid billings, such as over billings, double billings, and future date activities, are in place. In addition, we tested whether the system identifies vouchers that exceed the limit per case and whether these vouchers were flagged prior to payment. We reviewed Calendar Year 2013 vouchers paid to both the criminal and family attorneys (35,200 criminal vouchers and 23,187 family vouchers). As a test of data reliability, we confirmed that all required information needed to process vouchers was in all of the correct fields. In addition, we confirmed that all attorneys were being paid at the mandated hourly rates.

From the Calendar Year 2013 paid vouchers, we randomly selected for review 25 criminal and 25 family case vouchers that exceeded the cap amount that require a judge's approval. We tested payment calculations of the samples to ensure that the 18-B Web system was correctly calculating payments. In addition, we randomly selected 25 expert witness vouchers that were paid over the standard that required judge's approval. Furthermore, to determine whether the 18-B Web system properly records and paid court reporters vouchers, we reviewed a sample of 25 court reporter vouchers.

Sincerely,



Marjorie Landa

- c: Samuel Mayer, Senior Director of Internal Audit
Deirdre Snyder, Director of Financial Management
Ed Voyer, Director of Tax Policy, Audit & Assessment Applications
Mindy Tarlow, Director, Mayor's Office of Operations
George Davis III, Deputy Director, Mayor's Office of Operations

APPENDIX

	Implemented and Partially Implemented Prior Recommendations
1	Create a system control that ensures that future-date activities are not paid prior to the actual work being completed to prevent the potential for overbilling or double-billing.
2	Create a system control that ensures that all mandatory data fields have the required information.
3	Create a business rule in FoxPro system that allows attorneys and expert witnesses to submit to ACP only 7 hours in in-court services and a maximum of 12 hours in services for a single-day activity.
4	Create a field in FoxPro system that indicates the number of pages produced by court reporters.
5	Ensure that future system development will allow users to enter accurate court reporter information.
6	Ensure that prior to providing compensation, ACP staff receives judges' approvals and attorneys' affirmations specifying the time and billable services for all cases exceeding the standard rates and maximum limits. Partially Implemented
7	Enforce the time period for submitting vouchers.
8	Ensure all vouchers submitted more than 12 months after the date of disposition are not processed.
9	Ensure that the 18-B Web system will provide all the functions that should be available to users, specifically, the capability to identify overbilling and overlapping vouchers.
10	Work with the Appellate Division to have the Bronx attorneys use the 18-B Web Scheduling Calendar.
11	Develop written policies and procedures for password-security control for FoxPro system.
12	Install a lockout feature that automatically disables access to FoxPro system after a predetermined number of unsuccessful log-in attempts.
13	Establish formal procedures to document and report system-access violations. Once such procedures are instituted, ACP should review and follow up on all reported access violations.

	Prior Recommendations Not Implemented
1	Complete and approve a formal, comprehensive disaster recovery plan for FoxPro system and the 18-B Web system in accordance with DoITT's Business Continuity Directive.
2	Periodically test the formal, approved disaster-recovery plan.

	Prior Recommendations No Longer Applicable
1	Develop a data purification plan that ensures that all inadequate data is corrected before it is transferred into the 18-B Web system.
2	Develop written policies and procedures for the data migration of FoxPro data into the 18-B Web system.



Finance

Financial Management Division
1 Centre Street – Suite 1040
New York, NY 10007
Tel. 212.602.7065
Fax 212.669.4727

DEIRDRE SNYDER
Director

May 13, 2015

Ms. Marjorie Landa
Deputy Comptroller for Audit
Office of the City Comptroller
1 Centre Street, Room 1100 North
New York, NY 10007

Re: Draft Letter Audit Report on the Implementation on the Follow-up Audit of the
Implementation of the 18-B Web System Administered by Finance (7F14-081AL)

Dear Deputy Comptroller Landa:

The Department of Finance (DOF) appreciates the Comptroller's positive audit findings that most of the issues identified in your prior audit have been corrected and the opportunity to respond to the above-referenced Draft Letter Audit Report.

In response to the four recommendations contained in the report, the following describes DOF's steps to improve current practices:

DOF's Response to Recommendations

1. *DOF should ensure that the 18-B Web system provides the capability to identify and prevent submission of cases that have multiple vouchers which reach an aggregate total exceeding the amount required for a judge's affirmation, absent appropriate evidence of approval from a judge.*

DOF agrees functionality in the 18-B Web system is needed to track multiple vouchers that exceed the aforementioned aggregate total cap. In the interim, DOF will implement a compensating control to track and monitor these multiple vouchers. FIT will generate a monthly report of multiple vouchers from the 18-B Web system which will be audited for compliance by ACP staff.

2. *DOF should develop, complete and periodically test a formal disaster recovery plan for the 18-B Web system and coordinate with DoITT to ensure that the system becomes part of the city-wide disaster recovery plan.*

DOF agrees and will produce a formal disaster recovery plan for 18-B. The plan will be tested periodically as suggested. DOF will coordinate with DoITT on inclusion of this system in the City-wide disaster recovery plan.

3. *DOF should expand its audit sample methodology to include all attorneys whose billings exceed 2,300 hours per calendar year, as well as a representative number of attorneys whose billings were less than 2,300 hours.*

DOF agrees to expand its audit sample to include any attorney who bills in excess of 2,300 hours in a calendar year and to include a larger random sample of attorneys whose billings were less than 2,300 hours in a calendar year.

4. *DOF should finalize and approve the Assigned Counsel Plan for the City of New York Guidelines for Attorneys and Experts.*

DOF agrees and has diligently been working on the payment portion of the ACP policies and procedures it oversees. Upon completion the "DOF Payment Unit, Rules and Procedures for Attorneys and Experts" will be posted on the 18-B website as a tool for attorneys and experts to be compliant with voucher submission requirements.

We thank your staff and appreciate their efforts in conducting their audit.

Sincerely,



Deirdre Snyder
Director of Financial Management

cc: George Davis III, Deputy Director, Mayor's Office of Operations
Jacqueline James, CFO
Sam Mayer, Senior Director, Internal Audit
Ed Voyer, FIT
Mimi Shui, ACP