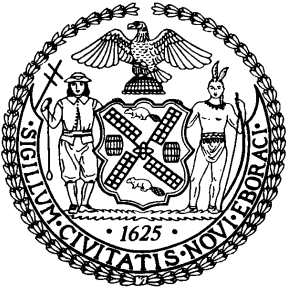


# AUDIT REPORT

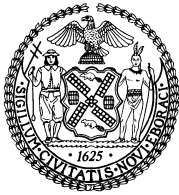


CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BUREAU OF MANAGEMENT AUDIT  
**WILLIAM C. THOMPSON, JR., COMPTROLLER**

## **Audit Report on Department of Transportation Efforts to Address Sidewalk Defect Complaints**

*MJ08-054A*

**February 24, 2009**



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 examined the adequacy of Department of Transportation (DOT) efforts to address non-emergency sidewalk defect complaints.

The DOT Sidewalk and Inspection Management Division is responsible for promoting pedestrian safety by responding to complaints about sidewalk defects, inspecting properties, and issuing and serving violations to property owners when sidewalk defects are observed. We audit programs of City agencies such as this as a means of ensuring that they operate properly and efficiently.

The results of the audit, which are presented in this report, have been discussed with DOT officials, and their comments were considered in the preparation of this report.

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](mailto: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.

**Report: MJ08-054A**  
**February 24, 2009**

## *Table of Contents*

<b>AUDIT REPORT IN BRIEF .....</b>	<b>1</b>
Audit Findings and Conclusions.....	1
Audit Recommendations.....	2
DOT Response.....	2
<b>INTRODUCTION.....</b>	<b>3</b>
Background.....	3
Objective.....	5
Scope and Methodology .....	6
Discussion of Audit Results.....	9
<b>FINDINGS AND RECOMMENDATIONS .....</b>	<b>10</b>
Untimely Response to Complaints Requiring an Inspection .....	10
Recommendations.....	13
Status and Resolution of Complaints Not Accurately Updated to the 311 Service Center Database.....	14
Recommendation .....	15
Violations Are Not Consistently Processed in a Timely Manner .....	15
Recommendations.....	16
Weaknesses in Follow-up of Outstanding Violations.....	17
Violations Remain Outstanding For Extended Period of Time .....	17
Limited Enforcement Authority.....	18
Lack of Coordination with DDC Regarding the Dismissal of Violations Repaired by City Contractors.....	19
Recommendations.....	20
Lack of Follow-up with Property Owners With Outstanding Violations.....	21
Recommendations.....	22
Lack of Performance Measures .....	24
Recommendations.....	25
Lack of Comprehensive Procedures Manual .....	26
Recommendation .....	27
Lack of Adequate Data Entry Controls.....	27
Recommendations.....	29

**ADDENDUM:** Department of Transportation Response

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

**Audit Report on Department of Transportation  
Efforts to Address Sidewalk Defect Complaints**

**MJ08-054A**

---

**AUDIT REPORT IN BRIEF**

This audit assessed the adequacy of Department of Transportation's (DOT) efforts to address non-emergency sidewalk defect complaints.

The DOT Sidewalk and Inspection Management Division is responsible for promoting pedestrian safety through its various organizational units, including the Sidewalk Management Unit (SMU). The SMU is responsible for responding to complaints about sidewalk defects, inspecting properties, and issuing and serving violations to property owners when sidewalk defects are observed. It is also responsible for identifying and selecting areas to which City contractors may be assigned to make repairs to defective sidewalks abutting properties deemed eligible for repair.

For Fiscal Years 2002 through 2006, an average of 3,120 personal injury claims related to defective sidewalks and other hazardous conditions (i.e., snow and ice) were filed with the City each year. For the same period, the City paid out an average of \$63.5 million annually in personal injury settlements and judgments for claims related to sidewalk defects.

**Audit Findings and Conclusions**

DOT's efforts to address non-emergency, sidewalk defect complaints could be improved. DOT's management, nonetheless, believes that SMU efforts to address non-emergency, sidewalk defect complaints are adequate, given staffing and budgetary constraints, limited enforcement authority, and changing priorities and policies. Our audit, however, identified weaknesses that, if appropriately addressed, could improve the SMU's operational effectiveness and efficiency in assuring that defective sidewalk conditions are identified and appropriately addressed.

The SMU did not inspect 20 percent of sampled complaints for which an inspection was required, based on DOT criteria. Of the remaining 80 percent, the SMU responded with an inspection in a timely manner only 63 percent of the time. Further, our evaluation of complaint data showed that the SMU did not have procedures in place to ensure that the 311 Service Center is promptly and accurately updated with complaint status and resolutions.

In addition, violations were not consistently processed in a timely manner. While the SMU aims to issue violations (when warranted) no later than 14 days after an inspection is

performed, for 50 sampled violations issued in September 2007, the SMU issued violations in a timely manner only half the time. Weaknesses were also found in the SMU's follow-up of long outstanding violations. Further, the SMU lacks coordination with the Department of Design and Construction (DDC) about the closing out of violations for repairs performed by City contractors.

Other weaknesses we identified include the SMU's lack of clearly defined performance and productivity measures to gauge the effectiveness and efficiency of its operations, and a comprehensive procedures manual to address all aspects of its operations. Further, the MOSAICS and SDW databases, which are used by the SMU to process and track the status of violations, lack adequate entry controls to ensure the completeness and accuracy of manually entered data. Even though these weaknesses did not significantly or adversely affect the reliability of either MOSAICS or SDW for audit testing, if left uncorrected they could in time pose problems.

### **Audit Recommendations**

To address these issues, we make 19 recommendations, among them that the SMU:

- Inspect those properties not inspected.
- Reassess its procedures and staffing levels to identify and implement needed improvements to ensure that inspections, when required, are carried out and performed in a timely manner.
- Ensure that violations are processed and issued promptly.
- Require that violations be reviewed and compared to corresponding inspections reports by an independent reviewer or supervisor to ensure the accuracy of defective conditions appearing on the violations.
- Develop a program to follow up with and encourage property owner compliance with City regulations and make the necessary sidewalk repairs.
- Develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the SMU and distribute the manual to appropriate personnel. The manual should be updated periodically to address newly implemented or revised procedures.

### **DOT Response**

Of the 19 recommendations made in this audit, DOT officials generally agreed with 14, partially agreed with one, and disagreed with the remaining four.

## INTRODUCTION

### Background

The New York City Department of Transportation (DOT) provides for the safe and efficient movement of people and goods in New York City. To accomplish this mission, DOT controls and regulates traffic, builds and maintains streets, sidewalks, highways, bridges and municipal parking facilities, and maintains and operates the Staten Island Ferry.

The New York City Charter (§2904) and New York City Administrative Code (§19-152) require owners of real property in New York City to keep the sidewalks that abut their properties in reasonably safe condition. Effective September 15, 2003, amendments to the Administrative Code made owners of properties—other than owner-occupied one-, two- or three-family residential properties—civilly liable for damages sustained by people injured as the result of sidewalk defects or unsafe conditions.<sup>1</sup>

For Fiscal Years 2002 through 2006, an average of 3,120 personal injury claims related to defective sidewalks and other hazardous conditions (i.e., snow and ice) were filed with the City each year. For the same period, the City paid out an average of \$63.5 million annually in personal injury settlements and judgments for claims related to sidewalk defects.<sup>2</sup>

The DOT Sidewalk and Inspection Management Division is responsible for promoting pedestrian safety through its various organizational units, including the Sidewalk Management Unit (SMU). The SMU is responsible for responding to complaints about sidewalk defects, inspecting properties, and issuing and serving violations to property owners when sidewalk defects are observed. It is also responsible for identifying and selecting the Community Board Districts (Community Districts) to which City contractors<sup>3</sup> may be assigned to make repairs to defective sidewalks abutting properties deemed eligible for repair. The SMU has a staff of 24 individuals, including five inspectors, three project managers, analysts, and supervisory and support staff.

The SMU inspects sidewalks citywide based on complaints pertaining to defective sidewalk conditions. Constituent complaints concerning sidewalk defects are referred to the SMU. According to SMU data, in Fiscal Year 2007 approximately 80 percent of sidewalk defect complaints were received through the City's 311 Service Center (311 complaints). The other 20 percent of complaints are conveyed via e-mail, telephone, and direct correspondence from elected officials, Community Boards, City agencies, and the public (non-311 complaints). According to DOT records, in 2007, the SMU received 3,284 sidewalk defect complaints.

The SMU prioritizes complaints according to their source and the condition noted in the complaint. Complaints indicating key phrases (i.e., "imminent danger," "danger of collapse,"

---

<sup>1</sup> Local Law 49, §7-210

<sup>2</sup> Defective sidewalk conditions include: broken, wet or uneven sidewalks; broken curbstones; protruding bolts, grates, or parking meter or traffic sign stubs; defective boardwalks; and snow and ice accumulation.

<sup>3</sup> City contractors that are assigned to repair defective sidewalks in Community Districts identified in DOT's annual plan are under the jurisdiction of the Department of Design and Construction.

“risk of injury,” “large opening,” etc.) are used to identify emergencies and are given top priority. DOT has a separate response unit to respond to emergency situations. This unit will repair the hazardous condition or abate it with the temporary placement of a metal plate or asphalt to make the site safe until a restoration can be performed at a later date. Priority is next given to non-emergency (311) complaints.

To track, process, and follow-up on complaints, inspections, and violations the SMU uses the Management Oriented Street Attribute Information Control System (MOSAICS), a mainframe application, and the Sidewalk System (SDW), a PC-based database. Most data recorded in SDW is uploaded from different components of MOSAICS through batch processes.<sup>4</sup> In this way, the SMU uses SDW as its primary database for research and reporting purposes.

Complaints received through 311 are each assigned a unique reference number and uploaded into the Field Information Tracking System (FITS) component of MOSAICS and subsequently to the SDW database. Once each week, a report is generated from SDW listing recent complaints, including property address or cross streets. The report is reviewed by the project managers and used to assign complaints to the five SMU inspectors. Non-311 complaints are manually logged into a separate database, the Sidewalk Complaint Log, and assigned a reference number in the database. These non-311 complaints are reviewed by a project manager and then assigned to inspectors.

For each assigned complaint, the inspectors research the property location identified in the complaint. They identify the property block and lot numbers and enter this information into SDW. Based on certain criteria, the inspectors determine whether an inspection should be performed. Generally, DOT does not perform a new inspection on properties that were previously issued a violation for a sidewalk defect or those that were inspected within approximately the previous six months. In addition, because of a change in management priorities associated with amendments to the Administrative Code, between September 2003 and October 2007, DOT did not inspect commercial or residential properties with four or more units.

When a particular property identified in a complaint is deemed to warrant an inspection, an inspector will visit the property, inspect the sidewalk abutting it, and complete a preliminary inspection report graphically depicting any defects found to exist, such as broken sidewalk flags,<sup>5</sup> trip hazards, or an improper slope. At the start of each week, the inspectors report to the SMU office where they record into SDW the inspection date along with the inspector’s initials and any relevant comments for each complaint for which an inspection was performed the previous week. Inspections in which no defects are found (5A inspections) are noted in SDW accordingly.

The inspection reports are then gathered and assigned to SMU administrative staff for entry into the Violation component of MOSAICS, which is used to record the results of

---

<sup>4</sup> Data from SDW is not uploaded into MOSAICS.

<sup>5</sup> A sidewalk flag is a section or segment of sidewalk typically measuring 25 square feet (5 feet by 5 feet) with a depth of between 4 inches and 7 inches, depending on the use of the property (i.e., driveway or walkway).

inspections and generate violations, when defective conditions are noted. The details of the defects found at the time of inspection are recorded in MOSAICS, including the name of the property owner, property location, block and lot, type of defect (i.e., trip hazard, cracked or uneven surface), along with the approximate measurements of the defective sidewalk flags needing replacement. Subsequently, a notice of violation is generated in MOSAICS, which is sent to the property owner along with a copy of the inspection report and an explanation of the property owner's rights and responsibilities to effect repairs to the defective sidewalk. MOSAICS data related to issued violations (i.e., number, and issue date, and defective conditions) are uploaded into SDW. Violations are served either by certified mail or posted at the property by SMU inspectors. If the property owner disagrees with the defects indicated on the inspection report, a reinspection may be requested.

Violations carry no monetary fine. However, a copy of the notice of violation is filed with the County Clerk's office in the borough of the property and remains on file until the Clerk receives official notification from the City that satisfactory repairs have been made. A violation can complicate matters for the owner when selling or refinancing the property. According to the City Charter, property owners are responsible for sidewalk maintenance and repair. However, if the property owner does not undertake remedial work within 45 days of the date the violation is served, DOT may effect the necessary repairs and, through the Department of Finance, bill the property owner for the cost. In certain instances where defects exist due to factors or conditions under the jurisdiction of other City agencies, the SMU will notify the appropriate agency that is responsible to correct the defects.

DOT works with the Department of Design and Construction (DDC), which has sidewalk repair contracts in place for the purpose of repairing defective sidewalks throughout the five boroughs. Each year the SMU develops an annual plan identifying areas to be addressed by sidewalk repair contractors. The SMU attempts to maximize sidewalk defect repairs by including in its annual plan those Community Districts that have the highest number of properties with outstanding violations and targets eligible properties in those Community Districts for repair. City-owned and one-, two-, and three-family residential properties are eligible for repair by a City contractor. Exceptions include the following:

- landmark properties,
- those with vaults,<sup>6</sup>
- those constructed of materials other than concrete (such as brick, paving stones, and asphalt), and
- those deemed repaired by another party (even if not up to City specifications).

### **Objective**

The objective of this audit was to determine the adequacy of DOT's efforts to address non-emergency sidewalk defect complaints.

---

<sup>6</sup> A vault is an opening constructed in the basement space below a sidewalk directly adjacent to a building, often covered with a hatch that can be lifted to allow access to the basement of the building via steps.



## **Scope and Methodology**

The audit scope covered the period July 1, 2006, through September 30, 2007. This audit evaluated DOT's effectiveness in addressing sidewalk defect complaints. We focused particular attention on DOT's internal procedures for addressing and handling complaints, inspections, and violations. The audit did not address DOT's response to emergency conditions requiring immediate attention or the repairs of sidewalk defects by City contractors under the jurisdiction of DDC. To accomplish our objective, we carried out the following procedures.

To gain an understanding of DOT's roles and responsibilities related to the inspection and repair of sidewalk defects, we reviewed the New York City Charter (Chapter 71) and the New York City Administrative Code (Title 19). To familiarize ourselves with the operations and resources available to the SMU, we reviewed the Mayor's Management Report for Fiscal Years 2004 through 2007, the Executive Budget for Fiscal Years 2006 and 2007, and relevant information obtained from the DOT Web site and other sources. In addition, to gain an understanding of DOT management's priorities and strategies, we requested documentation such as policy memoranda and minutes of management meetings. We also ascertained management's general priorities and strategies for the SMU through interviews with key officials.

### **Test of Controls**

To gain an overview of DOT's internal controls, we reviewed DOT's submissions of Comptroller's Directive #1 Financial Integrity Statement filings (which represent internal control self-assessments) that were submitted to the Comptroller's Office and covered calendar years 2006 and 2007.

To evaluate the controls and processes involved in SMU operations and to determine the roles and responsibilities of SMU personnel, we reviewed DOT and SMU organization charts and interviewed key officials and personnel. We also met with officials from the DOT Highway Inspection and Quality Assurance Division to gain an understanding of the processes involved in the dismissal of violations issued for sidewalk defects repaired by property owners.

We requested SMU's written policies and procedures for the internal functions followed by SMU personnel for the tracking, handling, and processing of complaints, and for inspections, and violations. SMU officials provided us with the following DOT materials:

- DOT Directive 33, "Sidewalk Violation Procedures (Design Consultants)" (undated)
- "Methodology for Determining Inspection Locations" (undated)
- "Methodology for Determining Construction Locations" (undated)
- "Methodology for Determining Emergency Contract Construction Locations" (undated)
- "Sidewalks Management Methodology-Procedures for Determining Construction Locations" (undated)

In the absence of comprehensive, written procedures that address all aspects of SMU operations and to supplement the above documentation, we ascertained the procedures followed

by DOT personnel through interviews; examination of inspection reports, violations, and relevant materials; and walk-throughs of related processes. We also determined whether job functions were adequately segregated and carried out efficiently.

In addition to DOT SMU policies and procedures, we used the following as audit criteria (where applicable):

- New York City Comptroller’s Directive #1, “Principles of Internal Control,” and
- New York City Comptroller’s Directive #18, “Guidelines for the Management, Protection and Control of Agency Information and Information Processing Systems.”

### **Data Reliability Tests**

We requested the user manuals for MOSAICS and SDW to familiarize ourselves with the applications’ functions and users as well as to assess the relevance of the databases to our audit. In the absence of such manuals, we obtained read-only access to both applications, acquainted ourselves with their various capabilities, and interviewed SMU staff to determine other functions available to users with higher levels of access. Using MOSAICS, we generated various queries to evaluate the accuracy of the data therein.

We requested and obtained an electronic file extracted from SDW detailing 6,455 violations issued to property owners in Fiscal Year 2007, based on DOT representations. Since the code used to compile the data was not available, to ascertain its reliability and completeness we sorted the data by borough and determined whether there were any gaps in the sequential numbering of violations for each borough. We identified 81 violation numbers missing from the data for all boroughs and then looked up each number in MOSAICS to determine whether violations existed for these numbers.

Using 50 randomly selected violations issued in September 2007 (discussed below), we compared data elements (i.e., inspection dates, location, address, block, lot number, condition, etc.) for the sampled violations to the inspection reports (source documentation) associated with these violations to assess the completeness and reliability of data for audit test purposes. In addition, we compared the inspection reports for 55 complaints that resulted in a violation from our sample of 116 complaints (discussed below) to the violations reflected in MOSAICS. Subsequently, we compared the data elements recorded in MOSAICS to those reflected in SDW for the same 55 violations.

Further, we interviewed officials from the DOT Management Information Systems (MIS) to assess the general controls over, support of, and business-continuity planning for these applications.

### **Tests of Complaints**

To assess whether non-emergency complaints were addressed in a timely manner, either through an inspection or other action (i.e., referral to another agency, correspondence to complainant, or taking no further action because the property was previously inspected), we

requested a copy of the complaint logs for Fiscal Year 2007. DOT provided us with six electronic files extracted from SDW and the Sidewalk Complaint database reflecting data about sidewalk defect complaints received from various sources (311, e-mail, telephone, and correspondence) in Fiscal Year 2007. We stratified the complaint data into two groups: 311 complaints and non-311 complaints. We identified a net population of 3,071 complaints (2,382 311 complaints and 689 non-311 complaints), exclusive of those complaints appearing in the files with unclear or undeterminable locations and all but the first complaint for the same location. We randomly selected a sample of 116 complaints from the net population proportionate to the complaint source, including 90 (78%) 311 complaints and 26 (22%) non-311 complaints.

For the 90 sampled 311 complaints, we reviewed the corresponding information recorded in SDW for each complaint. For the 26 non-311 complaints, we traced the complaints to the original source documents (e.g., correspondence). Thereafter, we determined whether the sampled complaints were handled appropriately and whether inspections were required and performed based on management priorities. For those complaints requiring an inspection, we also computed the time elapsed from the complaint date to the inspection date.

To determine whether DOT updated the status of 311 complaints received in 2007, we used 52 311-complaints in our sample to which DOT responded with an inspection (discussed later). On May 14, 2008, we called the 311 Service Center and inquired about the outcome or resolution of the sampled complaints as reflected in the 311 system.

### **Tests of Inspection Reports and Violations**

To assess the SMU's productivity with regard to inspections, violations, and overall workload, we requested information pertaining to the unit's performance measures and related statistics. In the absence of performance measures, alternatively we interviewed SMU officials and using the information they provided (i.e., the number of violations issued and dismissed) designed our tests in a manner to assess performance and productivity, when possible. Further, we reviewed SMU data on sidewalk repairs performed by City contractors during calendar years 2003 through 2007.

To assess the processes and matters relevant to inspections and violations, we selected for testing various samples of violations and related documentation, discussed below.

To determine whether issued violations accurately reflected defects noted in inspection reports, we used the population of 443 violations issued in September 2007 that we independently obtained from MOSAICS, and we randomly selected 50 violations (10 for each of the five boroughs) for specific tests. The month of September was selected as it represented the most current, complete month of violations entered and processed in MOSAICS at the time the tests were performed. We compared the sampled violations to the inspection reports to determine the accuracy of information recorded for the violations in MOSAICS. We also compared these 50 sampled violations to the inspector trip logs for the corresponding period during which the inspections were performed to confirm that the inspectors had visited the general areas listed on the violations. To confirm that violations were filed with County Clerk's Offices, we reviewed examples of correspondence sent by DOT to the offices advising of violations issued for sidewalk defects.

To assess the supervisory oversight of inspectors and to provide assurance that inspections were conducted as reported, we reviewed the time records for all five SMU inspectors for September 2007. We then compared the time records to the inspector trip logs and the daily inspector call-in logs maintained by the project managers (supervisors), and determined whether the different records reflected the same information and were appropriately reviewed and approved by the project managers, when required.

To evaluate inspections for which no defects were found and no violations issued (5A inspections), SMU officials provided us with an electronic file listing 1,635 such 5A inspections conducted in Fiscal Year 2007. From this population we judgmentally selected 12 locations with 5A inspections from throughout the five boroughs. We then visited the sites of the 5A inspections between December 11 and 13, 2007, observed and photographed the sidewalks, and determined whether violations should have been issued, based on DOT criteria.

To assess the age of violations at the time of dismissal, we obtained from SMU officials an electronic file containing 3,382 violations for sidewalk defects that were dismissed in Fiscal Year 2007. We stratified the data by borough and then randomly selected 150 dismissed violations (30 for each of the five boroughs). Using the sampled dismissed violations for each borough, we compared the violation issue date to the violation dismissal date and determined the age of violations at the time of dismissal.

The results of tests involving the various sampled complaints, violations, and inspection reports (discussed above) were not designed in a manner to enable them to be projected to their respective populations. Nevertheless, the results provided a reasonable basis for us to assess the adequacy of DOT efforts to address sidewalk defect complaints.

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 audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

### **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 and discussed at an exit conference held on September 24, 2008. On December 18, 2008, we submitted a draft report to DOT officials with a request for comments. We received a written response from DOT officials on January 12, 2009. Of the 19 recommendations made in this audit, DOT officials generally agreed with 14, partially agreed with one, and disagreed with four others that address: the review of violations for accuracy prior to mailing, the use of information obtained during final DDC walkthroughs to identify violations pending dismissal, and corresponding and following up with property owners with long outstanding violations.

DOT stated: “We hope we have adequately explained our stand on some of the recommendations. We will implement immediately those to which we agree.”

With the exception of the appendices included in DOT’s response, which contain private information, the full text of the DOT response is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

DOT's efforts to address non-emergency, sidewalk defect complaints could be improved. DOT's management, nonetheless, believes that SMU efforts to address non-emergency, sidewalk defect complaints are adequate, given staffing and budgetary constraints, limited enforcement authority, and changing priorities and policies. Our audit, however, identified weaknesses that, if appropriately addressed, could improve the SMU's operational effectiveness and efficiency in assuring that defective sidewalk conditions are identified and appropriately addressed.

The SMU did not inspect 20 percent of sampled complaints for which an inspection was required, based on DOT criteria. Of the remaining 80 percent, the SMU responded with an inspection in a timely manner only 63 percent of the time. Further, our evaluation of complaint data showed that the SMU did not have procedures in place to ensure that the 311 Service Center is promptly and accurately updated with complaint status and resolutions.

In addition, violations were not consistently processed in a timely manner. While the SMU aims to issue violations (when warranted) no later than 14 days after an inspection is performed, for 50 sampled violations issued in September 2007, the SMU issued violations in a timely manner only half the time. Weaknesses were also found in the SMU's follow-up of long outstanding violations. Further, the SMU lacks coordination with the Department of Design and Construction (DDC) about the closing out of violations for repairs performed by City contractors.

Other weaknesses we identified include the SMU's lack of clearly defined performance and productivity measures to gauge the effectiveness and efficiency of its operations, and a comprehensive procedures manual to address all aspects of its operations. Further, the MOSAICS and SDW databases, which are used by the SMU to process and track the status of violations, lack adequate entry controls to ensure the completeness and accuracy of manually entered data. Even though these weaknesses did not significantly or adversely affect the reliability of either MOSAICS or SDW for audit testing, if left uncorrected they could in time pose problems.

These matters are discussed in greater detail in the following sections of this report.

### **Untimely Response to Complaints Requiring an Inspection**

SMU did not respond to all complaints with an inspection when one was required. Moreover, our initial analysis of sampled complaints determined that when the SMU responded with an inspection, it did so in a timely manner less than half of the time. Based on additional information provided by SMU officials after the exit conference pertaining to inspection goals, we reevaluated the sampled complaints results using the updated time goals. This subsequent analysis yielded slightly better results than the former analysis, but it still supported our finding that the SMU does not respond to complaints with timely inspections: the SMU did not meet its goals for inspecting sampled properties at least one-third of the time.

According to SMU officials, the SMU will generally not inspect properties that were previously issued a violation for a sidewalk defect, or properties that were inspected generally within the previous six months. In addition, because of a change in management priorities resulting from amendments to the Administrative Code, between September 2003 and October 2007, DOT did not inspect commercial or residential properties with four or more units. Instead, it focused its inspections on sidewalks abutting one-, two-, and three-family residential properties and City-owned properties for which the City is civilly liable. After October 2007, the SMU reinstated the inspection of all property types.

We used these general inspection criteria to determine how many of the 116 sampled complaints the SMU should have responded to with an inspection. In addition, if DOT had inspected a property identified in any of the sampled complaints, even though the property may have been a 4+ family or commercial property, we included that complaint among those in our analysis requiring an inspection.

During the audit, SMU officials asserted that there were no formal standards or requirements that inspections be performed within a specific time frame. Instead, they reiterated that the unit attempted to respond to complaints within two weeks. Based on this representation, our initial analysis of 116 sampled complaints disclosed that when inspections were deemed necessary, the SMU conducted the inspections within two weeks for fewer than half.

However, in representations made by SMU officials at the exit conference on September 24, 2008, and in their subsequent correspondence of October 28, 2008, DOT officials asserted that requirements do indeed exist for responding to complaints with an inspection. However, they did not provide any formal documentation to support their assertions. Instead, DOT officials stated that for 311-complaints, the SMU's goal is to respond with an inspection within 30 days of the receipt of the complaint. For non-311-complaints received through the CCU, the unit attempts to respond with an inspection, when required, within six weeks (42 days). We used these stated goals in reevaluating the SMU's timeliness in responding with an inspection to sampled complaints determined to require one.

Overall, we concluded that the SMU should have responded with an inspection to 71<sup>7</sup> (61%) of the 116 sampled complaints from Fiscal Year 2007. Of the remaining 45 (39%) sampled complaints, 44 did not require an inspection (based on DOT criteria), and one complaint was closed without any resolution noted.

Regarding the SMU response to the 71 sampled complaints that required an inspection, based on DOT criteria, we determined that:

- 57 (80%) complaints received an inspection, 55 of which resulted in a violation and 2 of which were classified as "5A" or "No defect found."

---

<sup>7</sup> Of the 71 sampled complaints from Fiscal Year 2007 that were determined to require an inspection, 61 were directly based on DOT criteria and another 10 were complaints that DOT had inspected, even though the subject properties were 4+ family or commercial properties. Since DOT had in fact inspected these properties, we considered that an inspection was required.

- 7 (10%) complaints did not receive an inspection, although required, based on DOT criteria.
- 7 (10%) complaints may have received an inspection, based on notations recorded in SDW, but there were no inspection reports (source documentation) on file to verify that the inspections were indeed performed.

According to the October 28, 2008 correspondence from SMU officials, the properties identified in sampled complaints as not having been inspected have subsequently been inspected. However, no substantive proof (i.e., inspection reports) was provided to verify this claim.

While our reevaluation of the SMU’s timeliness in responding to sampled complaints requiring an inspection yielded more positive results than our initial analysis, it supported our overall conclusion that the SMU needs to improve its timeliness in responding to complaints. As illustrated in Table I below, of the 57 inspections performed, DOT met its goals 63 percent of the time but was unsuccessful in meeting its goals the other 37 percent of the time.

**Table I**

Timeliness in Performing 57 Inspections for  
Sampled Complaints That Required an Inspection

Complaint Source	Number of Inspections Performed	Inspections Performed Within the 30-day Goal	Average (Range of Actual) Days to Perform Inspection From Receipt of Complaint	Inspections Performed and Exceeded the 30 Day Goal	Average (Range of Actual) Days to Perform Inspection From Receipt of Complaint
<b>311 -Complaints</b> (Goal: Inspect within 30 days of receipt of complaint)	44 (77%)	28 (64%)	Average 10 days (Range 2 to 28 days)	16 (36%)	Average 156 days (Range 44 to 322 days)
<b>Non 311-Complaints</b> (Goal: Inspect within 42 days of receipt of complaint)	13 (23%)	8 (62%)	Average 9 days (Range 2 to 42 days)	5 (38%)	Average 217 days (Range 51 to 333 days)
<b>Total</b>	57 (100%)	36 (63%)		21 (37%)	

The analysis in Table I shows that for sampled 311-complaints and non-311-complaints, the SMU response to performing inspections measured from the receipt of complaints was fairly consistent for both complaint sources. The SMU met its goals 64 percent and 62 percent of the time, respectively, for 311-complaints and non-311-complaints.

According to SMU officials, the goals for responding to complaints with an inspection cannot always be met because of emergencies that arise and other duties assigned to inspectors. While workload may be the cause of untimely response to complaints, even if there is a change in policy about how inspections are undertaken, the significant reduction of inspectors between Fiscal Years 2006 and 2007 has apparently affected the SMU’s ability to respond to complaints in a timely manner.

SMU officials stated that through the end of Fiscal Year 2006 there were 15 consultant (contracted) inspectors to perform inspections. Under this arrangement, consultant inspectors were assigned large areas within Community Districts to perform inspections. Overall, this model resulted in more inspections being performed. For undisclosed reasons, with the expiration of the consultant inspectors' contract, DOT management decided to hire in-house inspectors to perform inspections. Consequently, there was a 67 percent reduction in inspectors, from 15 contracted inspectors in Fiscal Year 2006 to five in-house inspectors in Fiscal Year 2007. Under this new arrangement, DOT management changed its policy from assigning inspectors large areas for inspections to its current policy of having them perform inspections based primarily on complaints. Currently, in addition to the five inspectors, there are three project managers on staff at the SMU to respond to all complaints citywide. In addition to determining whether assigned complaints merit inspections and then performing inspections for those complaints, SMU inspectors' duties entail other functions, including serving violations in person to property owners who fail to sign for the Notice of Violation sent via certified mail. They also are assigned to inspect capital construction projects and at any time can be diverted from their regular duties to respond to an emergency.

On October 28, 2008, after the exit conference, SMU officials submitted correspondence containing an alternative analysis of the 116 sampled complaints that reflected a more favorable timeliness in responding to complaints. Our review of the SMU alternative analysis and our own reevaluation of supporting documentation resulted in some minor adjustments to our initial analysis (discussed above). Nevertheless, the results generally supported our overall finding that the SMU needs to improve its response to complaints and ensure that inspections, when required, are carried out and performed in a timely manner. Overall, our analysis showed that at least 7 and possibly as many as 14<sup>8</sup> of the 71 sampled complaints warranting an inspection never received one. By not performing such inspections, potentially hazardous conditions remain without necessary corrective action being taken by either the City or the property owner.

### **Recommendations**

The SMU should:

1. Inspect those properties not inspected.

***DOT Response:*** DOT agreed, stating: "We had inspected all five properties. Three of these properties were issued Notices of Violation."

2. Reassess its procedures and staffing levels to identify and implement needed improvements to ensure that inspections, when required, are carried out and performed in a timely manner.

---

<sup>8</sup> SMU records showed that seven (10%) of the 71 sampled complaints that required an inspection were not inspected. In addition, DOT records contained notations indicating that another 7 (10%) of the 71 sampled complaints that required an inspection may have been inspected. However, since the SMU had no inspection reports on file and no violations had been issued, there was no evidence to substantiate that inspections were indeed performed for these complaints.



***DOT Response:*** DOT agreed, stating: “Additionally, we want to inform the auditors that OSM [Office of Sidewalk Management, i.e., the SMU] is regularly reassessing its procedures and staffing levels to ensure that inspections are carried out in a timely manner.”

### **Status and Resolution of Complaints Not Accurately Updated to the 311 Service Center Database**

Our evaluation of complaint data showed that the SMU does not update the 311 Service Center database with the status or outcome (e.g., actions taken to address or the resolution) of complaints.

Comptroller’s Directive #1 requires agencies to have a process to obtain periodic customer feedback (i.e., complaints) and to review and address such complaints when necessary. In addition, the directive states, “Internal controls are intended to provide reasonable assurance that . . . reliable data are obtained, maintained, and accurately and fairly disclosed in reports.”

Based on our calls to the 311 Service Center on May 14, 2008, to inquire about the status of sampled sidewalk defect complaints, we learned that DOT had not updated the status of any of the 52 311-complaints out of the 71 sampled complaints that were determined to require an inspection, based on DOT criteria. For each of the 52 calls placed by the auditors to 311 Service Center, the 311 representatives simply stated that “the complaint was referred to the Sidewalk Management Unit.”

Overall, the 311 representatives’ responses did not reflect the current status of the complaints as disclosed in the SMU MOSAICS and SDW databases and supporting documentation. The SMU data showed that of the 52 properties associated with these complaints, 45 were inspected (resulting in the issuance of 41 violations) and 7 were either not inspected or there were no inspection reports to verify that an inspection had actually been conducted. None of this information was provided to the auditors by 311 representatives. Consequently, we determined that DOT does not update the 311 Service Center with accurate information about the status of citizen complaints.

On occasion, a caller to the 311 Service Center may place a request for more detailed information about a previously reported complaint. In such instances, the 311 Service Center will obtain the caller’s contact information and e-mail a Service Request to the SMU requesting follow-up information for the particular complaint. In response, the SMU may research and attempt to contact the complainant. However, the frequency of such service requests is small relative to overall complaints.

At a meeting on May 28, 2008, SMU officials stated that the FITS component of MOSAICS, which downloads complaint data from 311, does not have the capability to update 311 with the status of complaints once the SMU has taken some action. Further, they asserted that FITS is scheduled to be modified in the near future to allow for updated complaint status to be shared with 311.

Until the new system is implemented and appropriately tested, DOT's ability to efficiently address citizens' inquiries about the status of complaints is hindered since the SMU does not update the 311 Service Center with information about complaint status and resolution. Further, it thwarts the purpose of the 311 Service Center to improve constituent access to government information and services and to provide up-to-date information about the status of complaints.

At the exit conference on September 24, 2008, and in their subsequent correspondence of October 28, 2008, DOT officials stated: "As of June 8, 2008, the DoITT granted the OSM the capability of entering Resolution Actions to close complaints," but they provided no substantive proof to verify their assertion. Nevertheless, such a new capability would require SMU officials to ensure that 311-complaint status and resolutions be updated promptly and accurately.

### **Recommendation**

3. DOT should develop procedures to ensure the accurate and timely updating of the 311 Service Center with complaint status and resolution (e.g., inspection conducted and violation issued) of sidewalk defect complaints.

***DOT Response:*** DOT agreed, stating: "As of June 8, 2008, the DoITT granted OSM the capability of entering Resolution Actions to close complaints. This enables us to update the complaint status."

### **Violations Are Not Consistently Processed in a Timely Manner**

Our analysis of 50 sampled violations issued in September 2007 disclosed that the SMU issued violations in a timely manner only half of the time.

Comptroller's Directive #1 states, "Violations should be appropriately issued and recorded promptly and accurately." According to DOT officials, violations are generally issued within 14 days after an inspection that identifies a defect is performed. However, only 25 (50%) of the 50 sampled violations issued in September 2007 were issued within 14 days of the inspection date. The remaining 25 violations were issued more than 14 days (between 15 and 188 days) after the inspection date.

When we discussed this matter with SMU officials, they stated that delays in issuing violations occur because of the shortage of staff and the volume of work involved in processing violations. However, they offered no information about what was being done to address these delays.

In their October 28, 2008, correspondence, DOT officials asserted the SMU's "internal goal is to issue the NOV's within 14 days of the inspection." However, they also asserted that as reflected in DOT Directive 33, "DOT has established thirty days to be the maximum number of days within which to issue the Notice of Violation (NOV) from the time of inspection."

With respect to DOT's Directive 33, this directive was established for DOT consultant inspectors previously under contract with DOT, not for SMU internal inspectors. Further, throughout the audit SMU officials repeatedly stated that violations were to be issued within 14 days of an inspection—30 days was not specified. However, if DOT is now changing its procedures and requiring that violations be issued within 30 days of inspection, it should include these requirements in a comprehensive procedures manual that is communicated to SMU personnel.

In addition, our analysis disclosed that violations issued to property owners do not always accurately reflect the sidewalk defects cited by inspectors at the time of inspection and recorded on the corresponding inspection reports. Eight (16%) of the 50 sampled violations issued in September 2007 did not reflect at least one sidewalk defect condition (e.g., Asphalt, Trip Hazard, Broken, or Undermined) that were recorded on the corresponding inspection reports. This occurred because there is no procedure requiring that a second person review violations and compare them to the inspection reports for accuracy.

According to SMU officials, there is no consequence if one of the observed defects is not indicated on the notice of violations since a copy of the inspection report—the primary document that depicts all sidewalk defects observed at inspection—is sent with the notice of violation to the property owner.

Despite SMU officials' assertions, property owners may be confused about the defects they are responsible for correcting if they find conflicting information concerning defects indicated on the violation and those indicated on the inspection report. Therefore, the SMU should ensure that the defective conditions indicated on the notice of violation accurately correspond to those recorded on the inspection report.

### **Recommendations**

DOT should:

4. Ensure that violations are processed and issued promptly.

***DOT Response:*** DOT agreed, stating: "OSM will try to improve its current performance of 76% in issuing violations within 30 days of inspection, taking into account workload and staffing constraints."

5. Require that violations be reviewed and compared to corresponding inspections reports by an independent reviewer or supervisor to ensure the accuracy of defective conditions appearing on the violations.

***DOT Response:*** DOT disagreed, stating: "While we acknowledge that the present procedure is not error-free (8 of the 50 sampled violations had at least one missing defect), the Notice of Violation (NOV) is still valid because it contains a reference to the Preliminary Inspection Report (PIR) which is attached to the NOV. The Feldman Mega

Law requires the detailing of the defects on the PIR. The review/proofreading of the NOV would not only entail additional cost in terms of staff hours but also delay the issuance of the NOV.”

**Auditor Comment:** As a proactive approach and to ensure accuracy of its records, DOT would benefit from having a quality review process in place to verify that NOV's accurately reflect information on PIRs at the time NOV's are issued. The costs that DOT asserts would be incurred by such a review process would be offset by the future costs of staff having to research and correct past mistakes.

### **Weaknesses in Follow-up of Outstanding Violations**

Comptroller's Directive #1 states, "Following up on outstanding violations is important and may be the most significant control feature in the entire process." However, our review disclosed a number of limitations and weaknesses indicating opportunities for the SMU to improve its follow-up for outstanding violations. These weaknesses are discussed below.

#### **Violations Remain Outstanding For Extended Period of Time**

DOT does not have an established standard for violations to be addressed and subsequently dismissed. Our review of sampled violations closed out in Fiscal Year 2007 disclosed that, on average, the violations had remained outstanding over four years at the time of dismissal. Nevertheless, DOT officials asserted that four years is a reasonable period of time for violations to be outstanding, since it may take that long for a particular Community District to come up again in the SMU budgeted repair cycle and subsequently assigned to City contractors for repair.

A violation dismissal generally represents the satisfactory repair of a sidewalk defect, either by a City contractor or the property owner. We analyzed the age of 150 sampled violations (30 from each of the five boroughs) closed out in Fiscal Year 2007. Our analysis showed that it took an average of 4.4 years for these sampled violations to be dismissed. Our analysis further showed that 106 (71%) were closed out within four years of the violation being issued. The remaining 44 (29%) sampled violations were dismissed more than four years after the date the violation was issued. The results of our analysis are shown in Table II below.

**Table II**

Analysis of the Age of Sampled Violations at the Time of Dismissal

Borough	Number of Dismissed Violations Sampled	Average Time (in years) Sampled Violations Remained Outstanding at Time of Dismissal	Number of Sampled Violations Outstanding Four Years or Less at Time of Dismissal	Percent	Number of Sampled Violations Outstanding More Than Four Years at Time of Dismissal	Percent	Longest Outstanding Sampled Violation at the Time of Dismissal
Manhattan	30	7.9 years	8	27%	22	73%	14.3 years
Bronx	30	2.9 years	29	97%	1	3%	5.2 years
Brooklyn	30	4.6 years	19	63%	11	37%	14.0 years
Queens	30	2.4 years	29	97%	1	3%	5.3 years
Staten Island	30	4.1 years	21	70%	9	30%	13.1 years
<b>Total</b>	<b>150</b>	<b>4.4 years</b>	<b>106</b>	<b>71%</b>	<b>44</b>	<b>29%</b>	

As reflected above, the average time that sampled violations remained outstanding at the time of dismissal varied across the five boroughs. Queens and Bronx had the best averages, followed by Staten Island and Brooklyn, and then Manhattan with the worst average. However, our analysis also disclosed that all of the boroughs had violations outstanding between 5.2 years and 14.3 years.

We recognize that DOT faces certain constraints and limitations, including the level of information provided to it by DDC and property owners about sidewalk defect repairs. However, as discussed in the following sections, to address these limitations DOT could be more proactive in establishing on-going communication with DDC about sidewalk repairs completed by City contractors and in following-up with property owners with long outstanding violations.

**Limited Enforcement Authority**

Even though DOT is mandated to enforce Local Law 49, §7-210, and title 19-§152 of the City’s Administrative Code, neither legislation provides DOT with sufficient enforcement authority to encourage property owners to act in a timely manner and make repairs to defective sidewalks abutting their properties.

When an SMU inspector conducts an inspection and observes defective conditions, DOT will issue a violation to the property owner. The violation has no monetary fine or penalty. Instead, DOT will file the violation with the County Clerk’s office, which will remain until the repairs are made either by the property owner or a City contractor, and DOT inspects the property, approves the repairs, and dismisses the violation. According to the Administrative Code, the property owner is required to take out a permit and commence the repair work within 45 days of the violation. Otherwise, the City *may* make the repairs and bill the property owner.

Property owners are ultimately responsible for the cost of repairing sidewalk defects. In addition, the September 2003 amendments to the City's Administrative Code transferred liability to certain property owners. Nevertheless, based on DOT statistics, the City remains liable for approximately 464 million square feet (71%) of all 657 million square feet of sidewalk in the City, including sidewalks abutting City property and one-, two-, and three-family, owner-occupied residential properties.

DOT may direct (through DDC) City contractors to make repairs. However, there are budgetary constraints that limit the amount of repairs to be undertaken each year. Between 2003 and 2007, City contractors repaired an average of 2.07 million square feet of defective sidewalks each year, based on outstanding violations. The average annual cost of such repairs totaled \$12.8 million. We could not determine the proportion that the average 2.07 million square feet of defective sidewalks represented annually in relation to the total estimated square feet of defective sidewalk associated with outstanding violations for the given years, since these statistics are not tracked by DOT and, therefore, were not available to us. Citing the property owners' ultimate responsibility under the law to repair defective sidewalks and the agency's lack of enforcement authority and budgetary constraints, DOT officials contended that each year, the City is able to construct less than one percent (e.g., 2.07 million out of 657 million square feet Citywide) of all sidewalks eligible for construction by City contractors.

Despite these limitations, as discussed later, our review disclosed opportunities where the SMU could make improvements to inform and encourage property owners' compliance, expedite the dismissal of violations for defects repaired by either a City contractor or the property owner, and identify long-outstanding violations requiring attention.

#### **Lack of Coordination with DDC Regarding the Dismissal of Violations Repaired by City Contractors**

DOT does not have a formal agreement with DDC specifying the roles and responsibilities of each agency regarding the sidewalk contractors hired by DDC to repair sidewalk defects identified, designated, and ultimately paid for by DOT.

The SMU maintains communication with either the consultant engineers (hired by DDC to oversee sidewalk contractors) or the various City contractors (also hired by DDC) regarding the Community Districts identified and assigned by DOT for repair. Each contractor provides a list to SMU officials specifying properties scheduled for repair by the contractor and those properties classified as reparations "done by other." In addition, the SMU receives updates on the total square feet of sidewalks repaired each week by the various contractors. Despite this ongoing communication, the SMU lacks a coordinated, ongoing communication with DDC consultants or contractors regarding the status of specific properties that are repaired.

As the City's primary capital construction project manager, DDC oversees the City sidewalk contractors. Further, the roles and responsibilities of both DDC and the contractors are governed by the provisions of the existing contracts to which DOT is not a party. Once a contractor has completed sidewalk repairs in a designated Community District (identified and scheduled for repair by DOT), a final walk-through is performed and a final "punch list" is made

listing work yet to be completed and work to be redone, if determined not to meet City standards. A SMU inspector accompanies the DDC consultant engineer and the contractor during this walk-through and is instrumental in accepting or rejecting the contractor's work and in developing the final punch list.

Despite a DOT representative (i.e., SMU inspector or project manager) being present during the final walk-through and having knowledge of the properties where sidewalk repairs were successfully completed by a City contractor, the SMU will not dismiss the associated violations or note in its records that the defect was repaired and the violation subject to dismissal until notification is received from DDC attesting to completion of the work. Once received, the violation is closed out as of the notification date.

SMU officials stated that while DDC provides such notification, it does so sporadically. Officials further claimed that due to delays in notification, violations may remain outstanding for a long period of time after the defects have been repaired. However, we were unable to determine to what extent, if any, delays in notification factored into the timeliness of correcting and closing out violations because this information is not tracked by the SMU. The SMU does not keep a record of when the repairs were actually completed, despite having a representative on site during the final walkthrough. It is possible that a significant part of the time it takes to close out violations is due to delays on DDC's part in certifying repairs. However, by not tracking when repairs are completed, DOT is currently hindered in taking steps to resolve this issue because it has no data to demonstrate the extent of the problem.

The SMU should not abdicate its responsibility to ensure the timely dismissal of violations by waiting for another agency's action or blaming that agency's inaction. The SMU can do more to ensure effective and timely communication and sharing of information between itself and DDC.

### **Recommendations**

DOT should:

6. Enter into a memorandum of understanding with DDC detailing the roles and responsibilities of each agency and establishing time frames and procedures for the timely sharing of information.

***DOT Response:*** DOT agreed, stating: "The OSM has an on-going good working relationship with DDC. The Memorandum of Understanding (MOU) will further strengthen it. We will make sure that both agencies live up to their respective responsibilities and meet deadlines."

7. Upon completion of the final walk-throughs with DDC consultant engineers and City contractors obtain the list of properties for which repairs are completed and record in the databases the fact that the associated violation is pending dismissal upon DDC notification.

***DOT Response:*** DOT disagreed, stating: “The walkthroughs are for quality control of construction work and to generate punch lists for corrective contract work, if necessary, before final payments are processed. While all the punch list work may be completed within the year, the violation would still be pending dismissal until the DDC notification. We anticipate that once the MOU between DDC and DOT is signed, the updates to the database on the status of NOVs issued to properties by City contracts would be timely.”

***Auditor Comment:*** While we understand that the primary purpose for an SMU inspector to accompany the DDC consultant engineer and the contractor during the walk-throughs is quality control and the creation of a final punch list, we maintain that DOT could use the information gained from such walk-throughs (i.e., accepted and rejected work) to increase its effectiveness. For example, the SMU could use the information as a control against which to ensure that DDC forwards notifications for all properties where contractor work was completed and accepted. Further, the SMU could use the information to track the notifications received from DDC and its own timeliness in processing such notifications upon acceptance of a contractor’s work.

#### **Lack of Follow-up with Property Owners With Outstanding Violations**

Comptroller’s Directive #1 specifies that follow-up of outstanding violations is important. However, except for properties repaired by a City contractor, once a violation for a sidewalk defect is served on the property owner, the SMU takes no action to follow up with the respective property owners or to reinspect the properties to determine whether the defective conditions remain. Further, even though it has the capacity to identify properties with long-outstanding violations and properties assessed by a City contractor as work “done by other,” DOT will neither dismiss the violation nor reinspect the location.

If the homeowner hires a private contractor to perform the work, the necessary permits must be obtained. For DOT to dismiss the violation and to remove the violation from the property’s title, the property owner must contact the DOT Highway Inspection Quality Assurance (HIQA) office in the borough in which the property is situated and request a dismissal inspection. If the inspection determines that the repairs meet City requirements, the violation will be dismissed. If the property owner made the repairs and failed to notify the borough HIQA office, the violation will remain open and in effect until the property owner contacts HIQA to inspect the repairs. If a property owner makes the repairs without a permit and a HIQA inspection determines that the repairs comply with City requirements, DOT will issue a permit retroactively and dismiss the violation.

The HIQA inspection logs did not provide sufficient information to enable us to determine when a repair was completed by a homeowner. Nevertheless, as previously discussed and shown in Table II above, our analysis of 150 sampled violations dismissed in Fiscal Year 2007 disclosed that there were violations that remained outstanding between approximately 5 and 14 years before the violations were dismissed. Although the identification of repairs made by City contractors and those made by the property owners for these sampled violations was not



readily ascertainable, these results demonstrate the SMU's lack of procedures to follow up long-outstanding violations, some of which may remain uncorrected.

When we discussed this matter with SMU officials, citing budgetary and staffing constraints, they contended that it is the property owners' responsibility under the law to maintain sidewalks abutting their properties and to bear the cost of repairing defective conditions. Accordingly, if the property of a particular violation is not within a Community District identified for repair by City contractors or if the property is repaired by the owner, the violation will remain outstanding unless the owner contacts HIQA for a reinspection to clear the violation.

Since sidewalk defects can only grow worse over time, if there is no procedure in place to follow up with the owners of properties with outstanding violations, the risk to pedestrian safety increases. Even though the September 2003 amendments to the City's Administrative Code transferred its liability for injuries or damages resulting from sidewalk defects to property owners of commercial properties and four- or more family residential properties, the City remains liable for approximately 70 percent of remaining properties, including City-owned and one-, two-, and three-family owner-occupied residential properties. Therefore, the City's exposure to liability increases when defective sidewalk conditions continue to exist and deteriorate. For the Fiscal Years 2002 through 2006, on average, the City paid out \$63.5 million annually in personal injury settlements and judgments for "slip and fall" claims related to sidewalk defects and other hazardous conditions. This is of particular concern because, as noted above, only approximately \$13 million is expended annually by DOT to effect repairs of sidewalk defects by City contractors, and DOT lacks the authority to impose fines or other enforcement measures to encourage property owners' (of one-, two-, and three-family, owner-occupied residential property) compliance with the City's Administrative Code to promptly repair defective sidewalks abutting their property.

### **Recommendations**

DOT should:

8. Implement procedures requiring the evaluation of sidewalk defect violations outstanding for an established period (e.g., three years). If the property is not situated in a Community District selected for defect remediation by City contractors, the SMU should send correspondence to the property owners advising them of the outstanding violations and reminding them of their responsibility under the law to repair the defective sidewalk conditions.

***DOT Response:*** DOT disagreed, stating: "The evaluation of outstanding sidewalk defect violations requires reinspection and necessarily, additional staff. It should be noted that 41% of the 150 sampled Dismissed Violations, were on properties that were under DDC-managed Capital Reconstruction Projects which may take years to complete. The other 43% of the 150 Violations were on private properties. Sending letters to property owners with outstanding violations would entail additional costs without yielding the expected benefits because of DOT's lack of enforcement authority. If the current lien on the

property is not enough to compel the property owners to make the necessary repairs, we do not see how a letter would.”

**Auditor Comment:** We disagree with DOT’s position. Moreover, we maintain that DOT should institute procedures for following up with property owners with long outstanding violations. An uncorrected sidewalk defects can deteriorate over time and pose an even greater hazard to pedestrians than the original condition cited in a violation. If a pedestrian were injured as a result of an uncorrected defect on a sidewalk abutting a one-to three-family, owner-occupied home, the City exposure to legal liability is increased. Therefore, the additional costs that DOT asserts would be incurred as a result of following up with property owners would most likely be offset by reducing the City’s exposure to risk and legal liability.

9. Develop a program to follow up with and encourage property owner compliance with City regulations and make the necessary sidewalk repairs.

**DOT Response:** DOT disagreed, stating: “This again would entail additional costs without yielding the expected benefits because of DOT’s lack of enforcement authority. The NOV already informs property owners of their responsibility under Section 2904 of the NYC Charter and Section 19-152 of the New York Administrative Code.”

**Auditor Comment:** Again we disagree with DOT’s position. The safety of pedestrians and the reduction of the City’s risk of exposure to legal liability for personal injuries sustained from a trip and fall associated with a sidewalk defect should be a benefit sufficient to offset the estimated small increase in costs associated with following up with property owners.

10. Perform a cost analysis comparing the funds paid out by the City to settle personal injury claims resulting from sidewalk defects (since the 2003 changes in the Administrative Code) to the estimated costs needed to maximize the number of properties with sidewalk defects that could be repaired by City contractors.
11. Using the results of the cost analysis, seek increased funding to expand the remediation of sidewalk defects by City contractors.

**DOT Response:** DOT agreed with Recommendations # 10 and # 11, stating: “We will work with the Law Department and the City Comptroller to obtain the necessary personal injury claims and settlement figures. We have done this cost analysis in the past and we will do the same again although this may not always result in increased funding for the remediation of sidewalk defects by City Contractors.”

## **Lack of Performance Measures**

With the exception of the SMU's stated measures of the time within which to respond to complaints and to process violations after performing an inspection, the SMU lacks clearly defined performance outcomes to measure the effectiveness and efficiency of its operations.

Comptroller's Directive #1 requires that "agency programs be evaluated according to specific criteria for performance measurement," and that performance (i.e., efficiency) and outcome (i.e., effectiveness) measures be compared over time. In addition, the New York City Administrative Code (Title 19, §152) requires that DOT "keep records of all complaints submitted and work ordered and performed under this section and . . . issue a public report for a minimum of three years containing such information."

SMU officials disagreed with the need for establishing performance outcomes, stating that measuring SMU success against historical data is difficult at best because priorities and policy changes occur from year to year. For example, they noted that until the end of Fiscal Year 2006, DOT hired inspector contractors that were assigned large areas for inspections. Beginning in Fiscal Year 2007, DOT hired in-house inspectors that perform inspections primarily based on complaints.

Instead of performance outcomes, SMU officials stated that the unit's management meets weekly to review the status of its workload and weekly and year-to-date data (status reports) for complaints, inspections, violations, and square feet of concrete repaired by City contractors. They asserted their belief that these meetings provide a good measure of the unit's performance.

The SMU maintains either paper or electronic records related to complaints received and work performed in relation to those complaints (e.g., inspections performed and violations issued). In addition, we noted that the SMU maintains certain statistics. For example, the SMU maintains an ongoing, detailed analysis of City contractor weekly repairs that is compared to contract requirements. However, there was insufficient evidence to demonstrate that the SMU performs ongoing analysis of the unit's various functions (i.e., inspections performed by inspectors or the time required to process complaints, perform inspections, and issue violations).

In their correspondence of October 28, 2008, DOT officials stated: "OSM reports to the Commissioner its operating statistics every week showing for each borough the Violations Processed, Inspections and Reinspections Performed, Construction Markouts, 311/Siebel Complaints Received, Correspondence Received, etc." However, although requested, they did not provide copies of such reports to support their assertions.

Overall, the lack of sufficient, reliable evidence prevented us from identifying all statistics collected by the SMU and determining the extent to which the SMU tracks, reports, and uses these statistics to assess the unit's productivity.

We maintain that without targets and goals, SMU management has no basis upon which to judge the unit's efficiency and effectiveness in accomplishing its mission and to determine whether the unit's performance is meeting management's expectations. As previously discussed,

our review of sampled complaints and violations demonstrated that complaints requiring an inspection are not always addressed in a timely manner and that violations are not always issued or dismissed promptly.

While we recognize difficulties posed by shifting priorities and changing policies, without clearly defined performance measures, management is limited in its ability to identify those activities that are performed well and those that require management's attention. Based on these and other matters presented in this report, there are improvements that the SMU could make to increase its operational efficiency. One means of doing so is by establishing performance measures and measuring outcomes.

## **Recommendations**

DOT should:

12. Established timeframes or milestones for the performance of various functions (i.e., addressing complaints, performing inspections, issuing violations) to measure SMU performance and productivity.

***DOT Response:*** DOT agreed, stating: "OSM has established timeframes for conducting inspections in response to complaints and in issuing violations, among others. To ensure that these timeframes are clearly communicated to and understood by everyone, they will be incorporated in the Comprehensive Policies and Procedures Manual."

13. In accordance with the Administrative Code, develop and report performance and productivity indicators about SMU operations, including sidewalk defect complaints received and addressed, inspections and re-inspections performed, violations issued, dismissed, and outstanding.

***DOT Response:*** DOT partially agreed, stating: The Deputy Commissioner for Sidewalk and Inspection Management includes in his Weekly Reports to the DOT Commissioner, the performance and productivity indicators of OSM operations. These indicators include sidewalk defect complaints received and addressed, inspections and re-inspections performed, violations issued and dismissed. *We do not agree that 'Outstanding NOV's' should be one of OSM's performance indicators.* [Emphasis in original.] As stated in our earlier response, the only time a NOV can be dismissed is when the repair is made by the property owner or the City. As stated earlier, 41% of the long-outstanding NOV's were due to Capital Reconstruction projects. While we do monitor and use the number and age of the Outstanding Violations for budgetary requests for the Sidewalk Contracts, the measure does not in any way reflect OSM's performance."

***Auditor Comment:*** We recognize that outstanding violations as a stand-alone indicator would offer little value, especially since a violation will not be dismissed until either DDC submits notification of completed contractor work to DOT or a property owner makes the necessary repairs and notifies DOT, which must then inspect and approve the completed repairs. Nevertheless, the use of outstanding violations in conjunction with

other performance indicators can only provide management with greater insight and help to identify trends and potential weaknesses.

### **Lack of Comprehensive Procedures Manual**

The SMU has some written procedures in place, some of which are outdated. However, it lacks a comprehensive, written procedures manual to formally address and establish standards for all aspects of its operations.

Comptroller's Directive #1 states: "Internal control activities . . . are, basically, the policies, procedures, techniques, and mechanisms used to enforce management's direction. They must be an integral part of an agency's planning, implementing, review and accountability for stewardship of its resources is vital to its achieving the desired results." The directive also requires that internal controls be documented in management administrative policies or operating manuals that are communicated to appropriate personnel.

Even though the SMU has a variety of documents that outline certain procedures, it lacks a written procedures manual that consolidates all relevant procedures, functions, and controls followed by the unit. For example, SMU officials provided us with DOT Directive 33, which details the procedures to be followed by consultant (external) inspectors in performing inspections, completing inspection reports, and processing violations. The DOT Directive 33 addresses some of the basic procedures followed by SMU in-house inspectors. However, when we compared the directive to the procedures followed by SMU inspectors, we concluded that, the directive clearly does not comprehensively address all tasks assigned to the SMU inspectors.

At the exit conference and in their subsequent correspondence of October 28, 2008, DOT officials took issue with the audit assessment of Directive 33 and stated: "While the current copy on file appears to be for the Inspection Consultants, the Directive was developed in 1992 for the Sidewalk Program administration, inspection, construction, assessment, and dismissal processes." Further, they stated that DOT plans to hire contract inspectors in the future and therefore there is no need to change the procedures enumerated in Directive 33. We disagree with DOT's position. As stated previously, the DOT directive is specifically established for external consultant inspectors and does not address all job functions performed by SMU inspectors, who are DOT employees.

In addition, during the audit SMU officials provided us with a diagram depicting the general flow of information from the intake of complaints, to inspection, violation issuance, and violations dismissal (if applicable) along with other documentation outlining methodologies for determining inspection, construction, and emergency contract construction sites. However, none of this documentation detailed the procedures followed by administrative support staff and other duties and responsibilities of inspectors, project managers, and management personnel.

DOT officials asserted that most of the personnel in the SMU have been employed for several years and are experienced in performing their jobs. Further they asserted that there are frequent changes in SMU priorities (i.e., the type of properties for which inspections are to be carried out) and many exceptions—for instance, if a property has landmark status, repair will not

be performed by the City, or if the sidewalk is constructed of a material other than concrete, the City will not perform the repair.

We recognize that SMU personnel may be experienced and knowledgeable in the procedures to be carried out, yet the fact that frequent changes and exceptions occur makes the need for written procedures all the more necessary. Formal policies would provide some assurance that all employees have been notified of a policy change and that the employees are aware of the proper steps involved in handling such changes.

By not maintaining comprehensive, written policies and procedures, DOT management has no assurance that policies and procedures are properly communicated and consistently followed. Also, there is no assurance that new personnel have adequate guidance in carrying out their assigned duties.

### **Recommendation**

14. DOT should develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the SMU and distribute the manual to appropriate personnel. The manual should be updated periodically to address newly implemented or revised procedures.

*DOT Response:* “We agree to the recommendation.”

### **Lack of Adequate Data Entry Controls**

Our evaluation of data reliability for the MOSAICS and SDW databases disclosed the lack of adequate entry controls to ensure the completeness and accuracy of manually entered data. We noted that data validation (edit) checks were either not functioning properly or do not exist in the date fields in the violation component of MOSAICS. In addition, we noted that violations can be deleted from the database without detection or authorization.

Comptroller’s Directive #18, §8.2, requires that “agencies must insure that adequate application controls are in place to eliminate input, processing, and output risks.” It states that “automated controls built into application programs ensure that every transaction entering the information processing environment is authorized, recorded, and processed completely and accurately, protected from physical loss, theft, or unauthorized manipulation, and that the data file integrity is preserved.”

On September 24, 2007, using read-only access to MOSAICS, our evaluation of the system through various inquiries identified 49 violations issued with inappropriate dates. We identified the following:

- 12 violations were issued with future dates ranging from October 2007 to May 2100.
- 37 violations issued with past dates ranging from 1903 to 1980.

Considering that MOSAICS was implemented in approximately 1982, it is inconceivable that violations for the years 1903 through 1980 would have been issued through MOSAICS. Rather, these anomalies strongly suggest that edit checks in the date field are either not functioning properly or do not exist.

Further analysis of Fiscal Year 2007 violations data found that of the 6,455 records contained in the file provided by SMU officials there were anomalies attributed to invalid or lacking edit or data validation checks as follows:

- 81 violations numbers were missing from the sequential ordering of violations primarily due to incorrectly entered dates. For example, the date of one violation was incorrectly entered as “12/26/2007” rather than the correct date of “2/26/2007.” In another example, we found a date of “1/2/2006” that should have been “1/2/2007.” Further, DOT officials stated that some violations were deleted because of errors.
- There were 74 instances in which two or more violations were issued for the same property, despite the SMU policy that multiple violations not be issued to the property owner.
- 112 violations were coded with Community District numbers that either do not exist or do not exist in the borough in which the listed property is situated.

Since data entered into MOSAICS is shared with the SDW database, the anomalies noted above will undoubtedly appear in SDW. In addition, further review of the SDW database demonstrated a similar lack of edit checks, especially in the date fields. We identified 3,837 violations that were issued between 2003 and 2004 that had a dismissal date of “01/01/2100.” According to DOT officials, all of these violations were generated by a former DOT contractor responsible for performing inspections. However, since questions were raised about the appropriateness of these violations, they were never served on the property owners. Instead, they were dismissed in SDW using the “1/1/2100” to identify these from other violations actually issued. Regardless of the reasoning for the dismissal of these violations, the fact that a future date of “2100” could be entered in the dismissal date field indicates inadequate or lacking edit checks to prevent entry of inaccurate data.

Upon discussing these findings with DOT officials regarding flawed or inaccurate entries of violations, they asserted that if a violation is erroneous, it can be deleted in MOSAICS. They also offered different reasons for these anomalies, mostly attributing them to manual processes. Nevertheless, the results of our data reliability assessments strongly suggest a lack of proper data edit or validity checks in the databases to prevent inaccurate or incomplete data from being entered. Further, there was no evidence that appropriate exception reports are generated by either MOSAICS or SDW to identify inaccurate or rejected data entries.

Even though the deficiencies and anomalies discussed above were determined not to significantly or adversely affect the reliability of either MOSAICS or SDW for audit testing, if left uncorrected, they could pose problems as time passes. The longer these matters go uncorrected, the greater the problem may become to the point that the completeness, reliability,

and accuracy of SMU information will come into question. This is especially an important consideration since there are other DOT divisions that access and rely on MOSAICS for information.

### **Recommendations**

DOT should:

15. Identify and correct the data fields noted as having inadequate entry controls or inadequate data validation checks to ensure that no further data entry errors are allowed. Program changes should include: ensuring that personnel are prevented from entering erroneous dates, and correcting existing dating problems.
16. Conduct a comprehensive review of MOSAICS and SDW to identify existing programmatic problems and errors, and develop a systematic plan and timeframe for correcting these problems.
17. Document the MOSAICS and SDW systems' technical specifications upon completion of the comprehensive system review and document all corrections made so as to ensure that adequate documentation is available to identify system attributes, relationships, etc. This documentation should be updated with each program change and used for reference by the MIS department.
18. Design and implement exception reporting to identify inaccurate data entries or rejected transactions.
19. Prevent the deletion of violation records in MOSAICS. Instead, provide for the cancellation of a violation noting the justification of the cancellation in MOSAICS. Any such cancellations should be approved by supervisory personnel and documented.

***DOT Response to Recommendations 15 through 19:*** DOT generally agreed with recommendations 15 through 19, and commented as follows:

“DOT’s Information Technology and Telecom Unit (formerly MIS) reviewed the findings and Recommendations 15-19 and stated:

- DOT will conduct a review of MOSAICS (Notice of Sidewalk Violations component) to identify and remediate the validation problems identified in the audit.
- DOT will create system documentation for Notice of Sidewalk Violations. This documentation will reflect changes indicated in the preceding two bullets.
- The Delete function has been disabled, thus preventing the further deletion of violations.”





**New York City  
Department of Transportation**

**Janette Sadik-Khan, Commissioner**

Web: [www.nyc.gov/dot](http://www.nyc.gov/dot)

January 12, 2009

Mr. John Graham  
Deputy Comptroller  
Audits, Accountancy & Contracts  
City Comptroller's Office  
1 Centre Street  
New York, NY 10007

**RE: Draft Audit Report on the Department of Transportation  
Efforts to Address Sidewalk Complaints MJ08-054A**

Dear Mr. Graham:

We are submitting the Department of Transportation's comments on the recommendations contained in the Draft Audit Report.

**Recommendation 1: Inspect those properties not inspected.**

**DOT Response:**

As stated in our response dated October 28, 2008, to the preliminary draft report, we had inspected all five properties. Three of these properties were issued Notices of Violation. We have attached the Inspection Reports as Appendix A.

**Recommendation 2: Reassess procedures and staffing levels to identify and implement needed improvements to ensure that inspections, when required, are carried out and performed in a timely manner.**

**DOT Response:**

**Agree.** Additionally, we want to inform the auditors that OSM is regularly reassessing its procedures and staffing levels to ensure that inspections are carried out in a timely manner.

**Recommendation 3: DOT should develop procedures to ensure the accurate and timely updating of the 311 Service Center with complaint status and resolution (e.g., inspection conducted and violation issued) of sidewalk defect complaints.**

**DOT Comment:**

**Agree.** As of June 8, 2008, the DoITT granted OSM the capability of entering Resolution Actions to close complaints. This enables us to update the complaint status.

**Recommendation 4: Ensure that violations are processed and issued promptly.**

**DOT Comment:**

**Agree.** OSM will try to improve its current performance of 76% in issuing violations within 30 days of inspection, taking into account workload and staffing constraints. Directive

*DOT Response to Draft Report – Sidewalk Defect Complaints MJ08-054A**January 12, 2009**Page 2 of 7*

33, which contains this 30-day standard will be updated and incorporated in the OSM Comprehensive Policies and Procedures Manual.

**Recommendation 5: Require that violations be reviewed and compared to corresponding inspection reports by an independent reviewer or supervisor to ensure the accuracy of defective conditions appearing on the violations.**

**DOT Comment:**

**Disagree.** While we acknowledge that the present procedure is not error-free (8 of the 50 sampled violations had at least one missing defect), the Notice of Violation (NOV) is still valid because it contains a reference to the Preliminary Inspection Report (PIR) which is attached to the NOV. The Feldman Mega Law requires the detailing of the defects on the PIR. The review/proofreading of the NOV would not only entail additional cost in terms of staff hours spent but also delay the issuance of the NOV.

**Recommendation 6: Enter into a memorandum of understanding with DDC detailing the roles and responsibilities of each agency and establishing time frames and procedures for the timely sharing of information.**

**DOT Comment:**

**Agree.** The OSM has an on-going good working relationship with the DDC. The Memorandum of Understanding (MOU) will further strengthen it. We will make sure that both agencies live up to their respective responsibilities and meet deadlines.

**Recommendation 7: Upon completion of the final walkthroughs with DDC consultant engineers and City contractors obtain the list of properties for which repairs are completed and record in the databases the fact that the associated violation is pending dismissal.**

**DOT Comment:**

**Disagree.** As stated in our earlier response, the walkthroughs are for quality control of construction work and to generate punch lists for corrective contract work, if necessary, before final payments are processed. While all the punch list work may be completed within the year, the violation would still be pending dismissal until the DDC notification. We anticipate that once the MOU between DDC and DOT is signed, the updates to the database on the status of NOV's issued to properties repaired by City contracts would be timely.

DOT Response to Draft Report – Sidewalk Defect Complaints MJ08-054A

January 12, 2009

Page 3 of 7

**Recommendation 8: Implement procedures requiring the evaluation of sidewalk defect violations outstanding for an established period (e.g., three years). If the property is not situated in a Community District selected for defect remediation by City contractors, the SMU should send correspondence to the property owners advising them of the outstanding violations and reminding them of their responsibility under the law to repair the defective sidewalk conditions.**

**DOT Comment:**

**Disagree.** The evaluation of outstanding sidewalk defect violations requires re-inspection and necessarily, additional staff. It should be noted that 41% of the 150 sampled Dismissed Violations, were on properties that were under DDC-managed Capital Reconstruction Projects which may take years to complete. The other 43% of the 150 Violations were on private properties. Sending letters to property owners with outstanding violations would entail additional costs without yielding the expected benefits because of DOT's lack of enforcement authority. If the current lien on the property is not enough to compel the property owners to make the necessary repairs, we do not see how a letter would.

**Recommendation 9: Develop a program to follow up with and encourage property owner compliance with City regulations and make the necessary sidewalk repairs.**

**DOT Comment:**

**Disagree.** This again would entail additional costs without yielding the expected benefits because of DOT's lack of enforcement authority. The NOV already informs property owners of their responsibility under Section 2904 of the NYC Charter and Section 19-152 of the New York Administrative Code.

**Recommendation 10: Perform a cost analysis comparing the funds paid out by the City to settle personal injury claims resulting from sidewalk defects (since 2003 changes in the Administrative Code) to the estimated costs needed to maximize the number of properties with sidewalk defects that could be repaired by City Contractors.**

**Recommendation 11: Using the results of the cost analysis, seek increased funding to expand the remediation of sidewalk defects by City contractors.**

DOT Response to Draft Report – Sidewalk Defect Complaints MJ08-054A  
January 12, 2009  
Page 4 of 7

DOT Comment to Rec. 10 & 11:

Agree: We will work with the Law Department and the City Comptroller to obtain the necessary personal injury claims and settlement figures. We have done this cost analysis in the past and we will do the same again although this may not always result in increased funding for the remediation of sidewalk defects by City Contractors.

Recommendation 12: Establish timeframes or milestones for the performance of various functions (i.e., addressing complaints, performing inspections, issuing violations) to measure SMU performance and productivity.

DOT Comment:

Agree: As discussed in our response dated October 28, 2009, OSM has established timeframes for conducting inspections in response to complaints and in issuing violations, among others. To ensure that these timeframes are clearly communicated to and understood by everyone, they will be incorporated in the Comprehensive Policies and Procedures Manual.

Recommendation 13: In accordance with the Administrative Code, develop and report performance and productivity indicators about SMU operations, including sidewalk defect complaints received and addressed, inspections and re-inspections performed, violations issued, dismissed, and outstanding.

DOT Comment:

Disagree. The Deputy Commissioner for Sidewalk and Inspection Management includes in his Weekly Reports to the DOT Commissioner, the performance and productivity indicators on OSM operations. These indicators include sidewalk defect complaints received and addressed, inspections and re-inspections performed, violations issued and dismissed. We do not agree that "Outstanding NOV's" should be one of OSM's performance indicators. As stated in our earlier response, the only time a NOV can be dismissed is when the repair is made by the property owner or the City. As stated earlier, 41% of the long-outstanding NOV's were due to Capital Reconstruction projects. While we do monitor and use the number and age of the Outstanding Violations for budgetary requests for the Sidewalk Contracts, the measure does not in any way reflect OSM's performance. We have attached copies of the Weekly Reports dated June 6, 2008 and January 9, 2009 to the Commissioner as Appendix B. The January 9, 2009 report, shows a separate chart for the Public Inquiries (Complaints) received during the week. We have included this chart since October 31, 2008.

**Recommendation 14: Develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the SMU and distribute the manual to appropriate personnel. The manual should be updated periodically to address newly implemented or revised procedures.**

**DOT Comment:**

**Agree.** As explained during the audit and at the exit conference, OSM prepared and issued Directive 33 for the Sidewalk Program. While the current copy on file appears to be for the Inspection Consultant, the Directive was developed in 1992 for the Sidewalk Program's administration, inspection, construction, assessment and dismissal processes. We recognize however, that not all the timeframes, milestones and other pertinent operational information are in the Directive. Hence, we agree to the recommendation.

**Recommendation 15: Identify and correct the data fields noted as having inadequate entry controls or inadequate data validation checks to ensure that no further data entry errors are allowed. Program changes should include: ensuring that personnel are prevented from entering erroneous dates, and correcting existing dating problems.**

**Recommendation 16: Conduct a comprehensive review of MOSAICS and SDW to identify existing programmatic problems and errors, and develop a systematic plan and timeframe for correcting these problems.**

**Recommendation 17: Document the MOSAICS and SDW systems' technical specifications upon completion of the comprehensive system review and document all corrections made so as to ensure that adequate documentation is available to identify system attributes, relationships, etc. This documentation should be updated with each program change and used for reference by the MIS department.**

**Recommendation 18: Design and implement exception reporting to identify inaccurate data entries or rejected transactions.**

**Recommendation 19: Prevent the deletion of violation records in MOSAICS. Instead, provide for the cancellation of a violation noting the justification of the cancellation in MOSAICS. Any such cancellations should be approved by supervisory personnel and documented.**

*DOT Response to Draft Report -- Sidewalk Defect Complaints MJ08-054A*  
*January 12, 2009*  
*Page 6 of 7*

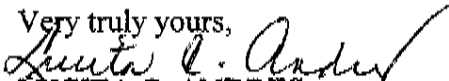
**DOT Comments to Rec. 15-19:**

DOT's Information Technology and Telecom Unit (formerly MIS) reviewed the finding and Recommendations 15-19 and stated:

- DOT will conduct a review of MOSAICS (Notice of Sidewalk Violations component) to identify and remediate the validation problems identified in the audit.
- DOT will create system documentation for Notice of Sidewalk Violations. This documentation will reflect changes indicated in the preceding two bullets.
- The Delete function has been disabled, thus preventing the further deletion of violations.

We hope we have adequately explained our stand on some of the recommendations. We will implement immediately those to which we agree.

Very truly yours,

  
LUCITA C. ANDRES  
Auditor General

Attachments

cc: Comm. J. Sadik-Khan, FDC L. Ardito, DC L. Heyward, AC K. Howard, ED L. Baptist, L. Price

**LIST OF APPENDICES**

**A... Inspection Reports & Notice of Violations Issued**

Staten Island Block 3122, Lot 132—Inspected 9/23/2008 No Violation.....A-1  
Staten Island, Block 5270, Lot 5 ---- Inspected 9/23/08, NOV dtd 10/8/08 .....A-2 to 3  
Queens, Block 5496, Lot 1 ----- Inspected 9/23/08, NOV dtd. 10/22/08 .....A-4 to 8  
Bronx, Block 3056, Lot 49 ----- Inspected 10/22/08, NOV dtd. 11/3/08 .....A-9 to 10  
Queens, Block 4451, Lot 33 ----- Inspected 10/24/08 Property is not Constructible . A-11

**B... Weekly Reports to the Commissioner showing performance measures**

**Required by Auditors & Other Operating Statistics**

Weekly Report dated June 6, 2008 .....B-1 to 12  
Weekly Report dated Jan. 9, 2008 .....B-13 to 27