

AUDIT REPORT



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

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

MD03-064A

June 24, 2003



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 audited Department of Transportation (DOT) oversight of the private ferry operators that land at various City-owned ferry landings. The audit determined whether DOT ensured: the compliance of private ferry operators with their Permit and License Agreements and the provision of a safe environment at ferry landings; the collection of required fees and deposits; and the use of collected landing fees for the maintenance and repair of City ferry landings.

The results of the audit, which are presented in this report, have been discussed with officials of DOT and the Economic Development Corporation, which is responsible for the collection of landing fees and using them for the maintenance of City ferry landings. Their comments have been considered in the preparation of this report.

Audits such as this provide a means of ensuring compliance with City contracts, the collection of revenues due the City, and the use of those revenues as intended.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-8945.

Very truly yours,

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

William C. Thompson, Jr.

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Table of Contents

AUDIT REPORT IN BRIEF	1
Audit Findings and Conclusions	1
Audit Recommendations	2
Agency Response	3
INTRODUCTION	4
Background	4
Objectives	5
Scope and Methodology	5
Discussion of Audit Results	7
FINDINGS AND RECOMMENDATIONS	8
Revenue Issues	9
Private Ferry Operators Not Billed for All Scheduled Landings	9
The City is Losing Revenue by Not Increasing Landing Fees For Private Ferry Operators	12
Private Ferry Operators Not Billed \$17,400 in Permit Fees	16
Private Ferry Operators Operate with Expired Permits and License Agreements	17
Uncollected Security Deposits	18
Safety Concerns at City Ferry Landings	19
Questionable Expenditures	21
Appendix A—Departure and Landing Sites for each Private Ferry Operator during December 2002	
Appendix B—Letter to DOT officials regarding the safety conditions at City ferry landings	
Appendix C—Response from DOT officials regarding the actions taken To correct safety concerns at the City ferry landings	
Appendix D—Photographs of the conditions found at East 90 th Street Pier	
Addendum—Response from DOT	

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Office of the Comptroller
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AUDIT REPORT IN BRIEF

This audit determined whether the Department of Transportation (DOT) ensured that the private ferry operators complied with the requirements of their Temporary Ferry Permit (Permit) and Landing Slot License Agreement for Ferry Services (License Agreement). In addition, it determined whether DOT ensured that: private ferry operators correctly paid their permit and landing fees and security deposits and provided a safe environment at the City-owned (City) ferry-landing sites (ferry landings); and landing fees collected were used for the maintenance and repairs of the City ferry landings.

Both DOT and the New York City Economic Development Corporation (EDC) are involved with private ferry services. DOT sets the landing fees and insurance requirements for the private ferry operators, and bills and collects permit fees. EDC bills and collects landing fees and security deposits and maintains the City ferry landings, making emergency and other repairs and, when requested by DOT, structural and capital improvements.

Audit Findings and Conclusions

DOT ensured that private ferry operators generally complied with the provisions of their Permits and License Agreements. The operators carried adequate insurance, properly named the City of New York and EDC as additional parties insured against claims, submitted required reports to DOT detailing the daily passenger totals, and paid all landing fees as billed for Fiscal Year 2002. EDC properly deposited all landing fees collected and, with a few exceptions, ensured that the City ferry landings were generally maintained properly.

However, we found the following:

- Private ferry operators were not billed by DOT for all their scheduled landings, which resulted in an estimated \$1.3 million in lost annual City revenue.

- Landing fees have not been increased in more than 20 years. If increased as we suggest, these landing fees could generate as much as \$1.1 million in additional annual revenue.
- Private ferry operators are operating with expired Permits and License Agreements.
- DOT did not collect security deposits and permit fees from the private ferry operators, as required.
- There were concerns about the safety of some of the City ferry landings—the gates leading to the ramps and barges remained open after the private ferries departed from their landings. In addition, the wooden decking of the waiting area of the East 90th Street Pier was cracked, splintered, and deteriorating.
- There were questionable EDC expenditures, totaling \$83,340, that were either not related to the maintenance and repair of the City ferry landings or that were not reasonable.

Audit Recommendations

To address these issues, we make 16 recommendations, the most significant of which are that DOT should:

- Coordinate with the Office of Management and Budget to consider whether the revenue associated with ferry License Agreements should be transferred into the City General Fund.
- Ensure that all private ferry operators are billed for all scheduled landings currently in effect.
- Recoup all unbilled landing fees from private ferry operators.
- Consider increasing its landing fees.
- Ensure that all Permits and License Agreements are complete, updated, and renewed immediately upon their expiration dates.
- Ensure that the gates leading to the ramps and barges of all City ferry landings are locked at all times after the private ferries depart from the landings.
- Ensure that revenue collected from landing fees is used for expenses that are reasonable and related to the maintenance and repairs of the City ferry landings.

Agency Response

The matters covered in this report were discussed with DOT and EDC officials during and at the conclusion of this audit. A preliminary draft report was sent to DOT and EDC officials and was discussed at an exit conference on May 9, 2003. On May 23, 2003, we submitted a draft report to DOT and to EDC officials with a request for comments. We received a written response from DOT officials on behalf of both organizations on June 9, 2003. DOT generally agreed with the audit's findings and recommendations. The response stated that bills have already been sent to the private ferry operators in an attempt to recoup all unbilled landing fees and that the landing fee structure and rates would be evaluated and adjusted during the next fiscal year.

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

INTRODUCTION

Background

On October 31, 1995, DOT assumed from the Department of Business Services the responsibility for overseeing and monitoring private ferry services at various City ferry landings.

To operate private ferries in the City, a private ferry operator must obtain from DOT a Permit and a License Agreement. Permits and License Agreements are usually issued for one year. A Permit allows a private ferry operator to operate private ferries for the sole purpose of transporting passengers from one ferry landing to another. The cost of a Permit is \$600 a year per route.

A License Agreement allows a private ferry operator to land ferries at specified ferry landings for the sole purpose of passenger pick-up and discharge during specified intervals. The License Agreement specifies the monthly landing fee to be paid by a private ferry operator. This landing fee is based upon the number of times a month each private ferry lands at a City ferry landing multiplied by the rate per landing set by DOT. In addition, a private ferry operator is required to pay a specified amount set by DOT for a security deposit that is returnable upon termination of the License Agreement, providing that the private ferry operator complied with the terms of the License Agreement.

DOT sets landing fees and insurance requirements for the private ferry operators, and it bills and collects permit fees. EDC bills and collects all landing fees and security deposits and, working with DOT, bills and collects all overdue sums for existing or expired agreements, including serving notices and commencing litigation. EDC is also responsible for maintaining City ferry landings, making emergency and other repairs and, when requested by DOT, structural and capital improvements for the properties. EDC contracts with Apple Industrial Development Corporation, an EDC-created local development corporation and affiliate, to undertake these property management functions.

The landing fees collected are first to be used by EDC to pay for maintenance and repairs of City ferry landings and then are to be used to pay EDC its management fee of seven percent. Any funds remaining are to be placed in an interest bearing reserve fund held by EDC.

The ferry landings under DOT jurisdiction in Manhattan are: Pier A (in Battery Park), Pier 11 (near Wall Street), the East 34th Street Pier, the East 62nd Street Pier, the East 75th Street Pier, the East 90th Street Pier, and Pier 79 (at West 39th Street). In addition, DOT was given jurisdiction over the 69th Street Pier in Bay Ridge and the Fulton Ferry Landing, both in Brooklyn, and the Yankee Stadium Pier in the Bronx.¹

As of December 2002, the following four private ferry operators were using City ferry landings: New York Waterway (formerly known as Port Imperial Ferry), Sea Streak (formerly known as Express Navigation), New York Fast Ferry, and New York Water Taxi, which began

¹ There are ferry landings within the City that are not under the jurisdiction of DOT.

operating in September 2002. These private ferry operators ran private ferries mainly between Manhattan and New Jersey, but also between Manhattan and Queens, Manhattan and Yankee Stadium in the Bronx, and Manhattan and Brooklyn. (See Appendix A detailing the location of departures and landings, for each private ferry operator.) During Fiscal Year 2002, EDC collected approximately \$134,195 in landing fees from these private ferry operators; DOT collected no permit fees from these private ferry operators.

Objectives

The objectives of the audit were to determine whether DOT ensured that:

- The private ferry operators complied with the requirements of their Permits and License Agreements;
- The private ferry operators correctly paid their permit and landing fees and security deposits and that these monies were deposited and recorded;
- The private ferry operators provided a safe and clean environment at the City ferry landings for the pick-up and discharge of passengers;
- The City ferry landings were maintained in satisfactory physical condition; and
- The landing fees collected were used for the maintenance and repairs of the City ferry landings and were competitive with other areas within the United States.

Scope and Methodology

The scope of our audit was Fiscal Year 2002.

To gain an understanding of the responsibilities of DOT and EDC over private ferry operations, we interviewed the Director and Operations Manager of the DOT Office of Private Ferry Operations. In addition, we interviewed the EDC Executive Vice President of Property Management and the EDC Vice President of Accounts Receivable. We reviewed Permits and License Agreements for each of the private ferry operators and the October 31, 1995, letter of agreement between DOT and EDC regarding private ferry operations at City ferry landings. We also obtained information regarding private ferries through the DOT Web site.

To assess whether DOT had internal controls as they relate to our audit objectives, we evaluated information obtained from our interviews and various documents. We also determined whether DOT had written internal procedures and policies governing private ferry operations and if so, assessed whether they were adequate.

To determine whether private ferry operators were billed according to the landing schedules currently in effect, we obtained from their Web sites the December 2002 landing schedules at City

ferry landings. Based on these landing schedules, we determined the dollar amount for December 2002 that each private ferry operator should have been billed in landing fees. To do so, we calculated the number of times a month each private ferry operator landed at each City ferry landing. We multiplied the number of landings per month by the landing rate set by DOT. We compared the amount that we calculated to the amount that each of the private ferry operators was billed for December 2002. We also estimated for the entire year the total amount of landing fees that each private ferry operator should have been billed.

To determine whether the landing fees charged by DOT were competitive, we interviewed transportation officials from 18 other areas within the United States. We inquired whether private ferries operated in these areas and if so, whether they landed at publicly-owned ferry landings. For areas that had private ferry operations similar to ours, we determined the landing fees charged, if any, and compared these landing fees to the landing fees charged by DOT.

We determined whether DOT and EDC properly deposited and recorded permit and landing fees as well as security deposits. To do so, we obtained the DOT and EDC Cash Receipts Journals, bank statements, and checks for six months (January 2002 through June 2002) for New York Waterway, Sea Streak, and New York Fast Ferry. We also called each of these private ferry operators to identify the amounts of permit and landing fees each paid to DOT and EDC during the same time period.

On August 27, 2002, September 26, 2002, and October 3, 2002, we conducted several spot-checks of each of the City ferry landings to determine whether DOT ensured that the private ferry operators provided a safe environment for the pick-up and discharge of passengers. In addition, we ensured that the City ferry landings were maintained in satisfactory physical condition.

To ascertain whether EDC used landing fees for the maintenance and repairs of the City ferry landings, as required, we randomly selected 30 expenditures, totaling \$93,060, from expenditures totaling \$346,943 recorded in the Cash Disbursements Journal for EDC during Fiscal Year 2002. We determined whether the expenditures were supported by mathematically accurate invoices and were authorized, reasonable, and related to the maintenance and repair of the City ferry landings.

We determined whether the private ferry operators had up-to-date Permits and License Agreements. We also determined whether: the private ferry operators had active insurance policies; the policies were consistent with the insurance stipulations in the Permits and License Agreements; and the policies properly named the City of New York, EDC, and Apple Industrial Development Corporation as additional parties insured against all claims. Finally, we determined whether the private ferry operators submitted the required reports to DOT detailing the daily passenger totals and actual (rather than scheduled) arrival and departure times of the private ferries.

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 City Comptroller's audit responsibilities 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 and EDC officials during and at the conclusion of this audit. A preliminary draft report was sent to DOT and EDC officials and was discussed at an exit conference on May 9, 2003. On May 23, 2003, we submitted a draft report to DOT and EDC officials with a request for comments. We received a written response from DOT on behalf of both organizations on June 9, 2003. DOT generally agreed with the audit's findings and recommendations. The response stated that bills have already been sent to the private ferry operators in an attempt to recoup all unbilled landing fees and that the landing fee structure and rates would be evaluated and adjusted during the next fiscal year.

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

FINDINGS AND RECOMMENDATIONS

DOT ensured that private ferry operators generally complied with the provisions of their Permits and License Agreements. They carried adequate insurance, properly named the City of New York, EDC, and Apple Industrial Development Corporation as additional parties insured against any and all claims, submitted required reports to DOT detailing the daily passenger totals, and paid all landing fees that were billed and due for Fiscal Year 2002. EDC properly deposited all landing fees collected and ensured that the City ferry landings were generally maintained properly.

However, we found the following:

- Private ferry operators were not billed by DOT for all their scheduled landings, which resulted in an estimated \$1.3 million in lost annual City revenue.
- Landing fees have not been increased in more than 20 years. If increased as we suggest, these landing fees could generate as much as \$1.1 million in additional annual revenue.
- Private ferry operators are operating with expired Permits and License Agreements.
- Security deposits and permit fees were not collected by DOT from the private ferry operators, as required.
- There were concerns about the safety of some of the City ferry landings—the gates leading to the ramps and barges remained open after the private ferries departed from their landings. In addition, the wooden decking of the waiting area of the East 90th Street Pier was cracked, splintered, and deteriorating.
- There were questionable EDC expenditures, totaling \$83,340, that were either not related to the maintenance and repair of the City ferry landings or that were not reasonable.

Many of the issues cited above might have been avoided if DOT had formal procedures for the oversight and monitoring of private ferry operators. Formal procedures document the steps (internal controls) management has developed to help ensure that goals and objectives are achieved; and they provide personnel the means to obtain a clear understanding of their responsibilities. Formal procedures and more diligent oversight of private ferry operators would have made DOT more aware of the effects of not renewing and updating Permits and License Agreements when private ferry operators expanded their ferry services to new routes, adding more landings. DOT officials stated that they are in the process of developing formal procedures.

DOT officials stated that landing fee revenue is used for the upkeep of the City ferry landings. Given the potential annual revenue that should have been collected, had private ferry operators been billed for all their scheduled landings, and the potential increase in revenue, had landing fees been increased, the City may want to consider alternative uses for this revenue.

Recommendations

1. DOT should coordinate with the Office of Management and Budget to consider whether the revenue associated with ferry License Agreements should be transferred into the City General Fund.

DOT Response: “DOT’s agreement with EDC states that EDC will be responsible for billing and collecting revenue. Further, EDC is responsible for using the revenue to fund the cost of maintaining the properties. Therefore, transferring the revenue into the General Fund is not a realistic alternative.”

Auditor Comment: The intent of this recommendation was for DOT to work with the Office of Management and Budget to consider modifying the DOT agreement with EDC. The current agreement does not take into consideration the potential annual revenue (\$1.3 million) that should have been collected, had private ferry operators been billed for all their scheduled landings and the potential increase in revenue (\$1.1 million) had landing fees been increased. Given the significant increase in potential landing fee revenue and the current strained fiscal condition of the City, DOT and the Office of Management and Budget should consider alternative uses for these funds. The DOT agreement with EDC can be modified to state that landing fee revenue not allocated for the maintenance and repairs of City ferry landings and for EDC management fees be placed in the City General Fund.

2. DOT should establish formal procedures to oversee and monitor private ferry operators.

DOT Response: “We agree and the Private Ferry Operation’s unit is preparing formal written standard operating procedures. It is expected that this will be completed by September 2003.”

Revenue Issues

Private Ferry Operators Not Billed for All Scheduled Landings

Private ferry operators were not billed for all their scheduled landings at City ferry landings. Based on the landing schedules for each of the private ferry operators as of December 2002, DOT should have billed them a total of \$127,742 in landing fees for the month. Instead, landing fees billed amounted to only \$16,801—a difference of \$110,941. Assuming New York Waterway, Sea Streak, and New York Fast Ferry had provided the same service throughout the previous year (December 2001 through December 2002), this difference would have amounted to approximately \$1.3 million ($\$107,010 \times 12$). Assuming New York Water Taxi had provided the same service since it began operation (September 2002 through December 2002), this difference would have amounted to approximately \$15,724 ($\$3,931 \times 4$).

According to each License Agreement, private ferry operators are charged a set rate each time a private ferry lands at a City ferry landing. Attached to each License Agreement is a landing schedule current at the time the License Agreement goes into effect. DOT forwards EDC a copy of each private ferry operator's License Agreement. EDC prepares an abstract of the License Agreement, which includes the monthly landing fees. The abstract is used to generate the monthly landing bills. It is the responsibility of DOT to inform EDC through written memoranda of any modifications to a private ferry operator's landing schedule.

Although private ferry service at City ferry landings has increased, we did not find any DOT communications to EDC regarding these increases. For example, DOT officials stated that private ferry service at Pier A (in Battery Park) began during November 2001 and confirmed that they have not yet, as of December 2002, notified EDC to start billing private ferry operators using that landing. In addition, the New York Water Taxi began operating during September 2002, but still, as of December 2002, has not been billed. EDC officials stated that they have received no information from DOT regarding New York Water Taxi. DOT officials said they plan to send out bills in the future to cover the landings at Pier A, the landings of New York Water Taxi, as well as the additional landings at other City ferry landings.

We obtained the December 2002 landing schedules for each of the private ferry operators, as posted on their Web sites. Based on these landing schedules, we determined the dollar amount for December 2002 that each private ferry operator should have been billed in landing fees. To do so, we calculated the number of times a month each private ferry operator landed at each City ferry landing. We multiplied the number of landings per month by the landing rate set by DOT. We compared the amount that we calculated to the amount that each of the private ferry operators was billed for December 2002. Table I, following, details for each private ferry operator the landing fees that should have been billed as compared to the landing fees billed for December 2002.

TABLE I

Landing Fees, by Private Ferry Operator, That Should Have Been Billed
Compared to the Landing Fees Billed for December 2002

(A) Private Ferry Operator	(B) Amount That Should Have Been Billed	(C) Amount Billed	(D) Difference between Amount That Should Have Been Billed and Amount Billed (B - C)
New York Waterway	\$111,756	\$ 9,831	\$101,925
Sea Streak	\$ 6,442	\$ 4,875	\$ 1,567
New York Fast Ferry	\$ 5,613	\$ 2,095	\$ 3,518
Total	\$123,811	\$16,801	\$107,010
New York Water Taxi	\$ 3,931	\$ 0	\$ 3,931
Grand Total	\$127,742	\$16,801	\$110,941

Private ferry operators are not being billed according to their scheduled landings as required by their License Agreements. Assuming New York Waterway, Sea Streak, and New York Fast Ferry had provided the same service throughout the previous year (December 2001 through December 2002), this difference would have amounted to approximately \$1.3 million (\$107,010 x 12). Assuming New York Water Taxi had provided the same service since it began operation (September 2002 through December 2002), this difference would have amounted to approximately \$15,724 (\$3,931 x 4). This indicates a large potential for additional revenue that can be claimed by DOT. DOT officials should coordinate their efforts with EDC to ensure that private ferry operators are billed according to the landing schedules currently in effect and collect the correct revenue.

During the exit conference, DOT officials agreed that private ferry operators were not billed for all their scheduled landings at City ferry landings. Using information from “various sources,” DOT calculated how much each private ferry operator should have been billed in landing fees. During March 2003, DOT sent bills to each private ferry operator for landing fees previously unbilled during the period September 2001 through January 2003.

DOT officials determined that the private ferry operators should have been billed a total of \$100,493 for the month of December 2002, as compared to the \$127,742 figure we cited in this report. Table II details for each private ferry operator the landing fees that should have been billed for December 2002 according to DOT, as compared to those we calculated.

TABLE II

Comparison of Landing Fees, by Private Ferry Operator, That Should Have Been Billed
For December 2002, According to DOT and According to Auditors

(A) Private Ferry Operator	(B) Amount That Should Have Been Billed According to Auditors	(C) Amount That Should Have Been Billed According to DOT	(D) Difference between Auditors’ Calculation and DOT Calculation (B – C)
New York Waterway	\$111,756	\$ 87,147	\$ 24,609
Sea Streak	\$ 6,442	\$ 7,510	\$ (1,068)
New York Fast Ferry	\$ 5,613	\$ 3,429	\$ 2,184
Total	\$123,811	\$ 98,086	\$ 25,725
New York Water Taxi	\$ 3,931	\$ 2,407	\$ 1,524
Grand Total	\$127,742	\$100,493	\$ 27, 249

We are pleased that DOT officials have sent out bills to cover the unbilled landings fees, but we could not reconcile their calculations to ours since we did not have all supporting documentation. For example, the DOT calculation takes into account that a private ferry operator is billed once per hour for the docking of a given vessel at a particular City ferry landing—no matter how many times during that hour the vessel docks. DOT officials stated that they based their

calculations on information they received from the private ferry operators regarding how many different vessels docked at the same City ferry landing each hour. However, they did not provide us this information.

In another example, our information shows that one private ferry operator did not provide service during a certain part of the day for one of its routes. However, DOT landing fee calculations reflect provision of service by the ferry operator during this time period. DOT did not indicate whether it actually determined that service was provided during this part of the day, and if it did, how it made that determination for its billing.

Nevertheless, DOT should continue to ensure that all private ferry operators are billed for all scheduled landings currently in effect. Furthermore, DOT should recoup all unbilled landing fees from the private ferry operators.

Recommendations

DOT should coordinate its efforts with EDC to:

3. Ensure that all private ferry operators are billed for all scheduled landings currently in effect.

DOT Response: “We agree and the billing of landing fees will be coordinated with EDC.”

4. Recoup all unbilled landing fees from the private ferry operators.

DOT Response: “We agree and bills have already been sent to the operators.”

The City Is Losing Revenue by Not Increasing Landing Fees for Private Ferry Operators

The rate per landing set by DOT for private ferry operators has not been increased in more than twenty years. If increased, an estimated \$1.1 million dollars could be generated in additional revenue per year.

DOT charges private ferry operators \$16.30 for landing at one City ferry landing during the peak period (weekdays 6:00 a.m.–10:00 a.m. and 4:00 p.m.–7:00 p.m.) and \$2.80 during the off-peak period.² Private ferry operators who land at several City ferry landings during a single run in one direction are charged \$24.30 for the peak period and \$4.30 for the off-peak period. For example, a Seastreak ferry departing from South Amboy, New Jersey, and landing at both Pier 11 and East 34th Street in Manhattan would be charged \$24.30 during the peak period and \$4.30

² Private ferry operators are billed only once per hour for the docking of a given vessel at a particular City ferry landing.

during the off-peak period. Water taxis are charged off-peak prices only, because of the small size of the vessel.

The Director of the DOT Office of Private Ferry Operations stated that the former Department of Ports and Trade set up the rate per landing in the 1980s. When DOT assumed the responsibility to monitor private ferry operations on October 31, 1995, it kept the same rate structure, which has not been increased.

To determine whether the landing fees charged by DOT were competitive, we interviewed transportation officials from 18 other areas within the United States.³ We inquired whether private ferries operated in their areas and if so, whether they landed at publicly-owned ferry landings. For areas that had private ferry operations similar to ours, we determined the landing fees charged, if any, and compared these landing fees to the landing fees charged by DOT.

Some of the areas we surveyed do not charge landing fees since both the ferries and ferry landings are state, city, or privately-owned. However, for areas that have private ferry operators landing at publicly-owned ferry landings, the landing fees charged are significantly higher than those of DOT. For example, some areas charge 35 cents, 50 cents, or \$1.00 either for every arriving or for every departing passenger; one area charges a fixed annual fee of approximately \$200,000; and one area charges landing fees based upon five percent of the ticket price for every departing passenger. The following summarizes the responses received from transportation officials for those areas within the United States that charge or are planning to charge landing fees for private ferries landing at publicly-owned ferry landings:

- **Rhode Island** – Passengers over the age of twelve arriving on Block Island in the Town of New Shoreham or the Port of Galilee in the Town of Narragansett are each charged a landing fee of 50 cents or 35 cents, respectively. Each town enters into agreements with the private ferry operators. It is the responsibility of each of the private ferry operators to collect the landing fees from the passengers and then to pay the towns. All fees collected are to be used by the towns to promote the health, safety, and welfare of all passengers, including emergency medical services, and to support tourism-related activities.
- **North Carolina** - There are two types of private ferry operations in North Carolina: Concessions and Permittees. The landing fees for the Concessions are either two or three percent of gross revenue. Permittees pay approximately \$300 a year in landing fees. However, North Carolina is considering a Permittee landing fee of 50 cents or \$1.00 for every passenger who lands at the sites, since this would raise more revenue.

³ We contacted officials from Washington; Maine; Los Angeles, California; Virginia; Rhode Island; Texas; Connecticut; North Carolina; Florida; Michigan; Louisiana; Wisconsin; Massachusetts; South Amboy, New Jersey; Atlantic Highlands, New Jersey; Highlands, New Jersey; Glen Cove, Long Island; and the Port Authority of New York and New Jersey.

- **Atlantic Highlands, New Jersey** - Sea Streak is charged an annual fee of approximately \$200,000 for expenses such as landing fees, keeping the boats at the landing site, leasing an administrative building, and for the use of a parking lot.
- **South Amboy, New Jersey** – A permanent ferry terminal is in the process of construction. Private ferry operators will be charged a landing fee of 50 cents for every departing passenger and a flat annual rate for the use of a parking lot.
- **Glen Cove, Long Island** - Fox Navigation, a former private ferry operator, used to pay a landing fee of five percent of the ticket price (\$13) for every departing passenger. Thus, the landing fee was approximately 65 cents per passenger.
- **Ferry Transportation, Port Authority of New York and New Jersey (Port Authority)** - Landing fees are not charged for private ferries landing at the World Financial Center Ferry Terminal over which the Port Authority has jurisdiction. However, the Port Authority is considering either charging a certain amount for each arriving passenger after the total passengers for the month exceeds a certain number or charging 25 cents for every arriving passenger.

We estimated how much additional revenue DOT could earn if it were to charge private ferry operators using methods similar to those of the areas we surveyed. To do so, we reviewed the monthly passenger totals for July through September 2002 on the passenger reports submitted to DOT by New York Waterway and Sea Streak (the two largest private ferry operators). We determined how much DOT could have billed in landing fees if it charged 50 cents for every arriving passenger. We could not perform similar calculations for New York Fast Ferry and New York Water Taxi since their monthly passenger reports were either unclear or not available.

According to New York Waterway's passenger reports, a monthly average of 302,591 passengers landed at City ferry landings for the period July through September 2002. If DOT had charged 50 cents for every passenger, based on this monthly average, it could have billed New York Waterway \$151,296 in landing fees for a month instead of the \$87,147 it would have billed in a normal billing process. We did not have the monthly passenger totals for a full year. However, assuming the monthly average number of passengers (based on the July through September 2002 passenger totals) were the same for a full year, DOT could have billed New York Waterway approximately \$1,815,552 ($\$151,296 \times 12$).

According to Sea Streak's passenger reports, a monthly average of 73,762 passengers landed at City ferry landings for the period July through September 2002. If DOT had charged 50 cents for every passenger, based on this monthly average, it could have billed Sea Streak \$36,881 in landing fees for a month instead of the \$7,510 it would have billed in a normal billing process. We did not have the monthly passenger totals for a full year. However, assuming the monthly average number of passengers (based on the July through September 2002 passenger

totals) were the same for a full year, DOT could have billed Sea Streak approximately \$442,572 (\$36,881 x 12).

Table III, following, details the landing fee revenue that DOT could obtain from New York Waterway and Sea Streak by charging 50 cents per passenger annually using the average monthly passenger totals.

TABLE III

Landing Fee Revenue That DOT Could Obtain from New York Waterway and Sea Streak
By Charging 50 Cents per Passenger Annually,
Based on the Average Monthly Passenger Totals

(A)	(B)	(C)	(D)	(E)
Private Ferry Operator	Annual Landing Fee Based on Monthly Fee That DOT Determined Should Have Been Billed for December 2002	Average Number of Passengers Who Landed at City Ferry Landings	Annual Landing Fee Based on 50 Cents per Passenger	Difference (D-B)
New York Waterway	\$1,045,764 (\$87,147 x 12)	302,591	\$1,815,552 (\$151,296 x 12)	\$ 769,788
Sea Streak	\$ 90,120 (\$7,510 x 12)	73,762	\$ 442,572 (\$36,881 x 12)	\$ 352,452
Total	\$1,135,884		\$ 2,258,124	\$ 1,122,240

As is evident from Table II, if landing fees were increased to 50 cents per passenger, an estimated total of \$1.1 million dollars in additional revenue per year could be generated from these two private ferry operators. The estimate of total potential additional revenue would have been higher if the information was available for the other two private ferry operators.

When we brought the possibility of increasing the rate per landing to the Director of the DOT Office of Private Ferry Operations, he stated that DOT at one time had conducted a “ferry landing pricing policy study” and assessed the rate per landing. According to the Director, DOT recently resumed the study and is making calls to other areas to assess how ferries are run and whether landing fees are charged. DOT officials stated that their current priority is to renew Permits and License Agreements that have expired and then to consider increasing the landing fees. While we agree that it is a priority for DOT to renew its Permits and License Agreements, it should increase landing fees as part of the renewal process.

At the exit conference, DOT officials agreed that landing fees should be increased and are looking into the matter. They intend to increase the landing fees by the end of this year and expect to issue new License Agreements including these new rates by January 2004.

DOT Response: The report . . . estimate is based on charging the operators an annual landing fee of 50 cents per passenger using ridership statistics for 2002. It does not take into account that ridership has increased tremendously from post 9/11 due to the suspension of PATH service to lower Manhattan; a temporary condition. If landing fees are excessive, providers may pass along the increase to riders who in turn may seek alternative transportation.”

Auditor Comment: The intent of our survey was to show that DOT could generate more revenue by increasing landing fees. We estimated how much additional revenue DOT could earn if it were to charge private ferry operators using methods similar to those of the areas we surveyed. Our purpose was to have DOT consider the results of our survey or conduct its own survey when determining the amount of landing fees to charge private ferry operators.

Recommendations

DOT should:

5. Consider increasing its landing fees.

DOT Response: “The landing fee structure and rates will be evaluated and adjusted, as appropriate. DOT will evaluate different alternatives . . . and establish an equitable fee schedule during the next fiscal year.”

6. Consider the results of our survey or conduct its own survey when determining the amount of landing fees to charge private ferry operators.

DOT Response: “The survey results and other applicable industry practices will be considered when formulating the new fare structure.”

Private Ferry Operators Not Billed \$17,400 in Permit Fees

Permit fees are not collected from private ferry operators once their Permits have expired, which in some cases is almost two years ago. Permits are usually issued for one year for a fee of \$600 per route.

From the landing schedules for December 2002 obtained from operator Web sites, we determined that New York Waterway, Sea Streak, New York Fast Ferry, and New York Water Taxi operated approximately 15 different routes. Thus, New York Waterway, Sea Streak, and New York Fast Ferry should have been billed approximately a total of \$16,800 in permit fees (\$600 x 14 routes x 2 years expired) for almost two years’ worth of Permits. Moreover, New York Water Taxi was issued a Permit in September 2002 by DOT but was never billed the \$600 in permit fees for the one route that it operates.

Recommendations

DOT should:

7. Ensure that all private ferry operators are billed annually and accurately for permit fees.

DOT Response: “We agree.”

8. Recoup from the private ferry operators all unbilled permit fees.

DOT Response: “We agree and the bills will be issued by the end of Fiscal 2003.”

Private Ferry Operators Operate With Expired Permits and License Agreements

All of the private ferry operators are operating with Permits and License Agreements that expired from one month to more than three years ago. Moreover, after numerous attempts we still were never provided with the Permits for Sea Streak and New York Fast Ferry leading us to question whether they were ever issued.

Table III, following, details for all private ferry operators the length of time that their Permits and License Agreements had expired as of September 17, 2002, the date that we obtained the Permits and License Agreements.

TABLE III

Length of Time Permits and License Agreements Had Expired
As of September 17, 2002, by Private Ferry Operator

Private Ferry Operator	Number of Permits Issued by DOT and Provided to Us	Range of the Number of Months/Years Permits Had Expired	Number of License Agreements Issued by DOT And Provided to Us	Number of Months/Years License Agreements Had Expired
New York Waterway	10	14–24 months	1	19 months
Sea Streak	No Permits Provided to Us	No Permits Provided to Us	1	3 ½ years
New York Fast Ferry	No Permits Provided to Us	No Permits Provided to Us	1	3 years
New York Water Taxi	1	One Month	1	1 month

DOT officials stated that since the World Trade Center attack of September 11, 2001, they have not issued any Permits or License Agreements, which is the reason for expiration of Permits and License Agreements. We question whether the World Trade Center attacks had anything to do with DOT’s not renewing and updating the Permits and License Agreements since the attack occurred more than a year ago and since most of the Permits and License Agreements had expired

prior to the attack. For example, the License Agreements for Sea Streak and New York Fast Ferry had both expired in 1999.

DOT officials stated that they are aware that private ferry operators have new routes and additional landings. They intend to update the expired Permits and License Agreements to include the new routes and additional landings and to recoup the unbilled landing fees. However, they had set no specific date when the Permits and License Agreements would be updated and were not certain whether they could recoup the unbilled permit fees. DOT officials have indicated that in the future they intend to send out notices two months before the expiration dates of the Permits and License Agreements to remind private ferry operators about renewals.

DOT has not adequately monitored its private ferry operations. It has allowed private ferry operators to operate with expired Permits and License Agreements. As discussed earlier in the report, private ferry operators have been allowed to pay landing fees based on outdated landing schedules, which resulted in an estimated \$1.3 million in lost annual City revenue. In addition, as a result of Permits not being updated, DOT has failed to collect approximately \$17,400 in permit fees.

Recommendations

DOT should:

9. Ensure that all Permits and License Agreements are complete, updated, and renewed immediately upon their expiration dates.

DOT Response: “We agree and will ensure that all applicable Permits and License Agreements are complete, updated, and renewed on time.”

10. Immediately inform EDC in writing of any modifications to a private ferry operator’s landing schedule.

DOT Response: “We agree.”

Uncollected Security Deposits

DOT did not collect the security deposits from private ferry operators that are required by their License Agreements. § 1.36 of the License Agreement states:

“On or before the execution of the License, Licensee shall deposit a sum payable to Apple Industrial Development Corp . . . by certified check. The deposit shall be held by Apple without liability for interest thereon. The deposit shall be returned upon termination or revocation of the License provided that Licensor [DOT] has determined that Licensee has fully and faithfully complied with all of the terms and conditions of the License.

“If any charges . . . shall be overdue and unpaid . . . then Licensor may, at its option, . . . apply the deposit or as much thereof . . . as may be necessary to compensate . . . towards any loss.”

We asked EDC and DOT officials to provide us with a listing of all security deposits that have been paid by the private ferry operators as of September 2002. EDC and DOT officials stated, “We are not holding security deposits for private ferry operators right now,” but told us that the Bureau of Accountancy at the New York City Comptroller’s Office might hold them. We spoke with an official of the Bureau of Accountancy who stated that the Comptroller’s Office is not holding any security deposits for private ferry operators.

Our review of the License Agreements provided to us revealed that the private ferry operators should have paid approximately \$25,275 in security deposits. New York Fast Ferry was required to pay \$4,236; New York Water Taxi, \$1,000; Sea Streak \$9,678; and New York Waterway, \$10,361. DOT and EDC officials should ensure that security deposits are paid and held in case private ferry operators fail to comply with all of the terms and conditions of their License Agreements. In addition, if DOT increases landing fees, it should also increase the required security deposit amounts to ensure that the deposits are adequate.

Recommendations

DOT should:

11. Coordinate its efforts with EDC to ensure that security deposits are billed and collected for every private ferry operator.

DOT Response: “We agree.”

12. Consider increasing the required security deposit amounts to ensure that they are sufficient to cover any unpaid charges if landing fees are increased.

DOT Response: “DOT will evaluate the need to increase the security deposit amounts as part of the overall review of the fee structure. We agree that the security deposit should be sufficient to cover unpaid landing fees.”

Safety Concerns at City Ferry Landings

The gates leading to the ramps and barges of some of the City ferry landings remained open after the private ferries departed from their landings, a practice prohibited by § 1.22 of the License Agreement. This practice allows open access to the water and can put the public at risk of possible injury. According to the License Agreement:

“At the conclusion of the assigned landing slot [docking of a ferry] . . . Licensee shall be responsible for closing any gangways/ramps to the public. In the event Licensee is scheduled for the final landing slot of the day, or as

otherwise directed by Licensor, Licensee shall be responsible for closing and securing any gates and gangways/ramps. Licensee shall also be responsible for unlocking gangways, gates and ramps as directed by the Licensor.”

As part of the audit, we conducted several observations of various City ferry landings to determine whether they were properly maintained and safe. On August 27, 2002, and on September 26, 2002, we observed that the gates of the East 34th Street Pier remained open after Sea Streak ferries departed from their landings. Although there was a DOT sign posted that states, “Do not enter until directed by your ferry operator . . . failure to comply may result in fines and/or arrests,” there were members of the public on the ramps and barges near the open water. We observed the same conditions on October 3, 2002, at Pier A and Pier 11. At those two ferry landings, the gates remained open after New York Waterway ferries departed from the landings. At the East 62nd and the East 90th Street Piers, the gates were appropriately locked.

It is evident from our observations that the private ferry operators do not always adhere to § 1.22 of their License Agreements with DOT. In addition, by not closing landing gates at the conclusion of their landings, the private ferry operators can incur such problems as trespassing, littering, vandalism, loitering, and personal injury.

Accordingly, we issued a letter on November 7, 2002, and notified DOT officials of these safety conditions (see Appendix B). We received a written response from DOT officials on February 20, 2003, three months later (see Appendix C). In their response, DOT officials stated that immediately upon receipt of our letter, a meeting was arranged with all of the private ferry operators to discuss the responsibilities of the private ferry operators as stipulated in the License Agreements. In addition, DOT officials stated that they have issued notices to all private ferry operators regarding the securing of gates at City ferry landings. The notices indicated that the License Agreements of the private ferry operators would be revoked by DOT for failure to comply.

In addition to the concerns cited above, during another observation at the East 90th Street Pier, we found that the wooden decking of the waiting area was cracked, splintered, and deteriorating. It was evident that the East 90th Street Pier had not been renovated in quite some time. (See Appendix D for photographs of the conditions found at the East 90th Street Pier.)

During the exit conference, DOT officials informed us that on May 8, 2003, they sent an engineer to inspect the East 90th Street Pier. The engineer stated in a written report that although no significant tripping hazards were found in the waiting area, some physical conditions found (i.e., hollows in the pier deck caused by a deteriorated surface) were a concern and should be addressed. The engineer recommended that DOT consider replacing the deck planking. DOT officials informed us that funds for a renovation of the East 90th Street Pier have been allocated in its capital budget.

Recommendations

DOT should ensure that:

13. The private ferry operators comply with § 1.22 of their License Agreements. Specifically, DOT should ensure that the gates leading to the ramps and barges of all City ferry landings are locked at all times after the private ferries depart from the landings.

DOT Response: “We agree and the private ferry operators have been reminded verbally and in writing of their obligations. Additional keys to the locks on the landings have been distributed to the operators for their use.”

14. All City ferry landings are maintained in good physical condition, especially the areas accessible to the public (such as a waiting area), and should immediately request that EDC renovate the East 90th Street Pier.

DOT Response: “We agree and will ensure through periodic inspections that all City landings are maintained in good condition. The East 90th Street Pier is scheduled to be replaced with EDC letting construction contracts later this year.”

Questionable Expenditures

Our review of a sample of 30 EDC expenditures, totaling \$93,060, incurred during Fiscal Year 2002, identified 24 expenditures, totaling \$83,340 (89%), that either were not reasonable or not related to the maintenance of the City ferry landings.

According to the October 31, 1995, letter of agreement between DOT and EDC, the revenue collected from the landing fees is to be used by EDC to pay for the maintenance and repair of the City ferry landings. The details of the questionable expenditures are as follows:

- Seven expenditures, totaling \$40,284, were for payments to Top Job Maintenance for 1,934 hours of services at Pier 11. According to its contract with EDC, Top Job Maintenance is to provide janitorial and maintenance services. However, twelve expenditures from our sample, totaling \$18,996, were paid to another vendor, the Manhattan Bowery Corporation, for similar types of maintenance services at Pier 11. We question the reasonableness of EDC’s paying two different vendors for services that appear to be the same.

DOT Response: “We disagree with this observation. According to EDC, the contract between Apple and Top Job clearly defines the scope of work as maintenance and janitorial services for the interior ferry terminal and the area that extends within fifteen feet of the terminal perimeter. Manhattan Bowery Corporation’s work was limited to litter, waste, snow, and ice removal beyond fifteen feet of the terminal perimeter.”

Auditor Comment: The contract between Apple and Top Job Maintenance clearly defines the scope of work as maintenance and janitorial services for the interior ferry terminal and the area that extends within 15 feet of the terminal perimeter. However,

the contract between Manhattan Bowery Corporation and Apple does not define the scope of work as beyond 15 feet of the terminal perimeter. Therefore, we continue to question the reasonableness of EDC's paying two different vendors for services that appear to be the same. If Manhattan Bowery Corporation in fact provides work beyond 15 feet of the terminal perimeter, this should be clearly reflected in the contract.

Also, according to time records reviewed, workers at Top Job Maintenance were paid for working on weekends. However, the EDC contract specifically states that work is to be performed Monday through Friday.

DOT Response: "We also disagree with this observation. The appendix between Apple and Top Job states the work shall include all when and where needed janitorial/maintenance tasks requested by Apple. Due to the increased traffic post 9/11, DOT directed EDC . . . to expand the weekday service hours and add janitorial service on weekends."

Auditor Comment: If the increase in ferry traffic as a result of September 11, 2001, has caused a need for expansion of weekday service hours and an addition of weekend service hours, this should specifically be stated in the contract under the section, Work Schedule—which it is not.

- Three expenditures, totaling \$16,660, were payments to Spectaguard for security guard services at Pier 11. The expenditures were supported by invoices showing the hours worked and hourly rate; however, the invoices were not supported by time records showing the times each employee signed in and out and the total hours worked each day. As a result, we were unable to determine whether the hours billed were correct and reasonable. An EDC official stated that all invoices for janitorial and security guard services are to be supported by time records. She added, "Spectaguard must have forgotten to forward the time records to EDC."

During the exit conference, EDC officials explained that the time records were not maintained in the files at EDC because of lack of space. Subsequent to the exit conference, we were provided time records to support the invoices. However, we question whether the time records were genuine since they appeared altered, were illegible in some cases, and did not match the hours billed. For example, there was an arithmetic error on one of the time records that totaled 16 hours worked instead of 12 hours for one security guard. This same error appeared on each of his time records provided for the month of August, indicating to us that the information was photocopied repeatedly so as to represent time records for the entire month.

- Two expenditures, totaling \$7,400, were for payments to New York Waterway for round-trip van service for passengers with disabilities from the Yankee Stadium ferry landing parking lot to Yankee Stadium. According to a contract between New York Waterway and Apple Development Industrial Corporation, New York Waterway is to charge \$200 each day during the Yankee baseball season for being on stand-by and

\$400 each day whenever it transports disabled passengers, regardless of the number of passengers. These expenses do not appear to be related to the maintenance of the City ferry landings and should therefore not be paid from these revenues.

During the exit conference, DOT officials stated that they are aware of the contract between New York Waterway and Apple Development Industrial Corporation. They stated that the pathway from the pier to Yankee Stadium was not wheelchair-accessible. Therefore, the Corporation Counsel recommended, although not in writing, that a van service for passengers with disabilities be provided and funded by revenue collected from the landing fees.

Our review of expenditures incurred by the revenue collected from landing fees raises concerns over how this revenue is being spent. EDC and DOT should work together to ensure that landing fees are used only for their intended purpose and that the expenditures are reasonable. Also, any funds remaining, after payments of maintenance and EDC management fees, could be transferred into the City's General Fund.

Recommendations

DOT should coordinate its efforts with EDC to:

15. Ensure that revenue collected from landing fees is used for expenses that are reasonable and related to the maintenance and repairs of the City ferry landings.

DOT Response: "DOT will coordinate efforts to ensure that the revenue collected from the landing fees will . . . be used for the private ferry program."

16. Ensure that the payment files for janitorial and security services contain adequate documentation.

DOT Response: "We agree and will coordinate with EDC to ensure that all payment requests have appropriate documentation."

Departure and Landing Sites for Each Private Ferry Operator during December 2002

Private Operator	Ferry	Departure Site	City Landing Site
New Waterway	York	Manhattan East River Shuttle *	Pier 11 East 34 th Street East 90 th Street (weekdays)
		Hoboken/Harborside, NJ *	Pier A (weekends)
		Hunter's Point Ferry Terminal, Queens *	Pier 11 East 34 th Street (weekdays)
		Weehawken, NJ *	Pier 11 (weekdays)
		Colgate, NJ *	Pier 11 (weekdays)
		Liberty Harbor, NJ *	Pier 11 (weekdays)
		58 th Street and 1 st Avenue, Brooklyn *	Pier 11 (weekdays)
		Port Liberte, NJ *	Pier 11 (weekdays)
		Belford, NJ *	Pier 11 (weekdays)
		Harborside, NJ	Pier A (weekdays)
		Newport, NJ *	Pier A (weekdays)
		Newport/Harborside, NJ	Pier A (weekdays)
		Hoboken, NJ	Pier A Pier 11 (weekdays)
		* 10 Routes for New York Waterway	

Departure and Landing Sites for Each Private Ferry Operator during December 2002

Private Ferry Operator	Departure Site	City Landing Site
Sea Streak	South Amboy, NJ *	Pier 11 East 34 th Street (weekdays)
	AtlanticHighlands/ Highlands, NJ *	Pier 11 East 34 th Street (weekdays)
	Highlands, NJ	Pier 11 East 34 th Street (weekends)
* 2 Routes for Sea Streak		
New York Fast Ferry	Keypoint, NJ *	Pier 11 East 34 th Street (weekdays)
	Highlands, NJ *	Pier 11 East 34 th Street (weekdays)
* 2 Routes for New York Fast Ferry		
New York Water Taxi	Fulton Ferry Landing, Brooklyn *	Pier 11 Fulton Landing (weekdays)
	Fulton Ferry Landing, Brooklyn	Pier 11 Fulton Landing (weekends)
* 1 Route for New York Water Taxi		
* 15 Routes for all private ferry operators		



Greg Brooks
DEPUTY COMPTROLLER
POLICY, AUDITS, ACCOUNTANCY & CONTRACTS

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
EXECUTIVE OFFICES
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WILLIAM C. THOMPSON, JR.
COMPTROLLER

Appendix B
(Page 1 of 2)
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November 7, 2002

The Honorable Iris Weinshall, Commissioner
New York City Department of Transportation
40 Worth Street, Room 1007
New York, New York 10013

Dear Commissioner Weinshall:

The Comptroller's office is currently conducting an audit of the Department of Transportation's (DOT) monitoring of private ferry operators. As part of the audit, the auditors have conducted several observations of various City-owned ferry-landing sites to determine whether they are properly maintained and safe. During these observations, the auditors found that the gates leading to the ramps and barges of some of the ferry-landing sites remained open after the private ferries departed from their landings. This practice allows open access to the water and can put the public at risk of possible injury. I am bringing this to your attention now, before a draft report is issued, so that you can take immediate action.

On August 27, 2002, and on September 26, 2002, the auditors observed that the gates of the East 34th Street ferry-landing site remained open after ferries belonging to Seastreak (a private ferry operator) departed from their landings. Although there was a DOT sign posted that stated, "Do not enter until directed by your ferry operator . . . failure to comply may result in fines and/or arrests," there were members of the public on the ramps and barges near the open water. The auditors observed the same conditions on October 3, 2002, at Pier A (in Battery Park) and Pier 11 (near Wall Street). At those two sites, the gates remained open after ferries belonging to New York Waterway (another private ferry operator) departed from their landings. At the East 62nd and the East 90th Street ferry-landing sites, the gates were appropriately locked.

According to § 1.22 of DOT's "Landing Slot License Agreement for Ferry Services with Private Ferry Operators" (license agreement):

"At the conclusion of the assigned landing slot [docking of a ferry at a City-owned landing site at an assigned time] . . . Licensee [the private ferry operator] shall be responsible for closing any gangways/ramps to the public. In the event Licensee is scheduled for the final landing slot of the day, or as otherwise directed by Licensor [DOT], Licensee shall be responsible for closing and securing any gates and gangways/ramps. Licensee shall also be responsible for unlocking gangways, gates and ramps as directed by the Licensor."

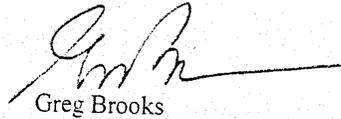
Iris Weinshall
November 7, 2002
Page 2

Appendix B
(Page 2 of 2)

It is evident from our observations that the private ferry operators do not always adhere to § 1.22 of their license agreements with DOT. In addition, by not closing the gates leading to the ferry-landing sites at the conclusion of their landings, the private ferry operators incur the possibility that such problems as trespassing, littering, vandalism, loitering, and personal injury can take place. DOT should ensure that the private ferry operators comply with § 1.22 of their license agreements. I urge you and your department to institute immediate action so that the conditions found by the auditors at these ferry-landing sites are corrected.

Please advise me concerning the actions you plan to take with regard to this matter.

Yours truly,



Greg Brooks

cc: Alan Olmsted, Executive Director of Private Ferry Department
Larry Price, Director of Audit Coordination
Roy Salvesen, Operations Manager
Gayle Horwitz, Comptroller's Office



**New York City
Department of Transportation**

Iris Weinshall, Commissioner

Passenger Transport Division
59 Maiden Lane, 35th floor
New York, New York 10038
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Appendix C
(Page 1 of 8)

February 20, 2003

Mr. Greg Brooks
Deputy Comptroller
The City of New York
Office of the Comptroller
Executive Offices
1 Centre Street
New York, NY 10007-2341

Dear Mr. Brooks:

Commissioner Weinshall has asked me to respond to your letter of November 7, 2002, regarding last year's Comptroller audit of the Department of Transportation's private ferry operations, which included observations at City-owned ferry landings. Your auditors observed four instances over three months in which gates were left open after the departure of operators' boats, in violation of their license agreements. This is an issue that DOT continues to monitor and we appreciate your sharing the audit's interim findings with us. In addition, please accept my apologies for the delay in responding to your request for follow-up information.

Immediately upon receiving your letter, DOT invited all the ferry operators that use City-owned ferry landings to a meeting to review and discuss ferry landing license responsibilities with a specific focus on gate procedures. The November 22, 2002 meeting was well attended. In addition, this month we issued the attached memorandum to the ferry operators reminding them again of their license responsibilities and ferry landing gate procedures.

Should you have any questions or require additional information on this matter, please contact me at 212.487.8300.

Sincerely,

Robert Grotell
Deputy Commissioner

Attachment



**New York City
Department of Transportation**

Iris Weinshall, Commissioner

**Passenger Transport Division
Private Ferry Operations**
59 Maiden Lane, 34th Floor
New York, New York 10038
Tel: 212/487-8380/81
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Appendix
(Page 20)

MEMORANDUM

To: William Bouffard, NY Waterway
John Koenig, New York Fast Ferry
David Stafford, Seastreak
Bruce Boyle, Liberty Water Taxi/Cumberland
Tom Fox, New York Water Taxi

From: Robert Grotell, Deputy Commissioner (RG)

Date: February 4, 2003

Re: Securing of gates at City Ferry Facilities

I am writing to remind all ferry operators using New York City docking facilities of their responsibility to close and secure gates. As you know from past reminders, DOT landing licenses clearly place this obligation on ferry operators. With the increased traffic at City facilities, we feel it is important to reiterate this requirement.

In particular:

1. All gates leading from the pier or bulkhead to the barges at Pier 11 and East 34th Street should be **closed** except when passenger are loading and unloading. Before the vessel leaves the dock, the gate(s) leading to the barge should be **locked** by a member of the crew unless either a) another vessel loading or unloading passengers is present on the same barge or b) your company has assigned personnel posted at the entrance to assure that no passenger enter the barge except when directed.
2. Except when passengers are loading and unloading, please close and keep closed all perimeter chains and gates around all barges, including Pier 11 E. 34th Street, and Pier A, as well as the perimeter of the E. 90th Street Pier.
3. The entrance to the E. 90th Street Pier should be kept closed and locked other than when a vessel or shoreside personnel are present.
4. Continually advise and educate your passengers that they are not to board a barge unit directed by a crew member or other authorized personnel.

Please be advised that failure to comply with these requirements may result in DOT revoking your license.

We will be supplying your company with additional keys for the standard lock that is used at these facilities. Please notify this office if you encounter any problems adhering to the above listed requirements, as we intend to monitor your compliance. Also, if you have any questions or comments, please do not hesitate to contact Ms. Deborah Siegal Baker of my staff at (212) 487-8377.

Visit DOT's Website at www.nyc.gov/call4dot
Got a transportation problem/question/complaint? Dial 212 or 718
TTY Deaf or Hearing-Impaired, Dial 212/442-9488

CALL DOT
*225-5368

Cracked, Splintered, and Deteriorating Wooden Decking of the Waiting Area
of the East 90th Street Pier





**New York City
Department of Transportation**

Iris Weinshall, Commissioner

Office of the Auditor General
51 Chambers Street, Room 420
New York, New York 10007
Tel.: (212) 788-8162
Fax: (212) 788-8159

Web: www.nyc.gov/dot

June 9, 2003

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

Re: MD03-064A

Dear Mr. Brooks:

This is in response to your draft "Audit Report on the Oversight of Private Ferry Operators by the Department of Transportation".

The draft report indicates that ferry operators have not been billed for scheduled landings resulting in an estimated \$1.3 million in lost annual City revenue. This needs to be revised to reflect that DOT has billed approximately \$1 million to cover all scheduled landings. This is the actual billings. The auditor's estimate in the report was overstated because it was not based on the correct application of the landing fee structure. The calculations used by the auditors counted every ferry landing while the fee structure specifies that an operator will be charged for the docking of the same vessel no more than once per hour at the same landing site. Contrary to the auditors' comments cited on page 11, all information concerning the number of vessels docking each hour was provided to the auditors.

The draft report states that the City is losing revenue by not increasing landing fees and that increased fees, as suggested by the auditors, could generate as much as \$1.1 million in additional revenue. The report correctly indicates that the fee structure has not changed but we believe the estimated additional revenue per year is greatly overstated. The estimate is based on charging the operators an annual landing fee of 50 cents per passenger using ridership statistics for 2002. This is unrealistic. It does not take into account that ridership has increased tremendously from post 9/11 due to the suspension of PATH service to lower Manhattan; a temporary condition. Additionally, NY Waterway, by far the largest operator, is currently entitled to land for free at the World Financial Center, a non DOT facility. Therefore, they have the ability to shift some service to avoid fees.

DOT intends to establish an updated fee structure and has already published this intention in The City Record. The landing fee structure and rates will be evaluated and adjusted, as appropriate. However, this is a complex issue which impacts on service, ridership, and the administrative demands. DOT encourages the use of public transportation. If landing fees are excessive, providers may pass along the increase to riders who in turn may seek alternate transportation. Additionally, the effect of the resumption of PATH service to lower Manhattan is not known at this time. DOT will evaluate different alternatives in light of the aforementioned and establish an equitable fee schedule during the next fiscal year.

The draft report states that there were \$83,340 in sampled expenditures that either were not reasonable or not related to the maintenance of the City ferry landings. Specifically, payments totaling \$18,996 were questioned because they were made to the Manhattan Bowery Corporation for services similar to those provided by Top Job Maintenance, a vendor used to provide janitorial and maintenance services. We disagree with this observation. According to EDC, the contract between Apple and Top Job clearly defines the scope of work as maintenance and janitorial services for the interior ferry terminal and the area that extends within fifteen feet of the terminal perimeter. Manhattan Bowery Corporation's work was limited to litter, waste, snow and ice removal beyond fifteen feet of the terminal perimeter.

The audit report also stated that according to time records reviewed, workers at Top Job Maintenance were paid for working weekends while the contract specifically states that work is to be performed Monday through Friday. We also disagree with this observation. The appendix of the contract between Apple and Top Job Maintenance states "The work shall include all "when and where" needed janitorial/maintenance tasks requested by Apple". Due to the increased traffic post 9/11, DOT directed EDC/Apple to expand the weekday service hours and add janitorial service on weekends.

There were two expenditures, totaling \$7,400, for van service at Yankee Stadium that were reported as questionable because they did not appear to be related to the maintenance of the ferry landings and therefore should not be paid from the associated revenue. We disagree with this conclusion. This van service is for ferry passengers with disabilities that attend Yankee games. The agreement with Apple provides that collections are to be applied to the cost of maintenance, expenses, repair and direct property management expenses which shall be based upon contract costs for service and supply providers. Apple and DOT considers the expenditures for providing the service to the disabled community as a necessary and reasonable service cost related to ferry operations.

The following are the recommendations included in the report and our comments:

- 1.) "DOT should coordinate with the Office of Management and Budget to consider whether the revenue associated with ferry License Agreements should be transferred into the City General Fund."

DOT's agreement with the New York City Economic Development Corporation (EDC) states that EDC will be responsible for billing and collecting revenue. Further, EDC is

responsible for using the revenues to fund the cost of maintaining the properties. Therefore, transferring the revenue into the General Fund is not a realistic alternative.

- 2.) "DOT should establish formal procedures to oversee and monitor private ferry operators."

We agree and the Private Ferry Operations unit is preparing formal written standard operating procedures. It is expected that this will be completed by September 2003.

- 3.) "DOT should coordinate its efforts with EDC to ensure that all private ferry operators are billed for all scheduled landings currently in effect."

We agree and the billing of landings fees will be coordinated with EDC.

- 4.) "DOT should coordinate its efforts with EDC to recoup all unbilled landing fees from the private ferry operators."

We agree and bills have already been sent to the operators.

- 5.) "Consider increasing its landing fees."

The landing fee structure and rates will be evaluated and adjusted, as appropriate. However, this is a complex issue which impacts on service, ridership, and the administrative demands. If landing fees are excessive, providers may pass along the increase to riders who in turn may seek alternate transportation. The effect of the resumption of PATH service to lower Manhattan is not known at this time. Additionally, establishing fee structure similar to other localities noted in the report may be administratively burdensome. DOT will evaluate different alternatives in light of the aforementioned and establish an equitable fee schedule during the next fiscal year.

- 6.) "Consider the results of our survey or conduct its own survey when determining the amount of landing fees to charge private ferry operators."

The survey results and other applicable industry practices will be considered when formulating the new fare structure.

- 7.) "Ensure that all private ferry operators are billed annually and accurately for permit fees."

We agree.

- 8.) "Recoup from each of the private ferry operators all unbilled permit fees."

We agree and the bills will be issued by the end of Fiscal 2003.

- 9.) "Ensure that all Permits and License Agreements are complete, updated, and renewed immediately upon their expiration dates."

We agree and will ensure that all applicable permits and license agreements are complete, updated and renewed on time.

- 10.) "Immediately inform EDC in writing of any modifications to a private ferry operator's landing schedule."

We agree.

- 11.) "DOT should coordinate its efforts with EDC to ensure that security deposits are billed and collected for each private ferry operator."

We agree.

- 12.) "Consider increasing the required security deposit amounts to ensure that they are sufficient to cover any unpaid charges if landing fees are increased."

DOT will evaluate the need to increase the security deposit amounts as part of the overall review of the fee structure. We agree that the security deposit should be sufficient to cover unpaid landing fees.

- 13.) "DOT should ensure that the private ferry operators comply with §1.22 of their License Agreements. Specifically, DOT should ensure that the gates leading to the ramps and barges of all City ferry landings are locked at all times after the private ferries depart from the landings."

We agree and the private ferry operators have been reminded verbally and in writing of their obligations. Additional keys to the locks on the landings have been distributed to the operators for their use.

- 14.) "DOT should ensure that all City ferry landings are maintained in good physical condition, especially the areas accessible to the public (such as a waiting area), and should immediately request that EDC renovate the East 90th Street Pier."

We agree and will ensure through periodic inspections that all City landings are maintained in good condition. The East 90th Street Pier was inspected by a professional engineer

Greg Brooks
June 9, 2003
Page 5

and the deck was found to be sound and there were no serious safety conditions. This pier is scheduled to be replaced with EDC letting construction contracts later this year.

- 15.) "DOT should coordinate its efforts with EDC to ensure that revenue collected from landing fees is used for expenses that are reasonable and related to the maintenance and repairs of the City ferry landings."

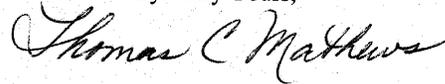
The responsibilities of EDC are not limited to the maintenance and repair of City ferry landings. DOT will coordinate efforts to ensure that the revenue collected from the landing fees will continue to be used for the private ferry program.

- 16.) "DOT should coordinate its efforts with EDC to ensure that the payment files for janitorial and security services contain adequate documentation."

We agree and will coordinate with EDC to ensure that all payment requests have appropriate documentation.

If you have any questions concerning this response, I can be reached at 212-788-8162.

Very Truly Yours,



Thomas C. Mathews
Auditor General

cc: Commissioner Iris Weinshall
F/D/C Judith Bergtraum
D/C Robert Grotell
Dir. Alan Olmsted
Larry Price
Christopher Malin (EDC)
George Davis (MOO)