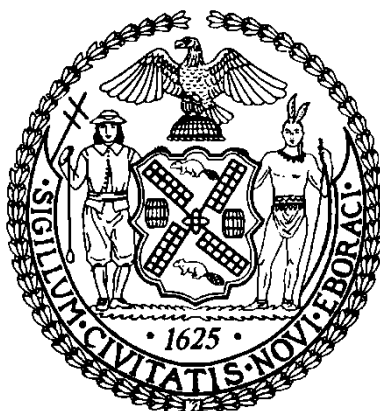


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

MANAGEMENT AUDIT

**Tina Kim
Deputy Comptroller for Audit**



**Audit Report on the
Department of Consumer Affairs’
Controls over Resolving
Consumer Complaints**

MG11-127A

June 13, 2012

<http://comptroller.nyc.gov>



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

John C. Liu
COMPTROLLER

June 13, 2012

To the Residents of the City of New York:

My office has audited the controls of the Department of Consumer Affairs (DCA) regarding its resolution of consumer complaints. We audit City entities such as this as a means of increasing accountability and ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

The audit found that DCA needs to strengthen its controls over its complaint resolution process. DCA does not have specific written procedures for supervisors to follow when reviewing the processing of complaints. In addition, one of the indicators reported in the Fiscal Year 2011 Mayor's Management Report (MMR) may be inaccurate. Furthermore, DCA does not currently measure customer satisfaction nor solicit any feedback from consumers to determine if they are satisfied with the mediation services provided by DCA.

To address these issues, the audit recommended that DCA: develop written standards specifically governing the supervisory review process; ensure that the critical indicator in the MMR pertaining to consumer satisfaction is reported accurately; and solicit feedback from consumers about their satisfaction with the complaint mediation services provided by DCA.

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

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

Sincerely,

A handwritten signature in blue ink that reads "John C. Liu".

John C. Liu

Table of Contents

AUDIT REPORT IN BRIEF	1
Audit Findings and Conclusions.....	1
Audit Recommendations.....	2
Agency Response.....	2
INTRODUCTION.....	3
Background.....	3
Objective.....	3
Scope and Methodology Statement	4
Discussion of Audit Results.....	4
FINDINGS AND RECOMMENDATIONS	5
Weaknesses in DCA Complaint Processing Procedures	5
Inadequate Controls over the Supervisory Review Process.....	6
Site Inspections Not Consistently Requested	6
Inadequate Attempts to Contact Unresponsive Businesses and Consumers	7
Recommendations	7
Other Issues.....	8
Performance Measure Reported in MMR May be Inaccurate	8
Customer Satisfaction Not Measured	10
Recommendations.....	10
DETAILED SCOPE AND METHODOLOGY.....	12
ADDENDUM Department of Consumer Affairs Response	

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

**Audit Report on the Department of Consumer Affairs’
Controls over Resolving Consumer Complaints**

MG11-127A

AUDIT REPORT IN BRIEF

The Department of Consumer Affairs (DCA) is responsible for ensuring that New York City’s consumers and businesses benefit from a fair and vibrant marketplace. DCA achieves this mission through resolving and mediating consumer complaints, licensing 55 industries, and enforcing the City’s landmark Consumer Protection Law and other related City and State laws. One of DCA’s critical objectives is to expedite the resolution of complaints made by consumers against businesses operating in the City. Consumer complaints are handled by DCA’s Consumer Services Division.

According to DCA officials, DCA closed 4,695 complaints during Fiscal Year 2011. This included 281 complaints that were opened during the previous year. According to information reported in the Fiscal Year 2011 Mayor’s Management Report (MMR), DCA opened 4,580 consumer complaint cases during that year (of which 160 remained open in the following year). DCA also reported in the Fiscal Year 2011 MMR that the median processing time for complaints was 15 days and that 56 percent of the complaints were resolved to the satisfaction of businesses and consumers.

Audit Findings and Conclusions

Our review found that DCA needs to strengthen its controls over the complaint resolution process. DCA has established adequate procedures that govern a large portion of the resolution process, and with some exceptions, DCA followed them. However, DCA does not have specific written procedures for supervisors to follow when reviewing the processing of complaints. In the absence of minimum standards that supervisors must follow when overseeing mediators’ handling of complaints, there is an increased risk that mediators may not process complaints properly. As such, DCA may not always be able to identify businesses that participate in unfair business practices, violate consumer protection laws, or conduct unlicensed activities.

We also found that one of the indicators reported in the Fiscal Year 2011 MMR — Complaints Resolved to the Satisfaction of the Business and Consumer — may be inaccurate because DCA’s supervisors do not review the complaints to determine whether the codes are assigned accurately by the mediators, or if, in fact, an agreement was ever reached. In addition,

DCA does not measure customer satisfaction nor solicit any feedback from consumers to determine if they are satisfied with the mediation services provided by DCA.

Audit Recommendations

To address these issues, we recommend that DCA should:

- Develop written policies and procedures pertaining to the performance and documentation of supervisory reviews of the complaint files.
- Ensure that mediators recommend site inspections when appropriate and that they make all required attempts to contact unresponsive businesses and consumers.
- Ensure that the critical indicators in the MMR are reported accurately by verifying that all complaints closed with consumer-satisfied codes have a mutual agreement between the consumer and the business.
- Solicit feedback from consumers about their satisfaction with the complaint mediation service provided by DCA.

Agency Response

DCA officials agreed to implement three of the four recommendations in the report, but did not clearly address the recommendation pertaining to developing written policies and procedures for the performance and documentation of supervisory reviews.

INTRODUCTION

Background

DCA is responsible for ensuring that New York City's consumers and businesses benefit from a fair and vibrant marketplace. DCA achieves this mission through resolving and mediating consumer complaints, licensing 55 industries, and enforcing the City's landmark Consumer Protection Law and other related City and State laws. DCA also educates New Yorkers about their rights as consumers and responsibilities as businesses, conducts site inspections of businesses, and litigates against those businesses that break the rules.

One of DCA's critical objectives, as listed in the Fiscal Year 2011 MMR, is to expedite the resolution of complaints made by consumers against businesses operating in the City. Consumer complaints are handled by DCA's Consumer Services Division. Supervisors from this division review complaints that are received through multiple channels (NYC's 3-1-1 non-emergency information line, e-mails, regular mail, in person, and fax) and determine whether the consumer submitted adequate supporting documents to mediate the case¹. For complaints received without adequate supporting documentation, DCA sends all documents received back to the consumer along with a request for additional information.

Once DCA receives supporting documentation from a consumer, it assigns a docket number, opens a complaint file, and enters the complaint into its computer database. DCA tracks only docketed complaints. It is from this point onward that DCA assigns staff to mediate between the consumer and the business. DCA staff cannot force a business to compensate a consumer. Instead, in an effort to resolve the complaint, staff is required to contact and communicate with both parties. In certain instances, such as with unlicensed or unresponsive businesses, DCA mediators are also obligated to request site inspections by the agency's enforcement unit. All action taken by DCA is required to be documented within the complaint file.

According to DCA officials, DCA closed 4,695 complaints during Fiscal Year 2011. This included 281 complaints that were opened during the previous year. According to information reported in the Fiscal Year 2011 MMR, DCA opened 4,580 consumer complaint cases during that year (of which 160 remained open in the following year). DCA also reported in the Fiscal Year 2011 MMR that the median processing time for complaints was 15 days and that 56 percent of the complaints were resolved to the satisfaction of businesses and consumers.

Objective

The objective of this audit was to determine whether DCA has established adequate controls over the complaint resolution process.

¹ Supporting documents can include, but are not limited to, the following: completed DCA complaint form, receipt/bill of sale, contract, warranty, canceled check, credit card receipt, judgment letter, etc.

² DCA's procedure manual states that site inspections are not required for complaints involving issues

Scope and Methodology Statement

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

The scope of this audit was Fiscal Year 2011. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with DCA officials during and at the conclusion of this audit. A preliminary draft report was sent to DCA officials and discussed at an exit conference on April 17, 2012. We submitted a draft report to DCA officials with a request for comments on May 8, 2012. We received a written response from DCA officials on May 22, 2012. In their response, DCA officials agreed to implement three of the four recommendations in the report, but did not clearly address the recommendation pertaining to developing written policies and procedures for the performance and documentation of supervisory reviews.

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

FINDINGS AND RECOMMENDATIONS

DCA needs to strengthen its controls over the complaint resolution process. DCA has established adequate procedures that govern a large portion of the resolution process and the audit found that, with some exceptions, DCA followed them. However, DCA has not developed formal procedures that govern supervisory review of mediators' processing of complaints. This has led to inconsistencies in the way complaints are processed. Specifically, in contrast to its written policies and procedures, DCA did not request site inspections in 73 percent of the required instances (83 out of 114) and did not contact 6 percent of the non-responsive businesses and 6 percent of the non-responsive consumers (11 out of 193 and six out of 106, respectively).

DCA has written procedures for handling complaints, which include the process for receiving, opening, mediating, and closing complaints. Mediators generally followed DCA's procedures in that electronic record and physical complaint files adequately documented the mediation process for each complaint; mediator notes were detailed and included the nature and dates of the actions taken; and supporting documents were present in the complaint files. In addition, within days after receipt of 3-1-1 complaints, DCA requested supporting documents from consumers so that their complaints could be mediated. Additionally, during Fiscal Year 2011, DCA was able to close most of the complaints within its established time guidelines.

However, DCA does not have specific written procedures for supervisors to follow when reviewing the processing of complaints. In the absence of minimum standards that supervisors must follow when overseeing mediators' handling of complaints, there is an increased risk that mediators may not process complaints properly. In fact, we found inconsistencies and errors in the sampled cases reviewed. As such, DCA may not always be able to identify businesses that participate in unfair business practices, violate consumer protection laws, or conduct unlicensed activities.

The audit also found that one of the indicators reported in the Fiscal Year 2011 MMR — Complaints Resolved to the Satisfaction of the Business and Consumer — may be inaccurate because DCA's supervisors do not review the complaints to determine whether the close-out codes are assigned accurately by the mediators, or if, in fact, an agreement was ever reached. In addition, DCA does not measure customer satisfaction nor solicit any feedback from consumers to determine if they are satisfied with the mediation services provided by DCA.

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

Weaknesses in DCA Complaint Processing Procedures

DCA does not have written procedures relating specifically to supervisory oversight for complaint processing. We believe that this played a role in DCA's failure to ensure that its procedures regarding requests for site inspections and attempts to contact unresponsive businesses and consumers were consistently followed. These deficiencies increase the risk that complaints may not be processed properly and consumers will not be able to have their complaints resolved.

Inadequate Controls over the Supervisory Review Process

DCA has not established controls to ensure that complaints are reviewed by supervisors in a consistent manner. As part of its complaint resolution process, DCA officials initially stated that supervisors are required to review all complaint files after the complaints are closed. They later told us that supervisors are required to review only those complaints where a satisfactory agreement was not reached and an unsatisfactory close-out code was used. DCA officials explained that the purpose of this review is to ensure that the complaints, especially those coded as unsatisfactory, were processed accurately and in accordance with DCA's policies and procedures. However, DCA's written policies and procedures do not refer to any type of supervisory reviews regardless of the close-out code used. The fact that we were provided with inconsistent policies indicates the need for DCA to update its written guidelines and disseminate them to staff to ensure that all supervisors are aware of their responsibilities and DCA requirements.

Moreover, DCA has no requirement that the supervisors document their review. Our analysis of the 100 sampled complaint files showed that only 29 (64 percent) of the 45 complaints closed with an unsatisfactory code had evidence of supervisory review. At the same time, despite DCA's claim that complaints with satisfactory codes are not required to be reviewed, 36 (65 percent) of the 55 complaints closed with a satisfactory code had evidence of supervisory review. In addition, DCA has not specified in its written policies and procedures what the supervisory review should entail and has not created a checklist or outline for supervisors to use as guidance for their reviews. Instead, the review process is left to the discretion of each supervisor.

Supervisory reviews are an integral part of an internal control structure whereby management can ensure that goals and objectives are achieved and that personnel understand their responsibilities and obtain feedback about their performance. We acknowledge that complaint mediation is not an exact science and must be carried out on a case-by-case basis. However, by not having written standards for supervisors to follow in performing their reviews, DCA has increased the risk that complaints may not be processed in accordance with the agency's policies and procedures and mediators' errors may not be detected as indicated in the following sections.

Site Inspections Not Consistently Requested

According to DCA's policies and procedures, if a business does not respond to attempted contacts and inquiries from the agency, the mediator is required, at the time that the complaints are closed, to refer the case to DCA's Enforcement Unit for inspection. Site inspections are an important tool in enforcing consumer laws and protecting the public from unfair business practices. During Fiscal Year 2011, DCA closed 193 complaints due to unresponsive businesses. Based on DCA's stated procedures, mediators should have requested site inspections for 114 of them. The remaining 79 did not require inspections according to DCA's procedures². However, only 31 (27 percent) of the 114 inspections were requested.

² DCA's procedure manual states that site inspections are not required for complaints involving issues pertaining to home improvement contractors/salesmen, debt collection agencies, and employment agencies.

In February 2012, DCA officials acknowledged that site inspections should have been requested for 11 of these 83 complaints and attributed the lack of inspection requests to oversight errors. Supervisory reviews in each of these 11 complaints failed to detect that mediators did not request the required inspections. Since that time, DCA staff conducted site inspections for nine of the 11 complaints.

DCA officials offered various explanations based upon their unwritten internal practices as to why the remaining 72 complaints did not require site inspections, such as the involved business being a travel agency or a mail order company. However, none of the exceptions that DCA verbally provided to us are specified in the agency's written policies and procedures. In the absence of more detailed written procedures, we were not able to evaluate the validity of DCA's explanations. Moreover, we question how staff would be expected to determine under what circumstances a site inspection should be requested.

Inadequate Attempts to Contact Unresponsive Businesses and Consumers

Prior to closing a complaint due to a non-responsive business or consumer, a mediator must contact the non-responsive business at least two times or the non-responsive consumer at least three times. Our review identified a number of instances in which this step was not followed. Of the 193 complaints closed as "No Vendor Response," mediators did not make the required two attempts in 11 (6 percent) of the complaints. Additionally, of the 106 complaints closed as "No Consumer Response," mediators did not make the required three attempts in six (6 percent) of the complaints. Mediators did not provide explanations in the case files as to why they did not make the required attempts to contact the parties. As such, there is a possibility that mediators may have closed these cases prematurely and might have been able to successfully mediate these complaints had they made all the required attempts to contact the consumer or business. Moreover, as was the case with the site inspections, we found that supervisory reviews failed to detect that mediators did not make the required attempts to contact the parties. Of the 11 complaints with unresponsive businesses and six complaints with unresponsive consumers, the files have evidence that supervisory reviews were conducted for seven (64 percent) and five (83 percent) of them, respectively. However, there was no indication in the case files that the supervisors questioned the mediators for not making all the required attempts to contact the respective parties.

Recommendations

DCA should:

1. Develop written policies and procedures pertaining to the performance and documentation of supervisory reviews of the complaint files.

DCA Response: "DCA currently has policies and procedures in place to provide guidance to mediators on the appropriate steps to take when conducting mediation, and to ensure that the mediation process is completed in accordance with consistent and established standards. These existing written policies and procedures are in place not only to guide line staff, but also for the exact purpose of supervisory review. As such,

while additional formal written policies would be redundant, moving forward DCA will take steps to ensure that supervisory reviews of adherence to existing written policies and procedures are conducted and documented in a more formal and consistent manner.”

Auditor Comment: DCA does not clearly address this recommendation. While DCA is correct in its assertion that it has established written policies and procedures to provide guidance to its mediators, it has *not* established written procedures relating specifically to supervisory oversight for processing complaints. As noted in the report, during the course of several meetings, DCA presented us with inconsistent statements pertaining to when supervisory reviews are required. Additionally, DCA has not identified the specific issues of what those reviews should entail. DCA’s claim that it would be redundant to develop additional written policies would only be valid if written policies and procedures pertaining to supervisory reviews were already in existence. It is commendable that DCA intends to take the necessary steps in ensuring that supervisory reviews “are conducted and documented in a more formal and consistent manner.” However, DCA should also develop written procedures clearly guiding the conduct of these supervisory reviews. Accordingly, we reaffirm this recommendation.

2. Ensure that mediators recommend site inspections when appropriate and that they make all required attempts to contact unresponsive businesses and consumers.

DCA Response: “DCA will review the procedures for completeness and take additional steps to more closely monitor the requesting of site inspections by mediators. ... It is, of course, in everyone’s interest in a mediation effort to make contact with the business about which a complaint has been filed if possible. Moving forward, DCA will take additional steps to monitor more closely these cases to ensure that mediators are adhering to the established standards.”

Other Issues

Performance Measure Reported in MMR May be Inaccurate

Critical indicators are agency performance measures reported in the MMR to assure accountability in City government operations³. One of DCA’s critical indicators is “Complaints Resolved to the Satisfaction of the Business and Consumer.” According to the indicator definitions reported on the Mayor’s Office of Operations website, DCA defines this indicator as the “percent of complaints resolved in mediation where the business and consumer mutually agree upon the outcome.”

To ascertain whether there is a mutual agreement between a consumer and a business, DCA relies on the disposition code used by mediators when a case is closed out. If the mediator decides an agreement was reached, the mediator enters a code that reflects a mutual agreement. However, there is no way to determine whether both parties agreed on the outcome because no

³ As mandated by Chapter 1, §12 of the City Charter, the Mayor reports to the public and the City Council on the performance of City agencies in delivering services.

information is solicited from either the consumer or the business at the conclusion of mediation. Furthermore, as indicated earlier, complaints closed using consumer-satisfied codes are not required to be reviewed by a supervisor. As such, DCA would have no way to ascertain if those complaints supposedly closed as a result of a mutual agreement were, in fact, accurately coded.

Of the 30 “close-out” codes used by DCA, the agency has designated 10 of them to signify that the resolution was mutually satisfactory:

- Agency Collected Judgment
- Bill Reduced
- Cash Refund
- Credit Card Refund
- Goods Received
- Goods Exchanged
- Goods Repaired
- Resolved/Consumer Satisfied
- Settlement
- Store Credit

In the Fiscal Year 2011 MMR, DCA reported that out of 4,339 complaints⁴ resolved that year, 2,410 (56 percent) were resolved to the satisfaction of the consumer and business. Our review of the 89 cases that were supposedly resolved to the consumers’ and businesses’ satisfaction during the two-week period from July 26 to August 6, 2010, identified six cases (7 percent) in which the mediators’ notes did not indicate that a mutual agreement between the consumer and the business was reached. As a result, DCA’s reporting of this critical indicator in the MMR may also be inaccurate. Examples of such complaints are as follows:

- In a case involving a breach of contract, the consumer requested that the vendor repair an appliance under warranty. DCA closed this case after the mediator left a message for the consumer to call a customer service number. There was no indication that the case was resolved.
- In a case involving a \$395 billing dispute with a locksmith, DCA asked the vendor to send a copy of the sales receipt. The consumer wanted the receipt to be able to take the vendor to court. Despite the fact that the vendor never produced the receipt, the case was closed.
- In a case involving a credit card company that failed to honor its no-interest loan promotion, DCA referred the consumer to the New York State Department of Banking and closed the case using one of the consumer-satisfied codes rather than the more appropriate Referred to Outside code.

⁴ In calculating satisfaction measures, DCA included only 4,339 of the 4,695 complaints closed during Fiscal Year 2011. DCA removed 356 complaints that were closed with the following codes: No Consumer Response, Complaint Invalid, Wrong Vendor/Voided, Consumer Withdrew Complaint, Referred to Manufacturer, Duplicate Docket, and Unable to Locate Consumer.

- In a case involving a consumer receiving \$230 of credit from a furniture store for defective merchandise, the store initially refused to honor the credit and then raised prices on items when the consumer tried to use it. DCA closed the case using a consumer-satisfied code even though there was no indication that the consumer was able to use the credit.

In each of the above complaints, DCA assigned a consumer-satisfied code when there was no evidence to indicate that the consumers had reached an agreement with the businesses on the outcomes of the cases. As a result, DCA's reporting of this critical indicator in the MMR may be inaccurate.

Customer Satisfaction Not Measured

Contrary to best practices for customer-related service, DCA does not solicit *any* input from consumers about their satisfaction with the complaint mediation service provided by DCA. As an agency that provides a service to the public, gathering feedback from consumers can help DCA identify satisfaction levels, expectations, and key shortcomings of the services provided. In fact, we found other Consumer Affairs departments nationwide that did have customer satisfaction surveys, including one web-based survey that specifically focused on complaint mediation services. Without soliciting feedback from consumers, it is difficult to determine their satisfaction with the services provided.

DCA officials stated that they viewed the consumers receiving services from DCA as ambassadors for the agency and the services it provides. As such, DCA would benefit from soliciting feedback from those who used its mediation services because it would allow DCA to identify the strengths and weaknesses of its current services and improve the assistance it provides to consumers.

Recommendations

DCA should:

3. Ensure that the critical indicators in the MMR are reported accurately by verifying that all complaints closed with consumer-satisfied codes have a mutual agreement between the consumer and the business.

DCA Response: "DCA mediates thousands of consumer complaints each year, and appreciates that you have identified 6 cases where the outcome of a mediation was unclear from the mediator's notes. Clearly these cases were the exception, rather than the rule, and DCA will institute appropriate measures going forward to ensure that even rare cases such as these are minimized through close supervision."

Auditor Comment: While we appreciate that DCA will be taking measures to improve the accuracy of its critical indicator, we would like to note that the six cases identified in the report come from a sample of only 89 cases, not thousands as implied by DCA. If our sample size were greater, it is likely that we would have identified additional complaints in which a consumer-satisfied designation was not corroborated by mediators' notes.

4. Solicit feedback from consumers about their satisfaction with the complaint mediation service provided by DCA.

DCA Response: "DCA agrees that subjective surveys, which we have conducted in the past, also offer customers a more subjective opportunity to evaluate their mediation experience and will research conducting another such survey in the coming months."

DETAILED SCOPE AND METHODOLOGY

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

The scope of this audit was Fiscal Year 2011.

To accomplish our objective and to obtain an understanding of DCA's controls over its complaint handling processes, we conducted walk-through meetings with the Director of Consumer Services, Deputy Director of Consumer Services, Assistant Director of Mediation, and Assistant Director of Intake. To gain an understanding of the Consumer Affairs Management Information System (CAMIS), the computer system used to handle complaints, we met with the Assistant Commissioner of Information Technology.

To gain a better understanding of how complaints are handled, we conducted observations of the entire process, including the receipt of mail; the reading and categorization of complaints; the establishment of complaint files in CAMIS; and the assignment of complaints to mediators. We also reviewed complaint-related statistics reported in the Fiscal Year 2011 MMR. To assess the adequacy of DCA's internal controls as they relate to our audit objective, we reviewed DCA's policies and procedures and flowcharted its complaint process.

To determine the total number of complaints mediated by DCA during Fiscal Year 2011, we reviewed the electronic database that was extracted from CAMIS pertaining to 4,580 complaints opened during the period⁵. We sorted the consumer contact information for the entire database of complaints by consumer name and by telephone number to determine whether the complaints contained consumer contact information⁶, were processed only on behalf of consumers, or were duplicates. However, DCA does not record the number of complaints received or the various channels through which the complaints were received (NYC's 3-1-1 non-emergency information line, emails, regular mail, in person, and fax). In addition, DCA does not record the number of complaints not docketed as a result of insufficient evidence or those that were referred to other agencies. As such, neither we nor DCA were able to ascertain the total number of complaints received by DCA during Fiscal Year 2011. While we were able to identify that DCA accepted and agreed to mediate 4,580 complaints during Fiscal Year 2011,

⁵ We reviewed the following information: complaint type and docket number; dates complaint was opened, assigned to mediator, and closed; method used to resolve complaint; mediator's notes; type of business; and consumer contact information.

⁶ In cases of missing phone numbers, we determined whether DCA had at least one method of contacting the consumer.

according to the City's 3-1-1 call center, DCA received 11,714 complaint-related service requests⁷. Due to the lack of data maintained by DCA, we were unable to determine whether these complaints were appropriately not docketed or how many of these complaints, if any, were included in the 4,580 complaints mediated by DCA.

To test the reliability of the information received, we sorted the database and ensured that the complaint numbers were in sequential order. We then reviewed the database and determined whether valid information had been entered in the fields. To test for accuracy, we randomly selected 50 complaints from CAMIS and compared the electronic records to hardcopy documents maintained in DCA's physical complaint files. To test for completeness, we judgmentally selected an additional 50 physical complaint files and compared the supporting hardcopy documents to the electronic records in CAMIS.

We then reviewed these 100 complaints to determine whether DCA processed complaints according to its policies and procedures. We determined whether: required mediation steps were taken and documented in a timely manner; copies of key documents, including correspondence among DCA, the vendor, and the consumer was maintained in the hardcopy complaint file; and proper codes were assigned in relation to the business type, the complaint type, and the manner in which the complaint was resolved (or closed out). We also determined whether there was evidence of an adequate supervisory review of the handling of the complaint.

We also reviewed the entire database of 4,580 complaints for Fiscal Year 2011 to determine whether DCA processed complaints in accordance with its policies and procedures. Specifically, we determined whether at least three attempts to contact the consumer were made for the complaints closed under the code of "No Consumer Response." In addition, we determined whether at least two attempts to contact the vendor were made and whether mediators had sent a request for inspection to DCA's enforcement division for complaints closed as "No Vendor Response." We also determined whether complaints were closed within DCA's time guidelines and, if not, whether there were valid explanations in the mediators' notes.

To test for the accuracy of critical indicators reported in the MMR, we sorted the database of 4,580 complaints opened in Fiscal Year 2011 and calculated the median processing time for complaints. Then, based upon a listing of 2,410 complaints that DCA categorized as having been resolved to the satisfaction of the consumers and businesses, we calculated the percentage of the complaints that was so resolved. To determine whether there was sufficient evidence in the files to support the categorization that agreements were reached, we judgmentally selected a two-week period from July 26, 2010, to August 6, 2010, which included 89 cases supposedly resolved to the satisfaction of the consumers and businesses, and reviewed the mediator notes in each electronic complaint file.

⁷ Complaint-related service requests include the following categories: Billing and Contract Disputes; Damaged/Defective Goods and Parts; Debt Not Owed; Exchange/Refund/Return; False Advertising; Non-Delivery of Goods/Services; and Overcharges.

Jonathan Mintz
Commissioner

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May 22, 2012

Tina Kim
Deputy Comptroller for Audit
NYC Office of the Comptroller
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New York, NY 10007

Dear Ms. Kim,

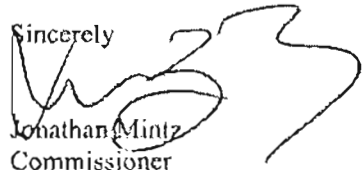
The Department of Consumer Affairs (DCA) is grateful for the opportunity to respond to the May 8, 2012 *Draft Audit Report on the Department of Consumer Affairs' Controls over Resolving Consumer Complaints – MG11-127A*.

DCA appreciates your office's thorough review of our Consumer Services division's complaint mediation procedures and is pleased that this audit has validated that these procedures are largely followed in a consistent and customer-focused manner. As the audit acknowledges, complaint mediation is an inherently unpredictable and ever-changing practice, given that it is a process by which consumers and businesses are guided toward voluntary, mutually agreeable solutions. DCA continues to strive to provide the highest possible level of service to the city.

Overall, we generally agree with most of the recommendations put forward in this audit, and have begun working to implement the improvements that will be most beneficial to the day-to-day operations of our agency. Please refer to our responses to each of the individual recommendations for more specific information.

Finally, we commend your staff on their courtesy and professionalism in the performance of this audit. If you have any questions or need further information, please contact Elizabeth Leath, Deputy Chief of Staff, at (212) 487-9687.

Sincerely


Jonathan Mintz
Commissioner

Cc: George Davis III, MOO
Alba Pico, DCA
George Pape, DCA
Elizabeth Leath, DCA

**Response to Draft Audit on the Department of Consumer Affairs' Controls Over Resolving
Consumer Complaints
MG11-127A
May 22, 2012**

Recommendation #1: Develop written policies and procedures pertaining to the performance and documentation of supervisory reviews of the complaint files.

DCA Response: As is noted in the audit, DCA currently has policies and procedures in place to provide guidance to mediators on the appropriate steps to take when conducting mediation, and to ensure that the mediation process is completed in accordance with consistent and established standards. These existing written policies and procedures are in place not only to guide line staff, but also for the exact purpose of supervisory review. As such, while additional formal written policies would be redundant, moving forward DCA will take steps to ensure that supervisory reviews of adherence to existing written policies and procedures are conducted and documented in a more formal and consistent manner.

Recommendation #2: Ensure that mediators recommend site inspections when appropriate and that they make all required attempts to contact unresponsive businesses and consumers.

DCA Response: DCA has longstanding detailed policies with respect to providing mediators with clear guidance for the most frequently encountered situations. Mediators are instructed to follow the site inspection policies provided in the division's detailed policies and procedures manual, and in instances where the need for a site inspection is unclear, to request additional guidance from their supervisors. DCA will review the procedures for completeness and take additional steps to more closely monitor the requesting of site inspections by mediators.

Additionally, DCA has always held its mediators to a high standard of customer service by developing internal policies requiring mediators to make multiple contact attempts to obtain a response from consumers and businesses. It is, of course, in everyone's interest in a mediation effort to make contact with the business about which a complaint has been filed if possible. Moving forward, DCA will take additional steps to monitor more closely these cases to ensure that mediators are adhering to the established standards.

Recommendation #3: Ensure that the critical indicators in the MMR are reported accurately by verifying that all complaints closed with consumer-satisfied codes have a mutual agreement between the consumer and the business.

DCA Response: DCA has always taken the utmost care in the way information is reported in the MMR. DCA mediates thousands of consumer complaints each year, and appreciates that you have identified 6 cases where the outcome of a mediation was unclear from the mediator's notes. Clearly these cases were the exception, rather than the rule, and DCA will institute appropriate measures going forward to ensure that even rare cases such as these are minimized through close supervision.



Recommendation # 4: Solicit feedback from consumers about their satisfaction with the complaint mediation service provided by DCA.

DCA Response: While DCA regularly solicits feedback from its business and consumer customers through multiple online and in-person opportunities, the Department holds itself to the higher standard on mediation satisfaction by factually objective measurements reported on the MMR, including the total percentage of cases where a mutually-accepted agreement between both parties has been reached through our public mediation services. DCA agrees that subjective surveys, which we have conducted in the past, also offer customers a more subjective opportunity to evaluate their mediation experience and will research conducting another such survey in the coming months.