



City of New York

OFFICE OF THE COMPTROLLER

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MANAGEMENT AUDIT

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Deputy Comptroller for Audit

Audit Report on the Department of
Transportation's Controls over
Payments to Consultants

MD12-121A

June 4, 2013

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
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John C. Liu
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June 4, 2013

To the Residents of the City of New York:

My office has audited the Department of Transportation's (DOT) controls over payments made to consultants to ensure that they are adequately supported. We audit City agencies such as this as a means of ensuring agency compliance with regulations and accountability for resources.

The audit found that DOT had reasonable controls in place to ensure that payments for consultants' time were adequately supported with the exception regarding payments made to one of the sampled consultants. The audit determined that additional controls should be implemented to provide additional assurance that the hours billed by consultants (specifically those working in the City and surrounding areas) were the actual hours worked.

The audit makes six recommendations, including that DOT should: ensure that consultants submit all supporting documentation required by their contracts; review consultant contracts that are reimbursed for E-ZPass charges to ensure that E-ZPass charges and work hours are not billed for time not worked; and compare the timesheets and E-ZPass statements cited in the report to determine whether money should be recouped.

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

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

Sincerely,

A handwritten signature in blue ink that reads "JCL".

John C. Liu

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

Audit Report on the Department of Transportation's Controls Over Payments to Consultants

MD12-121A

AUDIT REPORT IN BRIEF

The audit determined whether the Department of Transportation (DOT) had reasonable controls in place to ensure that payments for consultants' time were adequately supported. In Fiscal Years 2010 and 2011, DOT registered 26 consultant contracts totaling \$105,208,529 with the New York City Comptroller's Office¹. During the period from July 1, 2009, through June 30, 2011, DOT made 80 payments totaling \$7,503,562 on eight of these contracts.

Audit Findings and Conclusion

DOT had reasonable controls in place to ensure that payments for consultants' time were adequately supported with the exception regarding payments made to one of the sampled consultants. The audit determined that additional controls should be implemented to provide additional assurance that the hours billed by consultants (specifically those working in the City and surrounding areas) were the actual hours worked. In addition, we identified discrepancies between the in and out times on consultant timesheets and E-ZPass statements for one of the contracts.

Audit Recommendations

Based on our findings, we made six recommendations, including that DOT should:

- Ensure that consultants submit all supporting documentation required by their contracts, including daily field inspection reports, and request copies of daily logs and daily trip logs to substantiate the hours worked and billed.
- Review consultant contracts where E-ZPass charges are reimbursed to determine the toll crossing times for days worked and to ensure that E-ZPass charges and work hours are not billed for days or hours not worked by the consultant.

¹ The New York City Charter requires all contracts between City agencies and vendors to be registered by the New York City Comptroller.

- Compare the timesheets and E-ZPass statements cited in the report and determine whether money should be recouped.

Agency Response

In its response, DOT generally agreed with the intent of the audit recommendations. Nevertheless, DOT appears to take issue with three recommendations pertaining to reviewing E-ZPass usage to help ensure that contractor billings are accurate. Unfortunately, some of the statements made by DOT are contradictory and misleading. At various points throughout its response, DOT attempts to refute audit findings by offering arguments that it did not present to us when we discussed these findings with them during the course of the audit and at the exit conference. In some cases, DOT contradicts positions that it submitted to us previously or that are within its own response. Consequently, we find the arguments now being presented by DOT in its response as questionable and, without any credible evidence to support them, see no reason to alter our findings.

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

INTRODUCTION

Background

DOT oversees one of the most complex urban transportation networks in the world. DOT's staff manages approximately 6,300 miles of streets and highways, over 12,000 miles of sidewalk, 781 bridge structures, and six tunnels. DOT's staff installs and maintains over 1.3 million street signs, traffic signals at more than 12,000 signalized intersections, over 300,000 streetlights, and 69 million linear feet of markings.

DOT's infrastructure programs comprise an extensive bridge capital investment and life cycle maintenance program; roadway resurfacing, repair, and maintenance; ferry boat and terminal upgrades and maintenance; and a capital program that performs street and sidewalk reconstruction and additional projects such as greenway construction.

DOT hires consultants to perform a wide variety of services, including quality assurance, design, and construction support services. All City-funded consultant contracts should be procured in accordance with the City's procurement process.

Generally, the contracts require consultants to submit invoices for payment on a monthly basis. The monthly payments to contractors are based on total direct technical labor costs, authorized overtime premium pay, and out-of-pocket expenses. For Total Design/Construction Support Services (TD/CSS) contracts, payments are made based on a combination of labor costs, out-of-pocket expenses, and deliverables, such as studies, designs, drawings, etc.

The payment package prepared by the consultant is reviewed first by DOT's project manager(s), who is/are also responsible for monitoring the vendor and certifying what is being paid, including any out-of-pocket expenses. If approved by the project manager, the payment package goes to Fiscal Affairs and is reviewed for completeness and accuracy. The payment packages are then sent to DOT's Engineering Audit Bureau (EAB) for payment certification. The payment package is then sent back to Fiscal Affairs to be verified and processed in the City's Financial Management System (FMS).

DOT uses eight different routing sheets according to each stage of the project. The Voucher Certification form is filled out by the preparer and certified by five different DOT officials.

In Fiscal Years 2010 and 2011, DOT registered 26 consultant contracts totaling \$105,208,529 with the New York City Comptroller's Office. During the period from July 1, 2009, through June 30, 2011, DOT made 80 payments totaling \$7,503,562 on eight of the 26 registered contracts. For the remaining 18 consultant contracts, no payments were made during this time period. (Please see Appendix I & Appendix II for a listing of the 26 contracts and their associated payments.) This audit focused on the payments received by four sampled consultants: Pennoni, Bureau Veritas, EnviroMed, and Hardesty & Hanover LLP.

Objective

The objective of this audit was to determine whether DOT had reasonable controls in place to ensure that payments for consultants' time were adequately supported.

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

The audit scope was consultant contracts awarded by DOT in Fiscal Years 2010 and 2011. Please refer to the Detailed Scope and Methodology at the end of this report for specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with DOT officials during and at the conclusion of this audit. A preliminary draft report was sent to DOT officials and discussed at the exit conference held on April 5, 2013. We submitted the draft report to DOT officials with a request for comments on April 24, 2013. We received a written response from DOT officials on May 13, 2013.

In their response, DOT officials generally agreed with the intent of the audit's recommendations. Nevertheless, DOT appears to take issue with three recommendations pertaining to reviewing E-ZPass usage to help ensure that billings are accurate. Unfortunately, some of the statements made by DOT are contradictory and misleading. For example, DOT stated:

“Three of the six recommendations involve the verification of EZ Pass statements to assure that the City was properly billed for the hours the inspector worked each day. During the exit conference we indicated that except for the bridges in Staten Island, it is possible and often likely that travel to DOT bridges within the remaining four boroughs **would not involve** the use of an EZ Pass. However, despite this fact, the findings are based on the assumption of the implication of risk and not an actual risk that had occurred since the report states, ‘it is likely that an inspector crossed a toll plaza to visit some of the locations reported.’”

We take issue with DOT's arguments for several reasons. First, DOT implies that we included as part of the questionable billings amount those instances in which inspectors reported to multiple locations but had no registered E-ZPass activity. However, we clearly state in the report that these instances were not included in the questionable billings amount. Second, DOT argues that our finding is based on the assumption that travel to DOT bridges between the boroughs (excluding Staten Island) requires the use of an E-ZPass. We make no such broad assumption. For travel between certain locations, however, it is difficult and time-consuming to do so without crossing a toll plaza. Because the contracted inspectors incur no out-of-pocket cost to use the E-ZPass to travel to contract sites, it is unlikely that in such instances they would take a longer route to avoid crossing a toll plaza or would pay using their own resources. Third, DOT's statement that our findings are based “on the assumption of the implication of risk and not an actual risk that had occurred” demonstrates a fundamental misunderstanding of the audit function. A primary purpose of audits is to identify deficiencies that increase the risk that improprieties or fraud *could* occur and then provide recommendations to reduce that risk.

DOT appears to contradict its opposition to these recommendations by stating elsewhere in its response that it has instituted the very controls we recommend. Regarding the secondary controls that DOT reportedly implemented to facilitate oversight of contractor performance, DOT stated:

“Such additional secondary controls include: submitting and maintaining consultant daily travel logs, *detailing EZ Pass usage and travel between project sites*; ... and underscoring the importance that log books at project field offices be signed by the respective consultants for audit trail purposes, during processing of payment packages *to ensure accurate billing of time and EZ Pass usage.*” [emphasis added]

At various points throughout its response, DOT attempts to refute audit findings by offering arguments that it did not present to us when we discussed these findings with them during the course of the audit and at the exit conference. In some cases, DOT contradicts positions that it submitted to us previously or that are within its own response. Consequently, we find the arguments now being presented by DOT in its response as questionable and, without any credible evidence to support them, see no reason to alter our findings.

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

FINDINGS AND RECOMMENDATIONS

The audit found that DOT had reasonable controls in place to ensure that payments for consultants' time were adequately supported with some exceptions noted below regarding payments made to one of the sampled consultants.

The sampled consultant payment packages contained evidence of being reviewed by DOT's project manager, Fiscal Affairs Unit, and the Engineering Audit Bureau (EAB). They contained supporting documentation such as timesheets, E-ZPass statements, shop reports², progress reports, financial statements, certified payrolls, and billing summaries. All the required signoffs were present and the supporting documents had evidence of DOT's review. All out-of-pocket expenses in the sampled payment packages appeared to be reasonable and were supported with appropriate receipts. The Contract Payment Route Sheet, Fiscal Affairs Task Sheet, Voucher Certification form, and Quality Assurance Statement form were present as required for all payments reviewed. In addition, the Quality Assurance Statements were completed and initialed by a preparer and an in-house auditor. However, it was determined that additional controls should be implemented to provide additional assurance that the hours billed by consultants (specifically those working in the City and surrounding areas) were the actual hours worked. DOT can institute additional controls to ensure that the inspectors are present at the inspection site for the amount of time reflected on the timesheets.

In addition, we identified discrepancies between the timesheets and the E-ZPass statements for the sampled payments made to EnviroMed. As per the timesheets reviewed, charges were made to DOT on days that the consultant did not work on the project. We also identified instances when the time the consultant crossed through a toll plaza, based on the E-ZPass Statement, did not agree with the location and time in or out reflected on the consultant's timesheet.

DOT Response: "The report states that there were instances when the time the consultant crossed through the toll plaza did not agree with the location and time in or out reflected on the consultants timesheet. This is obvious since traveling to or from a site, while billable, does not reflect the actual time spent at the site to perform the inspection. The consultant must first cross the bridge before arriving at the inspection site which involves a timing difference between crossing the bridge and arriving at the inspection site."

Auditor Comment: We are not questioning travel times between job sites, but rather the consultants' presence at particular locations for the duration of time reflected on the timesheets. For example, one inspector's timesheet reflected that she was present at the Fresh Creek, Brooklyn, job site from 7 a.m. until 12 p.m., but the E-ZPass Statement reflected that the inspector was crossing the Bronx/Queens Whitestone Bridge at 8 a.m., a clear indication that the consultant was not present at the Brooklyn job site at 7 a.m. as indicated on the timesheet. In another example, an inspector's timesheet reflected that he was present at the Bruckner Expressway, Bronx, job site from 12:30 p.m. until 3:30 p.m. and yet the E-ZPass Statement reflected that the inspector was crossing the New Rochelle toll plaza (traveling north away from the Bronx) located in Westchester County at 12:33 p.m., which again clearly indicates that the consultant was not present at the Bronx job site at 12:30 p.m.

² Shop reports detail the observations made by the inspector at the steel/concrete fabrication shops.

Controls over Substantiation of Hours Billed by EnviroMed Can Be Improved

DOT's controls over substantiation of the hours billed by EnviroMed need to be improved. EnviroMed has a contract for \$2.3 million to provide independent monitoring services of lead paint removal operations. The consultant did not submit all documentation to substantiate that it provided services as required by the contract.

EnviroMed did not submit daily field inspection reports to DOT. The contract between DOT and EnviroMed stipulates that EnviroMed provide daily field inspection reports as required by the New York State Department of Transportation's "Manual for Uniform Record Keeping" (MURK).

DOT Response: "The statement that EnviroMed did not submit daily field inspection reports to DOT is misleading. A DOT-developed daily inspection form was utilized for the contract. However, use of this form was discontinued and use of MURK daily inspection forms was implemented effective June 2012. During the course of the project, DOT personnel interacted with EnviroMed personnel on a daily and weekly basis through site visits, meetings, emails and phone calls."

Auditor Comment: The DOT-developed daily inspection form that DOT is referring to was discontinued in June 2011. The use of MURK reports was not implemented until a year later, in June 2012, after the commencement of this audit. The audit team repeatedly asked for evidence of DOT's interaction with the consultant, but other than weekly inspection reports, DOT never provided us with any other evidence of site visits, e-mails, or phone calls. In the absence of such evidence, we are unable to ascertain the extent to which such interaction took place.

In addition, DOT did not request that EnviroMed submit daily logs for each work location describing the work performed and daily trip logs for the locations visited for the payment packages we reviewed. The contract also requires EnviroMed to keep these logs. This information would be helpful to DOT in further substantiating the hours billed by the consultant, especially in light of the issue identified with the E-ZPass statements discussed in the following section of the report.

DOT Response: "The contract requires submission of daily mileage logs for the reimbursement of miles traveled in NYC for the contract. EnviroMed did not bill for mileage and as such, daily mileage logs were not submitted. Also, some inspectors utilize public transportation. As a result a mileage log is not required."

Auditor Comment: DOT contradicts its assertion that daily logs are not required by identifying them later in its response as part of one of the secondary controls it has implemented. DOT states: "DOT project managers have implemented secondary controls specifically designed to facilitate oversight of EnviroMed Services performance . . . Such additional secondary controls include: *submitting and maintaining consultant daily travel logs . . .*" [emphasis added]. Accordingly, we see no reason to alter our finding.

In addition, the environmental engineers for the EnviroMed contract do not regularly sign the log (maintained by the Resident Engineer Inspector) when reporting to construction sites. Further, DOT project managers and engineers do not maintain a log of their visits (announced or unannounced) to the construction sites, which should include the project managers'

confirmation that the consultants' inspectors were present. Although the documenting of this information is not required by the contract, it would provide better controls and more assurance that the hours billed by the consultant were actually worked. This is important for consultant contracts that are paid based on time and expense, which have an increased risk of fraudulent billing over contracts that are paid based on deliverables. Internal controls are intended to provide reasonable assurance that resources are efficiently used. To determine whether the deficiencies identified also existed for a more current payment, we selected the EnviroMed payment package for the period March 1, 2012, through March 31, 2012. Based on a discussion with the DOT project manager, we found that the same issues existed.

DOT Response: "EnviroMed personnel are instructed to sign the visitor logs at the project site. These records are kept at each project field office by the resident engineer and not by EnviroMed."

Auditor Comment: Although EnviroMed personnel may be *instructed* to sign the logs, DOT provided no evidence that they consistently do so. As we say in the report, the DOT Project Manager informed us during the course of the audit that, for the period of our review, the EnviroMed engineers did not regularly sign the visitor logs upon arrival. In the absence of credible evidence to the contrary, our finding stands.

After the commencement of this audit, based on our inquiries, DOT instituted additional controls over the substantiation of the hours billed by the consultant by requiring the submission of additional reports. According to DOT officials, DOT now requires the consultant to submit Daily Work Site Location Reports and Daily Work Reports (MURK Reports). These were both implemented in June 2012.

Discrepancies between Timesheets and E-ZPass Statements Submitted by EnviroMed

We identified discrepancies between the in and out times on consultant timesheets and E-ZPass statements for the EnviroMed contract. We found 16 instances when E-ZPass was used by the consultant and charged to DOT for days/hours the consultant did not work on the DOT project(s). There were also 12 instances when the time the consultant's employees crossed a toll plaza did not agree with the location and time in and/or out reflected on the timesheets. The consultant billed DOT for a total of 600 hours for the period April 1 through April 30, 2011, totaling \$40,998. We conservatively estimated the dollar amount in questionable hours billed by and paid to the consultant for this period as \$1,361 (3.3 percent of the total amount billed for the period.) Although this amount may seem immaterial, if the consultant bills for more hours than he/she works every month, DOT may be paying the consultant thousands of dollars for hours not worked.

To determine whether the same issue also existed for a more current period, we selected another EnviroMed payment package for March 1, 2012, through March 31, 2012. We found that the discrepancies between the timesheets and E-ZPass statements were more prevalent in this payment package. For this period, the consultant billed DOT for 755 hours totaling \$50,984. We conservatively estimated the questionable hours billed by and paid to the consultant for this period as \$4,640 (9 percent of the total amount billed). Compared to the earlier payment package reviewed, the latter had a significantly increased number of questionable hours billed—72 hours versus 19 hours. In addition, we identified instances when the consultant's inspector reported to multiple locations throughout the City on the same day without any registered E-

ZPass activity, even though it is likely that the inspector crossed a toll plaza to visit some of the locations reported and would have used an E-ZPass device. The same applies in instances when inspectors reported to one location which necessitated crossing a toll plaza, yet there was no registered E-ZPass activity. We did not include these hours in the questionable amount billed by the consultant; however, unless the inspectors paid using their own resources, the time recorded on the timesheets is questionable. Even though E-ZPass is not a timekeeping mechanism or indicative of the time an inspector started or ended the work day, it provides additional information about an inspector's reporting locations that can help substantiate the time billed by the consultant.

We met with DOT's project manager for this contract to discuss and obtain his comments for the issues identified. The project manager agreed that going forward, DOT will perform a thorough review of E-ZPass charges for days worked, require a better accountability of the time in and time out recorded for each location visited, and require a vehicle travel log to be submitted with the payment packages.

DOT Response: "From a review of your spreadsheet for the April 2011 payment, the number of EZ Pass instances should be 15, not 23, since eight EZ pass charges were duplicated on the spreadsheet. A more detailed review of the spreadsheet will reveal that the same times, charges and locations for eight charges were listed twice. . . . The labor discrepancies were reviewed by EnviroMed Services and adequate explanations for the discrepancies were provided by the consultant. It should be noted the discrepancies resulted from not detailing travel time between sites, and including site visits to in-house maintenance activities in the time sheets."

Auditor Comment: We do not know the 23 instances to which DOT is referring; this figure is not stated in the report nor in any of the analyses we provided to DOT. Furthermore, DOT's claim that EnviroMed provided adequate explanations for the discrepancies is not consistent with the conclusion that the agency previously provided to us. Following the exit conference, DOT took more than two weeks to review the aforementioned instances. Following its review, DOT submitted its comments in an email, dated April 17, 2013. In that email, DOT does **not** claim that EnviroMed adequately explained the discrepancies, but instead "concluded that some secondary controls needed to be implemented." In its response, DOT now claims that EnviroMed provided adequate explanations. However, DOT does not provide any additional information or documentation to support its assertion nor does the agency provide a satisfactory reason as to why it had not indicated that it had accepted EnviroMed's explanations when it submitted its comments to us previously. Consequently, in the absence of credible information to the contrary, we stand by our analysis.

Recommendations

DOT should:

1. Ensure that consultants submit all supporting documentation required by their contracts, including daily field inspection reports, and request copies of daily logs and daily trip logs to substantiate the hours worked and billed.
2. Require environmental engineers to sign in on the log maintained by the Resident Engineer Inspector (REI) at the site when arriving at and leaving work sites to help substantiate hours worked.

3. Require project managers to keep a log of their field visits to verify that the consultant representative(s) are present. DOT should reconcile these logs with the invoices submitted by the consultant to help ensure accurate billing.

DOT Response: “The NYCDOT Division of Bridges has reviewed these audit report recommendations and has already implemented secondary controls to strengthen process as they relate to the first three recommendations.”

4. Review consultant contracts where E-ZPass charges are reimbursed to determine the toll crossing times for days worked and to ensure that E-ZPass charges and work hours are not billed for days or hours not worked by the consultant.

DOT Response: DOT appears to take issue with the recommendation but indicates that it implemented it nonetheless. DOT stated, “DOT project managers have implemented secondary controls . . . Such additional secondary controls include: submitting and maintaining consultant daily travel logs, detailing EZ Pass usage and travel between project sites . . . to ensure accurate billing of time and EZ Pass usage.”

5. Compare the daily trip logs to the timesheets and E-ZPass statements for consultant contracts that are reimbursed for E-ZPass to ensure that DOT was properly billed.

DOT Response: DOT appears to take issue with the recommendation but indicates that it implemented it nonetheless. DOT stated, “DOT project managers have implemented secondary controls . . . Such additional secondary controls include: submitting and maintaining consultant daily travel logs, detailing EZ Pass usage and travel between project sites . . . to ensure accurate billing of time and EZ Pass usage.”

6. DOT should compare the EnviroMed timesheets and E-ZPass statements cited in the report and determine whether money should be recouped.

DOT Response: DOT appears to take issue with the recommendation but indicates that it implemented it nonetheless. DOT stated, “The labor discrepancies were reviewed by EnviroMed Services and adequate explanations for the discrepancies were provided by the consultant. It should be noted the discrepancies resulted from not detailing travel time between sites, and including site visits to in-house maintenance activities in the time sheets.”

Auditor Comment: As we stated previously, DOT does not provide any evidence to support its assertion nor does it provide a satisfactory reason as to why it did not indicate that it had accepted EnviroMed’s explanations when it submitted its comments to us previously.

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 objective.

This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope was consultant contracts awarded by DOT in Fiscal Years 2010 and 2011.

We reviewed and used as criteria New York City Procurement Policy Board Rules, Comptroller's Directive 7 - Audit of Requests For Payment Received Under Contracts for Construction, Equipment, and Construction-Related Services, Directive 6 - Travel, Meals, Lodging and Miscellaneous Agency Expenses, and Directive 1 – Principles of Internal Controls. In addition, we reviewed DOT's Fiscal Guidelines for Contract Payment, Fiscal Guidelines - Grant Reimbursements for Contract Payments cont'd. Payment Processing flowchart, and internal forms used as part of their payment package(s) review (i.e. Task Sheet, Certification, Contract Payment Routing Sheets, Notice of Adjustment, Quality Assurance Statement).

To understand the structure of consultant contracts and the role of each unit in administering these types of contracts, we conducted walk-through meetings with DOT's Agency Chief Contracting Officer (ACCO), Fiscal Affairs Unit, and the EAB.

To understand their role in managing the projects associated with these contracts, we conducted walk-through meetings with the project managers for the four consultant contracts selected for our review.

To obtain a further understanding of the consultant contracts and the general scope of work, we reviewed the contract agreements for the contracts in the audit sample.

We requested from DOT a listing of all contracts awarded to consultants during Fiscal Years 2010 and 2011 to review DOT's current practices and focus on recent payment packages that are readily available for review and not archived. DOT provided a report entitled "Cost Summary of Registered RFP Contracts in Fiscal Year 2010 and 2011." DOT's report identified a total of 26 consultant contracts (10 in Fiscal Year 2010 and 16 in Fiscal Year 2011) that were registered during Fiscal Years 2010 and 2011 totaling \$105,208,529. As a data reliability test, we looked up these contracts in the Comptroller's Office's - Omnibus Automated Image Storage and Information System (OAISIS) to confirm they were registered. In addition, we were able to verify that the contracts' information, such as consultant name, contract type, and original contract dollar amount, matched the information captured in OAISIS.

DOT made a total of 80 payments, totaling \$7,503,562 on eight of the 26 registered contracts from the beginning of Fiscal Year 2010 through June 30, 2011. For the remaining 18 consultant contracts, no payments had been made. To determine whether the dollar amount paid to the consultants per DOT's CP Tracking System Files was accurately reported, we compared those dollar amounts with what was reported in FMS. We reviewed the payment(s) processing to understand how DOT's Fiscal Affairs Unit processes invoices and payments for consultant contracts.

We initially reviewed five of the 80 payment packages—one each for the Pennoni, Bureau Veritas, and Hardesty & Hanover LLP consultant contracts and two payments for the EnviroMed consultant contract. The audit sample was judgmentally selected based on service type, time period, number and dollar amounts of payments made, and DOT project managers assigned to project(s). The total contract amounts and amounts of the initial payment packages sampled can be seen in Table I.

Table I

Sampled Contracts with Payment
Amounts

Consultant Name	Service Provided	Original Contract Amount	Amount Paid to Consultant as of 6/30/11	Amount of Payment Package(s) Sampled	Billing Period	Payment Date	Percentage of Total Payment Sampled
Pennoni	Quality Assurance (In Process Fabrication of Structural Steel)	\$9,676,122	\$3,139,814	\$117,244	12/28/09 – 1/24/10	6/7/10	4%
Bureau Veritas	Quality Assurance (In Process Fabrication of Structural Steel)	\$5,716,433	\$1,457,820	\$194,273	5/1/10 – 6/25/10	10/20/10	12%
EnviroMed	Independent Monitoring of Lead Paint Removal	\$2,325,540	\$301,754	\$86,957	4/1/11 – 5/30/11	6/27/11, 8/10/11	29%
Hardesty & Hanover LLP	Total Design/Construction Support Services	\$2,676,901	\$77,445	\$77,445	12/18/10 – 5/6/11	6/27/11	100%
Total		\$20,394,996	\$4,976,833	\$475,919			10%

Pennoni and Bureau Veritas are quality assurance consultants providing in-process fabrication inspections of structural steel at plants/shops generally located outside New York State. EnviroMed is a quality assurance consultant providing independent monitoring of lead paint removal at various bridges citywide. Hardesty & Hanover LLP provides total design and construction support services for component rehabilitation of nine bridges throughout the City.

We reviewed the payment packages to determine whether they were complete, and we also looked for evidence that DOT reviewed the invoices and supporting documentation. As part of the payment package review, we also checked if the hourly rates billed by the consultant

matched the hourly rates and multiplier approved by DOT (as per the contract) and whether all expenses (tolls, miles, lodging, meals, and supplies) were relevant, had the required supporting documentation, and the dollar amount of the receipts matched the dollar amount reflected on the invoices.

We reviewed DOT's controls over the hours worked by the consultant(s) to determine whether DOT has reasonable assurance that the timesheets submitted were accurate and that the hours billed were actually worked. In addition, we determined whether the out-of-pocket expenses, representing approximately 12 percent of the total amount billed for each of the Pennoni, EnviroMed, and Bureau Veritas contracts, were adequately supported. The amount billed by Hardesty & Hanover LLP did not include any out-of-pocket expenses; it was solely for time worked supported by timesheets. Although the consultant is required to produce deliverables, at the time of our review, they had not reached the defined deliverable milestone.

When reviewing the consultant's time on the EnviroMed contract, we noted that there were also E-ZPass charges. For further verification of the consultants' time, we reviewed the E-ZPass statement for the period April 1, 2011, through April 30, 2011 and matched the date and time for all toll plaza crossings to the consultant employees' timesheets. We met with the DOT project manager for this contract to discuss and obtain his comments for the various issues identified. Further, we calculated the hours claimed to have been worked as a percentage of the total dollar amount paid for payroll. We selected another EnviroMed payment package for the period March 1, 2012, through March 31, 2012 and focused on E-ZPass-related issues.

DOT Consultant Contracts Registered during Fiscal Year 2010

Consultant Name	Contract Type	Original Contract Amount	Amount Paid to Consultant as of 6/30/11	Percentage Paid
Corrpro	Quality Assurance	\$2,163,635	\$212,809	10%
Pennoni	Quality Assurance	\$9,676,122	\$3,139,814	32%
Bureau Veritas	Quality Assurance	\$5,716,433	\$1,457,820	28%
Pennoni	Quality Assurance	\$2,714,176	\$393,428	15%
Pennoni	Quality Assurance	\$579,469	\$0	0%
EnviroMed	Quality Assurance	\$2,325,540	\$301,754	13%
GPI	Resident Engineering Inspection (REI)	\$2,239,430	\$0	0%
MT Group, LLC	Quality Assurance	\$9,019,403	\$519,912	6%
HAKS	Resident Engineering Inspection (REI)	\$2,348,796	\$0	0%
CUNY	Memo of Understanding (MOU)	\$122,827	\$0	0%
Totals	10	\$36,905,831	\$6,025,537	16%

DOT Consultant Contracts Registered Fiscal Year 2011

Consultant Name	Contract Type	Original Contract Amount	Amount Paid to Consultant as of 6/30/11	Percentage Paid
Weidlinger	Resident Engineering Inspection & Design	\$5,000,000	\$0	0%
URS	Negotiated Acquisition	\$2,112,438	\$0	0%
LIRO	Resident Engineering Inspection & Design	\$5,000,000	\$0	0%
Hardesty & Hanover LLP	Total Design & Construction Support Services	\$2,676,901	\$77,445	3%
CUNY	Memo of Understanding (MOU)	\$81,807	\$0	0%
Haks	Resident Engineering Inspection	\$1,762,306	\$0	0%
PTG	Total Design & Construction Support Services	\$7,860,844	\$0	0%
URS	Engineering Service Agreement - Renewal	\$5,000,000	\$0	0%
The RBA Group	Engineering Service Agreement - Renewal	\$5,000,000	\$0	0%
STV, Inc	Engineering Service Agreement - Renewal	\$5,000,000	\$0	0%
HDR	Engineering Service Agreement - Renewal	\$5,000,000	\$0	0%
MTA	Memo of Understanding (MOU)	\$1,306,000	\$1,400,580	107%
PBA	Resident Engineering Inspection	\$9,628,903	\$0	0%
GPI	Engineering Service Agreement – Resident Engineering Inspection	\$5,000,000	\$0	0%
HNTB	Engineering Service Agreement – Design	\$5,000,000	\$0	0%
GPI	Total Design & Construction Support Services	\$2,873,499	\$0	0%
TOTALS	16	\$68,302,698	\$1,478,025	2%
Totals for Fiscal Years 2010 & 2011	26	\$105,208,529	\$7,503,562	7%



**Comments to the
City of New York, Office of the Comptroller
“Draft Audit Report on the Department of Transportation’s
Controls Over
Payments to Consultants”
(Dated April 24, 2013)**

**Prepared by
New York City Department of Transportation**

May 13, 2013



Ms. H. Tina Kim
Deputy Comptroller for Audits
The City of New York, Office of the Comptroller
One Centre Street, Rm. 1100 North
New York, N.Y. 10007-2341

May 13, 2013

Re: Draft Report on the audit of the New York City Department of
Transportation's (NYCDOT) Controls Over Payments to Consultants MD12-121A

Dear Ms. Kim:

The NYCDOT Division of Bridges has reviewed the draft Audit Report dated April 24, 2013 on the Department of Transportation's Controls over Payments to Consultants, and is providing comments to specific findings and recommendations identified in the report.

General Comments to the Report

With regard to discrepancies between time sheets and E-Z Pass statements submitted by EnviroMed Services, the report acknowledges that "EZ Pass is not a timekeeping mechanism or indicative of the time the inspector started or ended the work day." However, the findings and the recommendations are based on the presumption that it is in fact a timekeeping mechanism or indicative of the time the inspector started or ended the work day. Three of the six recommendations involve the verification of EZ Pass statements to assure that the City was properly billed for the hours the inspector worked each day. During the exit conference we indicated that except for the bridges in Staten Island, it is possible and often likely that travel to DOT bridges within the remaining four boroughs would not involve the use of an EZ Pass. However, despite this fact, the findings are based on the assumption of the implication of risk and not an actual risk that had occurred since the report states, "it is likely that an inspector crossed a toll plaza to visit some of the locations reported".

It should be noted that the EnviroMed contract is unique in that it involves random, unannounced field visits to job sites. These inspections are meant to be random with regard to dates and times – there is no set schedule to visit the various project sites since having a pre-planned schedule will defeat the purpose of the surprised visits by the consultants. As a result, it is not typical of the consultant services billed by our consultants to include documentation of any schedule. However, the audit report alludes to the implementation of controls to monitor contract compliance, without a thorough understanding of the entire process.

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Comments to Specific Sections of the Report

1. Page 5, Paragraph 3 – The report states that there were instances when the time the consultant crossed through the toll plaza did not agree with the location and time in or out reflected on the consultants timesheet. This is obvious since traveling to or from a site, while billable, does not reflect the actual time spent at the site to perform the inspection. The consultant must first cross the bridge before arriving at the inspection site which involves a timing difference between crossing the bridge and arriving at the inspection site.
2. Page 5, Paragraph 5 – The statement that EnviroMed did not submit daily field inspection reports to DOT is misleading. A DOT-developed daily inspection form was utilized for the contract. However, use of this form was discontinued and use of MURK daily inspection forms was implemented effective June 2012. During the course of the project, DOT personnel interacted with EnviroMed personnel on a daily and weekly basis through site visits, meetings, emails and phone calls. These interactions, along with the weekly reports submitted by EnviroMed ensured that the contract scope of work was being completed. Submittal of daily or weekly reports was not meant to be a mechanism to substantiate hours billed on a project, but rather to ensure projects were in compliance with the scope of the contract and to assist the personnel in preparation of reports as well as notification to NYCDOT of project compliance.
3. Page 5, Paragraph 5 – The contract requires submission of daily mileage logs for the reimbursement of miles traveled in NYC for the contract. EnviroMed did not bill for mileage and as such, daily mileage logs were not submitted. Also, some inspectors utilize public transportation. As a result a mileage log is not required.
4. Page 5, Paragraph 5 – EnviroMed personnel are instructed to sign the visitor logs at the project site. These records are kept at each project field office by the resident engineer and not by EnviroMed. The actual work locations of a project are most often not located at the project site office. The field office may be some distance from the work site. An inspector may arrive at the work site, inspect and observe operations, interact with project personnel and then leave the site. Also, inspectors visit In-House work locations. In-House work crews are dispatched from various NYCDOT facilities throughout NYC and no field office exists for inspectors to sign into a visitor's log for inspecting in-house locations.
5. Page 6, Paragraph 1– DOT does not require DOT personnel to maintain a log or record of their project site visits, meeting participation, or inspections on this contract. Currently there is no need to maintain an independent record of this data.
6. Page 6, Paragraph 2– Additional record keeping has been initiated effective June 2012.
7. Page 6, Paragraph 3 & 4 – From a review of your spreadsheet for the April 2011 payment, the number of EZ Pass instances should be 15, not 23, since eight EZ pass charges were duplicated

on the spreadsheet. A more detailed review of the spreadsheet will reveal that the same times, charges and locations for eight charges were listed twice. If we accept the EZ pass charge for the inspector with the vehicle breakdown that would leave an EZ Pass charge of \$59.26. The labor discrepancies were reviewed by EnviroMed Services and adequate explanations for the discrepancies were provided by the consultant. It should be noted the discrepancies resulted from not detailing travel time between sites, and including site visits to in-house maintenance activities in the time sheets. This resulted in a financial impact of \$59.26.

8. Page 6, Paragraph 3 & 4 – A review of the audit spreadsheet for the March 2012 payment would indicate that the number of disputed EZ Pass instances is 14 with a financial exposure of \$38.00. The labor discrepancies were reviewed by EnviroMed Services and explanations for the discrepancies were provided by the consultant. The discrepancies resulted from not detailing travel time between sites as well as including site visits to small in-house maintenance activities. For example, an inspector may have indicated SPDES sampling as the work activity from 7 AM to 3:30 PM but there is an EZ Pass charge for 1:00 PM. In reality, the SPDES sampling entailed collection of samples from bridges locations for a portion of the day and then subsequently transporting the samples to a laboratory in Connecticut. This travel to the laboratory was not detailed in the time sheets. The only exceptions from the review of the audit spreadsheet are the hours listed for one of the consultants. That particular consultant has left the consulting company and did not leave her logs. Accordingly, details regarding that consultant time sheet could not be obtained. Assuming the hours in question for that consultant would not be allowed the financial impact with regard to labor would be \$1,727.88. The total financial impact including the EZ Pass charges would be \$1,765.88 from a payment amount of \$ 55,442.44 or less than 3.2% of the payment.
9. Page 7, Paragraph 1– While DOT has key controls to mitigate the risk of the waste and abuse of City's assets; we believe that all suggestions regarding strengthening our own internal control environment and control activities should be taken as added value to any process environment. Additionally, it should be noted that DOT project managers have in fact implemented other key and some secondary controls with regard to record keeping and the document retention process environment. Some of these additional controls include travel logs for inspectors to record time in and out of project sites (regardless of whether driving or using public transportation); submittal of daily work schedules for inspector personnel; and reinforcing the requirement that inspectors sign into the visitors log at the project field offices.
10. Page 7– Since we already have key controls to mitigate the significant risk, we will evaluate your recommendations to determine the cost benefit of additional implementations.

Recommendations

1. Ensure that consultants submit all supporting documentation required by their contracts, including daily field inspection reports, and request copies of daily logs and daily trip logs to substantiate the hours worked and billed.
2. Require environmental engineers to sign in on the log maintained by the Resident Engineer Inspector (REI) at the site when arriving at and leaving work sites to help substantiate hours worked.
3. Require project managers to keep a log of their field visits to verify that the consultant representative(s) are present. DOT should reconcile these logs with the invoices submitted by the consultant to help ensure accurate billing.
4. Review consultant contracts where E-Z Pass charges are reimbursed to determine the toll crossing times for days worked and to ensure that E-Z Pass charges and work hours are not billed for days or hours not worked by the consultant.
5. Compare the daily trip logs to the timesheets and E-Z Pass statements for consultant contracts that are reimbursed for E-Z Pass to ensure that DOT was properly billed.
6. DOT should compare the EnviroMed timesheets and E-Z Pass statements cited in the report and determine whether money should be recouped.

The NYCDOT Division of Bridges has reviewed these audit report recommendations and has already implemented secondary controls to strengthen process as they relate to the first three recommendations. The remaining three recommendations, involve checking EZ Pass statements to assure that the City was properly billed for the hours the inspector worked each day. However, EZ Pass is not a timekeeping mechanism nor is it an indicator of the time the inspector started or ended the work day. Also, DOT project managers are not required to maintain a log of their site meetings and visits. DOT project managers have implemented secondary controls specifically designed to facilitate oversight of EnviroMed Services performance of the contract scope of work. Such additional secondary controls include: submitting and maintaining consultant daily travel logs, detailing EZ Pass usage and travel between project sites; maintaining daily inspection logs; submission of daily MURK reports detailing inspection activities and site visits; and underscoring the importance that log books at project field offices be signed by the respective consultants for audit trail purposes, during processing of payment packages to ensure accurate billing of time and EZ Pass usage.

If you have any questions on this response, I can be reached at (212)839-4408.

Very truly yours,

A handwritten signature in black ink that reads "Amy Hutner". The signature is written in a cursive, flowing style.

Amy Hutner
Auditor General

Cc: Comm. J. Sadik-Khan, FDC L. Ardito, DC/CBO H. Perahia, Dir. J. Kurre, Dir. S. Gosine, Dir. L. Price,
G. Davis (MOO)