

# AUDIT REPORT



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

## **Audit of Controls over Billings and Payments for Work by Panel Members In the Assigned Counsel Plan**

7A08-085

February 2, 2009



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

WILLIAM C. THOMPSON, JR.  
COMPTROLLER

**To the Citizens of the City of New York**

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has audited the adequacy of the controls over billing and payments in the computer systems of the Office of the Assigned Counsel Plan (ACP).

The objectives of the 18-B Web System and the FoxPro system were to improve the process of assigning attorneys (who represent indigent persons charged with crimes) while streamlining voucher submission and processing, and to prevent fraudulent claims from being submitted and paid. We audit systems and technological resources of City agencies such as this to ensure that they are cost-effective, efficient, secure, and operate in the best interest of the public.

The results of our audit, which are presented in this report, have been discussed with officials of the Office of the Criminal Justice Coordinator (OCJC), and their comments have been considered in preparing this report. Their complete written response is attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at [audit@Comptroller.nyc.gov](mailto:audit@Comptroller.nyc.gov) or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in black ink, appearing to read "William C. Thompson, Jr.", written over a horizontal line.

William C. Thompson, Jr.

WCT/fh

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*The City of New York  
Office of the Comptroller  
Bureau of Financial Audit  
IT Audit Division*

**Audit of Controls over  
Billings and Payments for Work by  
Panel Members in the Assigned Counsel Plan**

**7A08-085**

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**AUDIT REPORT IN BRIEF**

We performed an audit of the reliability of the data in the Office of the Assigned Counsel Plan (ACP) computer systems. The New York City Assigned Counsel Panel is an organization of court-approved attorneys who provide representation to indigent persons charged with crimes in the New York City courts. The Panel is authorized by Article 18-B of the New York State County Law and funded by New York City. The Office of the Assigned Counsel Plan reports to the Office of the Criminal Justice Coordinator (OCJC), which is responsible for managing the Panel and a roster of investigators and other experts. In order to be paid by the City for their work, Panel members and experts must submit vouchers to the court that detail the nature of the professional services rendered and the time expended.

In 2003, ACP developed an in-house Web-based application, the 18-B Web system, to improve the process of assigning attorneys while streamlining the voucher submission and processing, and to improve the system's capacity to prevent fraudulent claims from being submitted and paid. As of January 2007, the 18-B Web system handled 2 of the 12 types of vouchers that are processed by ACP. The FoxPro system, in use since 1993, continued to process family court case vouchers, expert witness vouchers, and court reporter vouchers. Since August 2007, all family court, court reporter, expert witness, and criminal court vouchers have been transferred from FoxPro system into the ACP Import Database and submitted for payment to the Financial Information Services Agency (FISA) through the 18-B Web system.

**Audit Finding and Conclusions**

The 18-B Web system has adequate controls in place to manage assignment and scheduling of attorneys while ensuring that the voucher payment process is generally reliable. The 18-B Web system is designed to monitor and identify cases suspected of overbilling and double-billings. It also produces attorney violation reports for administrators to take appropriate action. However, it had instances of incorrect data and contained certain mandatory data fields that were blank, which could have an effect on the reliability of the 18-B Web system.

Conversely, the FoxPro system has inadequate data controls that make it possible for duplicate and inaccurate payments to occur. FoxPro system does not have the functionality that permits its staff to enter specific data, such as details of specific dates and hours spent for services performed by the attorney. Instead, FoxPro system contains only start date, end date, and total hours of services for each voucher submitted for payment. Without detailed, specific, date and time information, it was not possible to ascertain whether attorneys overbilled or double-billed ACP for their services. However, absent the basic controls, the potential exists for such activity to go undetected by ACP staff.

In addition, we found vouchers that exceeded the hours of services for single-day activity, and attorneys and expert witnesses who were paid above the standard rate and over the maximum limit. These vouchers require attorneys and expert witnesses to submit documentation for approval. Although FoxPro system has inadequate data control, 18-B Web system generates an error and warning message that indicates the vouchers need further review. However, we found that ACP staff generally overrides this control and allows these vouchers to proceed without proper documentation. For 73 of the 250 sampled vouchers we examined, ACP did not have the required judge's approvals or attorney affirmations. We, therefore, could not determine whether these vouchers had the proper approval before being paid. In addition, we found vouchers in both FoxPro system and the 18-B Web system that were submitted more than 12 months after the case disposition, contrary to ACP guidelines. Moreover,

- The integration of FoxPro system into the 18-B Web system was behind schedule and a data purification plan has not been considered.
- Bronx attorneys use the manual method of selecting arraignment assignments instead of using the 18-B Web scheduling calendar.
- ACP does not have adequate procedures in place in both systems to ensure that security violations are recorded, documented, and reviewed in the both systems.
- FoxPro system does not require users to change their password on a regular basis and does not have a fully tested disaster-recovery plan.

At the exit conference, OCJC officials stated that the integration of FoxPro system into the 18-B Web system was completed on June 1, 2008. However, we found that although the process had been updated, the 18-B Web system still does not allow the user to enter specific dates and time information for each FoxPro voucher. Also, ACP's data migration procedure did not include a data purification process to ensure that all inadequate data is corrected prior to the migration.

### **Audit Recommendations**

We make 17 recommendations, including that ACP:

- Create a system control that ensures that future-date activities are not paid prior to the actual work being completed to prevent the potential for overbilling or double-billing.

- Ensure that prior to payment, judges' approvals and attorneys' affirmations specifying the time and billable services for all cases exceeding the standard rates and maximum limits are received by ACP staff.
- Develop a data purification plan that ensures that all inadequate data is corrected before it is transferred into the 18-B Web system.
- Ensure that the 18-B Web system will provide all the functions that should be available to users, specifically, the capability to identify overbilling and overlapping vouchers.

## INTRODUCTION

### Background

The New York City Assigned Counsel Panel is an organization of court-approved attorneys who provide representation to indigent persons charged with crimes in the New York City. The Panel is authorized by Article 18-B of the New York State County Law and funded by New York City. The Office of the Assigned Counsel Plan reports to OCJC, which is responsible for managing the panel and a roster of investigators and other experts. The Criminal Justice Coordinator is assisted by two administrators who are appointed and supervised by the Presiding Justices of the First and Second Departments—the First Department for the Bronx and Manhattan, and the Second Department for Brooklyn, Queens, and Staten Island. In order to be paid by the City for their work, Panel members and experts must submit vouchers to the court that detail the nature of the professional services rendered and the time expended.

Under the Plan, attorneys assigned by the court to act as counsel are paid by the City at a rate provided in §722-b of Article 18-B—\$75 per hour for in-court and out-of-court services performed on family court cases and \$60 per hour for in-court and out-of-court services on misdemeanor criminal court cases. Article 18-B contains guidelines for hourly rates of compensation for expert witnesses ranging from \$30 to \$200. Also, panel members are allowed to charge up to a maximum of \$4,400 for felony cases, \$2,400 for misdemeanor cases, and \$1,000 for expert witnesses and other services. In extraordinary circumstances, each claim in excess of the maximum amount allowed must be supported by a sworn affidavit from the attorney affirming<sup>1</sup> the time and services for which the attorney is billing. These cases are forwarded to the court and require a judge's approval before being processed for payment. In 1993, the City assumed direct responsibility for reimbursing members and for monitoring those expenses.

In 1993, the Deputy Mayor's Office for Public Safety created a computerized system—known as FoxPro system—that combined the First Department's Foxbase system and the Second Judicial Department's RBase system, the Assigned Counsel Automated System. The FoxPro system provided the following functions:

- (a) It automatically verifies that the Administrator assigned the case to an 18-B attorney and, prior to payment of a voucher, it verifies that the attorney submitting the voucher was the attorney assigned to the case by the administrator.
- (b) It permits only one order and one voucher to be paid per case assignment. This control prevents two attorneys from working on the same case and from submitting duplicate vouchers for work on the given case, thereby eliminating double-billing by attorneys and other experts providing services.

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<sup>1</sup> The affirmation process requires that the attorney produce a signed affidavit attesting to the number of hours presented on the voucher for work performed on a specific case. The affidavit is presented to the presiding judge for approval.

- (c) It provides an audit trail to show adjustments made to vouchers or court orders that were updated and retained in the database.
- (d) It updates the roster of attorneys, including the level of certification and qualification of each attorney, roster adjustments, and comments on any certification or billing problems.
- (e) It cross-references payments, thus eliminating billing in both departments for the same case in violation of the rules of ACP. In addition, in the event that an attorney or expert does submit vouchers for cases in both departments, these vouchers will be identified by the system so that a court clerk may review the claim to ensure that payment is not requested for duplicate time periods on any given day.

In 2003, ACP developed an in-house Web-based application, the 18-B Web system, to improve the process of assigning attorneys while streamlining voucher submission and processing, and to improve the system's capacity to prevent fraudulent claims from being submitted and paid. As of January 2007, the 18-B Web system handled 2 of the 12 types of vouchers that are processed by ACP. However, the FoxPro system continued to process family court case vouchers, expert witness vouchers, and court reporter vouchers. Since August 2007, all family court, court reporter, expert witness, and criminal court vouchers have been transferred from FoxPro system into the ACP Import Database<sup>2</sup> and submitted for payment to FISA through the 18-B Web system.

The current 18-B voucher payment process requires that attorneys submit documentation for the specific dates and hours they rendered for in-court and out-of-court services. The 18-B Web system contains detailed information on hours worked for each voucher. Attorneys are allowed to submit vouchers for only 7 hours of in-court services and a maximum of 12 hours for single-day activities in 18-B Web system. The 18-B Web system is interfaced with the Office of Court Administration (OCA) data, which allows ACP staff to verify attorneys' court appearances.

Should the 18-B Web system software detect any discrepancies in the OCA data or any overbilling or double-billing, the system will generate error and warning messages indicating that the voucher in question must be reviewed further. Using the specific date and time information in 18-B Web system, ACP staff evaluates the circumstances concerning the claim and makes follow-up inquiries with the attorney on any issues concerning the voucher. Based on the results of these inquiries, a voucher submitted by an attorney may be modified and the total hours to be paid may be reduced. The 18-B Web system produces attorney violation reports for overbilling and double-billing that can help ACP staff identify patterns of billing violations. Also, ACP contracted with an outside vendor, Kroll Associates, Inc., from September 30, 2007 to June 30, 2008, to perform investigations of claims for fraud.<sup>3</sup> The scope of the contract is to identify fraudulent billing, review and analyze vouchers submitted by the top earners suspected of fraud, and conduct investigations of suspect claims.

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<sup>2</sup> The ACP Import database was designed to perform duplicate and overlapping billing tests nightly on vouchers received from the FoxPro system prior to transferring this data into 18-B Web.

<sup>3</sup> We verified that the contract was registered with the Comptroller's Office on January 8, 2008.



If no discrepancies exist, ACP staff will electronically submit each validated voucher from the 18-B Web system to FISA for final processing and payment. In Fiscal Year 2007, the City spent approximately \$68 million on ACP services. ACP planned to integrate the FoxPro system into the 18-B Web system by March 2008. However, as of the close of fieldwork in May 2008, the integration of these two systems had not been completed.

### **Objectives**

The objectives of the audit were to determine whether the system controls were adequate to ensure that:

- (1) ACP has paid ACP attorneys and expert witnesses based on appropriate and documented claims for services rendered,
- (2) There were no duplicate payment vouchers, and
- (3) The maximum payment per case was not exceeded unless properly approved by the Court.

### **Scope and Methodology**

Our fieldwork was conducted from September 2007 to May 2008. To achieve our audit objectives, we:

- Interviewed officials affiliated with ACP, the Mayor's Office Management Information System (MIS), and the Office of Criminal Justice Coordinator.
- Conducted system walk-throughs for both the FoxPro system and the 18-B Web system to gain an understanding of how ACP uses these systems in its day-to-day operations.
- Reviewed Article 18-B rules and regulations and Article 18-B panel eligibility and screening guidelines to understand these processes.
- Analyzed a report prepared by the quality assurance vendor, CGI-AMS Inc., and the OCJC entitled *18-B Web Application Current State Analysis and Future State Analysis and Recommendations* to assess the issues found by the vendor and how these issues were addressed.
- Reviewed and analyzed the 18-B Web system training manual to ascertain whether training given to the users of this application complied with the actual process.
- Reviewed and determined whether OCJC password policy and procedures complied with Department of Information Technology and Telecommunication's (DoITT) security directives.
- Performed data-integrity tests to determine whether the data recorded in the FoxPro system and the 18-B Web system database are reliable and accurate. These tests

included evaluating data relationships, assessing completeness of information, and determining overall reliability of the data in both systems.

- Tested data entered into both systems from January 1, 2004, to October 29, 2007, to determine whether there were duplications or overpayments.
- Tested data entered from January 1, 2004, to October 29, 2007, in both systems to determine whether they contained valid dates and codes.
- Examined records for valid dates and codes in each record to determine whether the information recorded complied with the required attributes as designated by the system specifications.
- Analyzed and evaluated 2 of 9 FoxPro tables and 9 of 39 18-B Web tables that contained critical voucher payment information to determine whether there were duplications and over payments.
- Reviewed and evaluated data in both systems to determine whether ACP had paid panel members appropriately, paid the standard rate, and documented when vouchers exceeded the maximum limits.
- Randomly selected 150 vouchers from FoxPro system and 100 vouchers from the 18-B Web system that exceeded the maximum limits to ensure that ACP staff received the appropriate judge's approval and/or attorney's affirmation.
- Reviewed and analyzed whether ACP disaster-recovery and contingency planning procedures complied with DoITT's security directives.

As criteria, we used the DoITT's Citywide Information Security Architecture Formulation and Enforcement (CISAFE) *Information Security Directive*, the National Institute of Standards and Technology (NIST) Standards, and the New York City Comptroller's Internal Control and Accountability Directive #18, "Guidelines for the Management, Protection and Control of Agency Information and Information Processing Systems."

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

### **Discussion of Audit Results**

The matters covered in this report were discussed with OCJC officials during and at the conclusion of this audit. A preliminary draft report was sent to OCJC officials and discussed at an exit conference held on September 8, 2008. On December 5, 2008, we submitted a draft report to OCJC officials with a request for comments. We received a written response from OCJC officials on December 19, 2008. In their response, OCJC officials generally agreed with seven recommendations, partially agreed with one recommendation, disagreed with one recommendation, and said that four recommendations were not applicable. They did not respond

to four recommendations, stating, “Four of the audit recommendations refer entirely to the now obsolete FoxPro application. Because the FoxPro system is no longer in use, we have not responded to those recommendations related to FoxPro, specifically recommendations 3, 4, 13 and 14.”

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

## FINDINGS AND RECOMMENDATIONS

The 18-B Web system has adequate controls in place to manage assignment and scheduling of attorneys while ensuring that the voucher payment process is generally reliable. The 18-B Web system is designed to monitor and identify cases suspected of overbilling and double-billings. It also produces attorney violation reports for administrators to take appropriate action. However, it had instances of incorrect data and contained certain mandatory data fields that were blank, which could have an effect on the reliability of the 18-B Web system.

Conversely, the FoxPro system has inadequate data controls that make it possible for duplicate and inaccurate payments to occur. FoxPro system does not have the functionality that permits its staff to enter specific data, such as details of specific dates and hours spent for services performed by the attorney. Instead, FoxPro system contains only start date, end date, and total hours of services for each voucher submitted for payment. Without detailed, specific, date and time information, it was not possible to ascertain whether attorneys overbilled or double-billed ACP for their services. However, absent the basic controls, the potential exists for such activity to go undetected by ACP staff.

In addition, vouchers exceeded the hours of services for single-day activity, and attorneys and expert witnesses who were paid above the standard rate and over the maximum limit. These vouchers require attorneys and expert witnesses to submit documentation for approval. Although FoxPro system has inadequate data control, 18-B Web system generates an error and warning message that indicates the vouchers need further review. However, we found that ACP staff generally overrides this control and allows these vouchers to proceed without proper documentation. For 73 of the 250 sampled vouchers we examined, ACP did not have the required judge's approvals or attorney affirmations. We, therefore, could not determine whether these vouchers had the proper approval before being paid. In addition, there were vouchers in both FoxPro system and the 18-B Web system that were submitted more than 12 months after the case disposition, contrary to ACP guidelines. Moreover,

- The integration of FoxPro system into the 18-B Web system was behind schedule and a data purification plan has not been considered.
- Bronx attorneys use the manual method of selecting arraignment assignments instead of using the 18-B Web scheduling calendar.
- ACP does not have adequate procedures in place in both systems to ensure that security violations are recorded, documented, and reviewed in the both systems.
- FoxPro system does not require users to change their password on a regular basis and does not have a fully tested disaster-recovery plan.

At the exit conference, OCJC officials stated that the integration of FoxPro system into the 18-B Web system was completed on June 1, 2008. We conducted a system walk-through on September 16, 2008, to confirm that the family case vouchers, court reporter vouchers, and expert witness vouchers were being processed through the 18-B Web system. We found that

although the process had been updated, the 18-B Web system still does not allow the user to enter specific dates and time information for each FoxPro voucher. ACP also provided a data migration procedure but did not perform any data purification steps to ensure that all inadequate data is corrected prior to the migration.

### **Internal Control Weaknesses in the 18-B Web System**

The internal control weaknesses in the 18-B Web system contains future-date billings and a data field that is supposed to be mandatory to complete but contained blanks, which weaken the integrity, reliability, and completeness of the information found in these systems while creating the potential for duplicate, inaccurate, and fraudulent payments.

Comptroller's Directive #18, §8.2, requires that "agencies must ensure that every transaction entering the information processing environment is authorized, recorded, and processed completely and accurately, protected from physical loss, theft, or unauthorized manipulation, and that the data file integrity is preserved."

#### **Future Date Vouchers**

We found that 38 vouchers contained future-date activities in the 18-B Web system. According to MIS officials, the 18-B Web system incorrectly allows attorneys to enter future activities but attorneys are not allowed to submit a voucher for payment until after services are rendered. In one situation, an attorney claimed that an out-of-court service for \$168.75 had been performed on August 24, 2024, from 7:45 p.m. to 8:00 p.m., which was entered in the 18-B Web system on November 8, 2004.<sup>4</sup> This voucher had been paid through the 18-B Web system. We ascertained that the service had actually been performed on August 24, 2004, but the year had been entered incorrectly by ACP staff.

If the system application cannot verify that the services could indeed have been rendered on the date of the voucher, attorneys can submit false claims for future dates and receive payment. Theoretically, the attorney could have subsequently submitted another voucher for August 24, 2004, from 7:45 p.m. to 8:00 p.m., and the voucher would have bypassed the system control for double-billings and overbillings. By ACP procedure, ACP staff is required to verify that all vouchers are reviewed prior to providing compensation. ACP staff failed to notice the error in the system and paid this voucher in November 2004. This ACP administrative control by staff is supposed to detect and prevent double-billings and overpayments. However, the 18-B Web system does not have a control in place that identifies and reports to management that vouchers with future dates have been paid.

#### **Blanks in a Mandatory Data Field**

Our tests found that 27,375 of the 183,542 records entered in the system from January 1, 2004, through October 29, 2007, were blank under the field name "Description" of the 18-B Web Payment\_Voucher Table. This field contains the case number and/or docket number associated with each payment voucher, and the filling-in of the field is designated by the system

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<sup>4</sup> The Case Number is 2122441 and the Docket Number is 2004BX045644.

documentation as mandatory.<sup>5</sup> While we found that the required information for this field exists on a separate table, the Case\_Assign Table, the process necessitates that this data be transmitted to the Payment\_Voucher Table. The reason for transferring this information between tables ensures that the case number and/or docket number will not be lost in the event that the Case\_Assign Table becomes corrupted and the data is destroyed. In this case, the failure to transfer the information between tables would mean that the attorney would be paid but the specific case information would not be traceable. The control weakness that allows blanks in a mandatory data field also does not ensure that the database will be accurate, complete, and reliable. Further, as discussed later in this report, ACP does not have a fully tested disaster-recovery plan. In the event of a disaster this flaw in database controls and information would continue to exist.

## **Recommendations**

ACP should:

1. Create a system control that ensures that future-date activities are not paid prior to the actual work being completed to prevent the potential for overbilling or double-billing.

**OCJC Response:** “Not Applicable. A system control has been in place preventing future billing since 2004. On September 16, 2008 MIS demonstrated to the auditors that no future billing activity has occurred since 2004. All instances of future billing activity that occurred prior to the implementation of the system control were attributable to data entry errors and not fraudulent billing.”

**Auditor Comment:** We found that the 18-B Web system allows attorneys to enter future activities but does not allow them to submit a voucher for payment until after services are rendered. However, OCJC’s response does not indicate how the current manual procedure (requiring ACP staff to verify the validity of all vouchers prior to providing compensation) will be improved to reduce the incidence of staff failure to detect errors that could increase the possibility of incorrectly paying vouchers.

2. Create a system control that ensures that all mandatory data fields have the required information.

**OCJC Response:** “Not Applicable. In 2004 18-B Web replaced an older system that contained an optional field titled ‘Description.’ Since February 2004, a system control has been in place to ensure that mandatory data fields have the required information. On September 16, 2008 MIS demonstrated to the auditors that no assignments created after February 6, 2004 lacked required data.”

**Auditor Comment:** According to the 18-B Web system documentation the field ‘Description’ was a mandatory data field, which contained case number and docket number. However, only at the exit conference held on September 8, 2008 did an OCJC MIS official inform us that this field status has changed. OCJC did not provide us with

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<sup>5</sup> A data record that is specified as a mandatory field means that this information is critical to the process and that the record should not be accepted and saved unless the required data is entered.

any documentation to substantiate that this field was considered an optional field prior to February 6, 2004. It should be noted that OCJC informed us of this change four months after our field work had concluded.

### **Internal Control Weaknesses in the FoxPro System**

The internal control weaknesses in the FoxPro system significantly weaken the integrity, reliability, and completeness of the information found in these systems. FoxPro system has inadequate data controls that create the potential for duplicate, inaccurate, and fraudulent payments.<sup>6</sup>

Comptroller's Directive #18, §8.2, requires that "agencies must ensure that every transaction entering the information processing environment is authorized, recorded, and processed completely and accurately, protected from physical loss, theft, or unauthorized manipulation, and that the data file integrity is preserved."

#### **Inability to Enter Detailed Date and Service-Hour Information in the FoxPro System**

While the 18-B Web system has a business rule in place that allows legal professionals to submit only 7 hours for in-court services with a maximum of 12 hours for a single-day activity, FoxPro system does not impose this business rule. Moreover, FoxPro system cannot detect whether there are duplications and overpayments. We found FoxPro system does not provide ACP staff the capability to enter specific dates and hours for each voucher. Instead, FoxPro system contains only a start date, end date, and the total hours of services that the attorneys performed for each voucher. For example, a record showed that an attorney started services on March 4, 2005, and ended on June 13, 2005, with a total of 29 hours. However, without the detailed date and time information—the actual periods of service for each day—we could not analyze and evaluate vouchers for double-billing. We discussed the process with ACP officials, and they indicated that they must manually check the vouchers for any indications of double-billing.

ACP officials stated that since August 2007, FoxPro system has been transferring family court cases, court report vouchers, and expert witness vouchers payments to the ACP Import Database nightly to check for duplicate payment and overlapping billing before the approved vouchers are entered in the 18-B Web system for submission for payment. However, without each voucher from FoxPro system having the specific dates and the hours performed by an attorney, the ACP Import Database can not perform double-billing tests.

We found 1,663 of 147,000 total vouchers entered into FoxPro system from January 1, 2004, to October 29, 2007, totaling \$379,191, in which attorneys, expert witnesses, and court reporters had billed ACP for services that ranged from 12.16 hours to 1,108 hours for a single-day activity. We requested justification for these vouchers from ACP. OCJC officials responded

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<sup>6</sup> In a Department of Investigation (DOI) report on the New York City Assigned Counsel, issued in June 2007, DOI discovered significant weaknesses that allowed expert witnesses to be paid for work never performed.

stating that the ACP staff did not enter the in-court and out-of-court activities details into FoxPro system. Instead, ACP clerks, upon receipt of a voucher, enter only the total hours into a single date record to save time. This was the case with invoice #2M52021, where an attorney appeared to bill ACP for 41.25 hours of services performed on June 30, 2004. However, according to OCJC, the clerk had entered the total number of hours spent over a span of time as a single-day activity. Without the detailed date and time information, we could not ascertain whether there was overbilling or double-billing for the remaining vouchers.

### **Court Reporter's Services Incorrectly Reported in FoxPro System**

FoxPro system was developed to handle payment activities for attorneys, expert witnesses, and court reporters. (As mentioned previously, criminal case attorneys are now paid through the 18-B Web system.) Unlike attorneys and expert witnesses who are paid by hour, court reporters are paid by the number of pages produced during the court session. Unfortunately, FoxPro system does not differentiate between pages and hours, so court reporters' records are reflected in aggregate hours instead of pages. For example, a court reporter submitting a claim to ACP for 500 pages would appear in FoxPro system as 500 hours of service by the reporter, thereby inaccurately reflecting case information. We found that 13,663 of the 147,000 court reporter vouchers are incorrectly reported, even though the incorrect data does not have an effect on the correct amount being paid to the court reporters. MIS officials indicated that they are aware of the problem and that they are planning to enhance the 18-B Web system after the integration by providing a new table that is mainly for court reporters.

### **Formatting Problem Causes Truncation of Data**

We found that the service-hour information in 49 of the 147,000 voucher records had been lost during the transfer of data from FoxPro system to the ACP Import Database to the 18-B Web system. These 49 vouchers totaled \$323,821. Without the correct service-hour information, ACP Import Database will contain incomplete and inaccurate data preventing ACP staff from evaluating whether any duplications and overpayments exist. According to MIS officials, the total hours served in FoxPro system exceeded the formatted field size available in the ACP Import Database during data transfer. As a result, the hour column in the ACP Import Database became truncated, showing dashes instead of the number of hours of service submitted by the attorney. We discussed the issue with MIS officials, who have corrected the format problem.

### **Recommendations**

OCJC should:

3. Create a business rule in FoxPro system that allows attorneys and expert witnesses to submit to ACP only 7 hours in in-court services and a maximum of 12 hours in services for a single-day activity.

**OCJC Response:** OCJC stated, "Four of the audit recommendations refer entirely to the now obsolete FoxPro application. Because the FoxPro system is no longer in use, we



have not responded to those recommendations related to FoxPro, specifically recommendations 3, 4, 13 and 14.”

**Auditor Comment:** By not responding to our recommendation, OCJC would like to give the reader the impression this single-day activity issue has been addressed. However, this is not the case. The 18-B Web system has a business rule concerning single-day activities for criminal cases. OCJC does not have a similar rule in place to ensure that family court attorneys and expert witnesses submit a maximum of seven hours for in-court services and a maximum of 12 hours in services for a single-day activity. This deficiency should be addressed immediately.

4. Create a field in FoxPro system that indicates the number of pages produced by court reporters.

**OCJC Response:** OCJC stated, “Four of the audit recommendations refer entirely to the now obsolete FoxPro application. Because the FoxPro system is no longer in use, we have not responded to those recommendations related to FoxPro, specifically recommendations 3, 4, 13 and 14.”

**Auditor Comment:** MIS officials enhanced the 18-B Web system after the integration by providing a new table that is mainly for court reporters.

5. Ensure that future system development will allow users to enter accurate court reporter information.

**OCJC Response:** “Accepted. Effective June 1, 2008 a new table was created to track pages as opposed to hours for the court reporters. This functionality exists in the 18-B Web application and was demonstrated to the auditors on September 16, 2008. Additionally, no erroneous payments occurred as a result of the previous billing practices in FoxPro before it was decommissioned.”

### **Payment to Attorneys and Expert Witnesses**

Court guidelines allow judges to authorize the standard hourly rates for an attorney or an expert witness be increased under extraordinary circumstances as well as to approve an increase or decrease to an attorney’s voucher amounts with the proper affirmation. However, attorney affirmations and judicial approval for these vouchers must be submitted to ACP before payment.

#### **Attorneys and Expert Witnesses Paid Above the Standard Rates without Necessary Approvals**

Attorneys receive \$75 per hour for in-court and out-of-court services performed on family court cases and \$60 per hour for in-court and out-of-court services on misdemeanor criminal court cases. Article 18-B contains guidelines for the hourly rates of compensation for expert witnesses, which range from \$30 to \$200. We analyzed the standard-rate data existing in both systems and found that 18-B Web attorneys have been paid according to the prescribed

standards since the system's inception in 2004. However, 233 of 119,688 attorney vouchers, totaling \$190,895, entered in the FoxPro system from January 1, 2004, to October 29, 2007, were paid in-court and out-of-court hourly rates ranging from \$80 to \$8,500. In addition, 513 of the 13,649 expert witness vouchers, totaling \$665,781, were paid at an hourly rate ranging from \$204 to \$6,175.

ACP was asked to provide the necessary approval from the presiding judge and/or attorney's affirmation, but ACP representatives informed us that this information could not be found. As a result, ACP could not demonstrate and we could not ascertain whether ACP had paid these vouchers with the proper approval creating the potential that improper or fraudulent payments were made. Therefore, we question whether ACP payment of these vouchers was reasonable and appropriate.

At the exit conference, ACP provided documentation for vouchers that were paid in excess of the standard rate. Our review found that of the documentation provided, 109 attorney vouchers and 71 expert witness vouchers still did not have the proper documentation authorizing higher than standard rates. Moreover, although 95 attorney vouchers and 426 expert witness vouchers were paid within the prescribed standard rate, the information was entered in FoxPro system incorrectly: the total dollar amount was incorrectly entered in the hourly rate column. It, therefore, appears that the attorneys and expert witnesses worked for only one hour at an excessive hourly rate.

#### **Attorney and Expert Witness Vouchers Exceeded Maximum Limits**

We tested and evaluated data from both systems to determine the number of vouchers that exceeded the maximum limit. We found that 2,341 of 119,688 attorney vouchers, totaling \$16,581,129, processed by FoxPro system and that 3,726 of 118,477 attorney vouchers, totaling \$30,540,549, processed by the 18-B Web system exceeded the maximum allowable limits. (See the Appendix for the distribution of the vouchers by borough.)

We randomly selected 100 attorney vouchers that exceeded the maximum allowable limits in the FoxPro system and found that 28 vouchers, totaling \$139,814, had been paid without the required approvals or affirmations. We also randomly selected 100 attorney vouchers that exceeded the maximum allowable limits in the 18-B Web system and found that 31 vouchers, totaling \$110,181, did not have the required approvals and affirmations. According to ACP officials, 11 of these 31 vouchers were sent to the judges for review, but were never returned by the court.

Similarly, according to court guidelines, judges can authorize an increase or decrease to expert witness voucher amounts with the proper affirmation. We found that 3,456 expert witness vouchers, totaling \$6,615,460, of 13,649 expert witness vouchers in FoxPro system were paid in excess of the maximum limits, ranging from \$1,000 to \$22,720. We randomly selected 50 vouchers that exceeded the maximum limits for review and found that 14 vouchers, totaling \$89,890, did not have the necessary approval from the presiding judge and/or attorney's affirmation. Consequently, ACP could not demonstrate and we could not determine whether ACP had paid these vouchers with the proper approval creating the potential that improper or

fraudulent payments were made. Therefore, we question whether ACP payment for these vouchers was reasonable and appropriate.

### **Recommendation**

OCJC should:

6. Ensure that prior to providing compensation ACP staff receives judges' approvals and attorneys' affirmations specifying the time and billable services for all cases exceeding the standard rates and maximum limits.

**OCJC Response:** "Accepted. This policy has been in place since May 13, 2008."

**Auditor Comment:** OCJC again tries to give the impression that this issue has been resolved. However, we found that this policy has been in place for many years prior to May 13, 2008. Moreover, the results of our audit testing revealed that this policy has not been essentially followed by staff administering the ACP.

### **Other Issues**

#### **Vouchers Not Submitted for Payment within ACP Guidelines**

##### **Vouchers Not Submitted for Payment within 45 Days**

ACP guidelines require that all vouchers must be submitted for payment within 45 days of the date of the disposition of the case. We found 95,885 vouchers, totaling \$84,831,705, of 147,000 vouchers processed by the FoxPro system that had been submitted after the 45-day guideline. These vouchers ranged from 46 days to more than 20 years after the date of disposition. In the 18-B Web system, we also found 31,798 vouchers, totaling \$21,335,802, of 118,477 vouchers that had been submitted from 46 to 1,308 days after the date of disposition.

##### **Vouchers Are Submitted for Payment Later Than 12 Months**

ACP guidelines indicate that "under no circumstances will vouchers submitted more than 12 months after the date of disposition be processed." We found 8,625 vouchers from the FoxPro system totaling \$5,995,938 that had been submitted for payment from 1 to 20 years after the disposition date and 2,414 vouchers from the 18-B system, totaling \$1,679,723 had been submitted for payment from 1 to 3 years after the disposition date. OCJC officials stated that they have received several complaints from judges about vouchers being submitted two or three years after the date of disposition. The judges have difficulty recalling what work corresponding to the vouchers was actually conducted.

### **Integration of FoxPro System into the 18-B Web System behind Schedule**

During the audit, ACP provided us with documentation indicating that the integration of FoxPro system into the 18-B Web system would be completed by March 2008. As of June 2008, this integration was not completed. ACP did not provide its procedures and its guidelines for how the data migration from FoxPro system to the 18-B Web system would occur and what tests would be done to ensure that this task would be completed successfully. Further, ACP officials stated that they had not planned to perform any data purification steps during the migration. The process of data purification ensures that inaccurate data is corrected prior to the migration to ensure that completeness, accuracy, and reliability of the information found in the resulting database. NIST Standards state: "To maintain the traceability during all phases of the development process all out-coming documents from the requirements, the design to the implementation and testing must be managed . . . this is the precondition of keeping the validity, the quality and the assurance of the software engineering process." As a result of this audit, ACP awarded a contract to a vendor, MODIS, Inc., to work with MIS to complete the integration of FoxPro system into the 18-B Web system by November 2008.

At the exit conference, OCJC officials stated that the integration was completed on June 1, 2008. We conducted a system walk-through on September 16, 2008, to confirm that the family case, court reporter, and expert witness vouchers were being processed through the 18-B Web system. We found that ACP has implemented a "Fox-Dup-Finder," which provides the ability to detect potential duplicate vouchers. Although the process has been updated, the 18-B Web system still does not allow the user the ability to enter specific date and time-of-service information for each FoxPro voucher. Consequently, without this information, we could not perform overlapping and double-billing tests on the FoxPro vouchers.

ACP also provided a data migration procedure, but did not perform any data purification steps to ensure that all inadequate data is corrected prior to the migration.

### **Bronx Attorneys Does Not Use the 18-B Web Scheduling Calendar**

With the exception of the Bronx attorneys, all attorneys are currently using the Scheduling Calendar feature in the 18-B Web system. Prior to introduction of the 18-B Web system, attorneys were using postcards and mail-in requests to select their arraignment assignments. The Scheduling Calendar allows attorneys to select and update their assignments preferences online. The Scheduling Calendar eliminated the work of ACP staff in making changes after the attorneys submitted their assignment choices by postcard. On the first day of each month, the 18-B Web system automatically populates proposed arraignment assignments to ensure the most equitable distribution of assignments for each attorney. The 18-B Web system has been in operation since May 2004, but the Bronx attorneys are still using the postcard method of randomly selecting arraignment assignments.

### **Access-Control Weaknesses**

DoITT's Password Policy states, "All passwords and Personal Identification Numbers used to protect City of New York systems must be appropriately configured, periodically

changed, and issued for individual use.” User identification (ID) and passwords are among the most widely used forms of access control.

### **Security Violations Not Adequately Monitored**

ACP does not have policies and procedures in place to ensure that system security violations are recorded, documented, and reviewed in both the FoxPro system and the 18-B Web systems. Comptroller’s Directive #18, §11.5, states: “A record of the physical and logical security violations detected by software controls and other monitoring procedures must be reported to senior management. The most serious security violations should be reported to executive management. A review of security violations will highlight unresolved problems or weaknesses in internal controls and may show patterns of failure and abuse requiring remedial action.” Such procedures would help ACP to identify patterns of security violations and to ensure that proper controls are instituted to prevent unauthorized access to FoxPro system and the 18-B Web system.

### **Lack of Password-Security Controls in FoxPro System**

FoxPro system does not require users to periodically change passwords. DoITT Directive 2.3, §2.2, states, “Password must expire periodically.” Also, FoxPro system is not equipped with a feature that suspends or disables a user’s access to the system after a predetermined number of unsuccessful log-in attempts. DoITT Password Policy states, “All accounts that provide access to sensitive, private or confidential information must be automatically disabled after five (5) sequential invalid login attempts within a fifteen (15) minute period.”

### **Incomplete Disaster-Recovery Plan**

ACP’s disaster-recovery plan has not been fully developed. It did not include a contact list of personnel critical to continuing system operations, procedures to determine whether an event is sufficiently serious to invoke the plan, a formal agreement with vendors to provide software supplies and equipment, or a formal agreement with DoITT for an alternate processing site. Also, the plan had not been tested, as prescribed by the Comptroller Directive #18, “Business Continuation (Disaster Recovery) Plans.” Directive #18, §10.0, states: “A formal plan for the recovery of agency operations and the continuation of business after a disruption due to a major loss of computer processing capability is an important part of the information protection plan.” In addition, Directive #18 states that “periodic reviews and updates are necessary to insure that the business recovery plan remains current. A comprehensive test should be conducted annually.” Without a formal and approved disaster-recovery plan for FoxPro system and the 18-B Web system, ACP is vulnerable to the loss of critical information in the event of a disaster.

### **Recommendations**

OCJC should:

7. Enforce the time period for submitting vouchers.

**OCJC Response:** “Not Applicable. Effective February 15, 2008 all criminal panel attorney and expert vouchers not submitted within 45 days of the date of disposition of the case, or the date the attorney is relieved from the case, are locked out of 18-B Web and require a court order for payment to be issued. Therefore payments issued on vouchers submitted after 45 days are only made pursuant to a court order, which attorneys and experts are required to obtain. The City may not knowingly ignore a judicial order by refusing to pay the voucher. This same functionality will be deployed for all other voucher types in 2009.”

**Auditor Comment:** OCJC staff did not follow its established policy and procedures. According to the voucher submission guideline provided by OCJC, dated November 2003, all vouchers must be submitted for payment within 45 days of the date of the disposition of the case. Based on our tests of data from January 1, 2004 to October 29, 2007, we found that 95,885 family vouchers processed by the FoxPro system and 31,798 vouchers processed by the 18-B Web system had been submitted after the 45-day guideline. These vouchers ranged from 46 days to more than 20 years after the date of disposition.

Although OCJC enforced the 45-day rule for criminal panel attorneys and vouchers for experts beginning on February 15, 2008, OCJC did not enforce the same rule for the family court vouchers and family court expert witness vouchers. OCJC should be consistent and follow the applicable policy and procedure prior to making compensation.

8. Ensure all vouchers submitted more than 12 months after the date of disposition are not processed.

**OCJC Response:** “Rejected. There is no requirement that vouchers be submitted within 12 months from the date of disposition. See response to recommendation 7.”

**Auditor Comment:** OCJC provided the *Supreme Court of the State of New York Appellate Division-First Department Assigned Counsel Plan Central Screening Committee Manual*, in which Exhibit F, *Assigned Counsel Plan (First and Second Departments) Guidelines*, states, “A. Time Period for Submission—2. Only under unusual circumstances will vouchers submitted more than 45 days after the disposition of the case be processed. Vouchers more than 45 days old must be accompanied by an affirmation stating that no prior claim has been made and explaining the reason for the delay. Under no circumstances will vouchers submitted more than 12 months after the date of disposition be processed.” Therefore, OCJC should ensure that its staff follows the established policy and procedure stated in the manual cited above.

9. Develop a data purification plan that ensures that all inadequate data is corrected before it is transferred into the 18-B Web system.

**OCJC Response:** “Partially Accepted. Data purification steps were included within the data migration procedure that was utilized when FoxPro data was migrated to 18-B Web

on June 1, 2008. Data was migrated for the purposes of historical reporting and that data had no effect on payments.”

**Auditor Comment:** OCJC did provide us with a data migration procedure after the exit conference, but data purification steps were not included with this documentation. Furthermore, OCJC did not provide proof that all inadequate data was corrected prior to the migration.

10. Ensure that the 18-B Web system will provide all the functions that should be available to users, specifically, the capability to identify overbilling and overlapping vouchers.

**OCJC Response:** “Accepted. Business processes exist governing the capability to identify overbilling within 18-B Web. 18B-Web contains an internal control that warns attorneys if they exceed daily billings.”

11. Develop written policies and procedures for the data migration of FoxPro data into the 18-B Web system.

**OCJC Response:** “Not Applicable. The procedures for migrating the FoxPro data into the 18-B Web system were documented and provided to the auditors as reflected on page 15 of the report: ‘ACP also provided a data migration procedure. . . .’ Also, see response to recommendation 9.”

**Auditor Comment:** OCJC did provide a data migration procedure after the exit conference. However, they did not provide proof that all migration was successfully completed.

12. Work with the Appellate Division to have the Bronx attorneys use the 18-B Web Scheduling Calendar.

**OCJC Response:** “Accepted. CJC is in ongoing discussions with the Appellate Division of the First Judicial Department and will share the Comptroller’s concerns with them. It is important to note that there is no risk of fraud associated with the Bronx scheduling procedures.”

13. Develop written policies and procedures for password-security control for FoxPro system.

**OCJC Response:** OCJC stated, “Four of the audit recommendations refer entirely to the now obsolete FoxPro application. Because the FoxPro system is no longer in use, we have not responded to those recommendations related to FoxPro, specifically recommendations 3, 4, 13 and 14.”

**Auditor Comment:** Since the FoxPro system is integrated into the 18-B Web system, OCJC should ensure that all users follow the password-security policies and procedures for the 18-B Web.

14. Install a lockout feature that automatically disables access to FoxPro system after a predetermined number of unsuccessful log-in attempts.

**OCJC Response:** OCJC stated, “Four of the audit recommendations refer entirely to the now obsolete FoxPro application. Because the FoxPro system is no longer in use, we have not responded to those recommendations related to FoxPro, specifically recommendations 3, 4, 13 and 14.”

**Auditor Comment:** Since the FoxPro system is integrated into the 18-B Web system, OCJC should ensure that the 18-B Web system has the lockout feature that automatically disables user access after a predetermined number of unsuccessful log-in attempts.

15. Establish formal procedures to document and report system-access violations. Once such procedures are instituted, ACP should review and follow up all reported access violations.

**OCJC Response:** “Accepted. As a result of the audit, internal controls were further strengthened to capture login information for both successful and failed attempts. Periodic checks of this report will be performed to identify any anomalies, and email notifications are sent to CJC staff for investigative purposes.”

16. Complete and approve a formal, comprehensive disaster-recovery plan for FoxPro system and the 18-B Web system in accordance with DoITT’s Business Continuity Directive.

**OCJC Response:** “Accepted. The Disaster Recovery Plan was submitted to the auditors on November 29, 2007 and has been reviewed by DoITT. The physical hosting of 18-B Web will be transitioned to DoITT’s hosted facility in the spring of 2009 and will be governed by DoITT’s disaster recovery directives.”

17. Periodically test the formal, approved disaster-recovery plan.

**OCJC Response:** “Accepted. See response to recommendation 16.”



**Vouchers That Exceeded Maximum Limits**

<b>Borough</b>	<b><u>FoxPro System</u> Total # of Vouchers Exceeding Maximum</b>	<b>Totals Amount</b>	<b><u>18-B Web System</u> Total # of Vouchers Exceeding Maximum</b>	<b>Totals Amount</b>
Bronx	419	\$2,938,902	892	\$7,598,412
Brooklyn	871	\$6,173,730	916	\$7,931,101
Manhattan	657	\$4,908,821	1,101	\$8,699,026
Queens	342	\$2,263,436	752	\$5,788,848
Staten Island	52	\$296,240	62	\$502,503
Blank	0	\$0	3	\$20,659
<b>Grand Total</b>	<b>2,341</b>	<b>\$16,581,129</b>	<b>3,726</b>	<b>\$30,540,549</b>



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
OFFICE OF THE CRIMINAL JUSTICE COORDINATOR  
MUNICIPAL BUILDING • ONE CENTRE STREET • TENTH FLOOR NORTH  
NEW YORK, NEW YORK 10007  
TEL: (212) 788-6810 • FAX: (212) 788-6847

JOHN FEINBLATT  
Criminal Justice Coordinator

December 19, 2008

Mr. John Graham  
Deputy Comptroller, Audits, Accountancy & Contracts  
Office of the Comptroller  
1 Centre Street  
New York, NY 10007-2341

Re: **Audit Report No. 7A08-085**

Dear Mr. Graham:

I am writing in response to the draft report, *Audit of the Controls over Billings and Payments for Work by Panel Members in the Assigned Counsel Plan*. The Office of the Criminal Justice Coordinator (CJC) is pleased that this report demonstrates that the 18-B Web system, which now handles all vouchers processed by the Assigned Counsel Plan (ACP), has improved the ACP billing system's capacity to prevent fraudulent claims of service from being submitted and paid. Additionally, CJC is pleased to note, as the audit itself docs, that the FoxPro system that was the subject of a large part of the audit was decommissioned in June 2008 and is no longer in use.

The audit reviewed billing data from January 1, 2004 through October 29, 2007. During that time, ACP upgraded to the new 18-B Web system - in 2004 the 18-B Web system came online at ACP allowing payment vouchers to be submitted and reviewed electronically. Since July 2004, all criminal defense attorneys, who are the bulk of ACP billers, have submitted their vouchers via 18-B Web. Experts, court reporters, and family court practitioners were migrated off the Fox Pro system in June 2008.

By migrating to an electronic format for voucher submissions, ACP is able to prevent potential double billing by attorneys and to detect questionable billing practices more easily. ACP is also able to create an immediate report of attorney voucher submissions and payments received, making auditing of potentially questionable activities significantly less

time-consuming. With the maturing of 18-B Web, ACP now has the capacity to conduct these internal audits on a regular basis.

When the City Comptroller's audit commenced in September 2007, we informed the auditors that FoxPro would be discontinued in 2008 because of the noted shortcomings, and that our efforts were focused on leveraging 18-B Web. The auditors agreed with this approach and were twice notified that FoxPro had been decommissioned - during the summer and at our exit conference on September 8, 2008.

The introduction of 18-B Web in 2004 remedied a series of deficiencies related to future billing for criminal court attorney work, which comprises two-thirds of ACP's payments. These improvements are now being implemented for the remaining ACP payments as a result of the completed migration to 18-B Web. The data tested in this audit demonstrates the superiority of the current 18-B Web application from the prior PowerBuilder and FoxPro applications.

Since retiring FoxPro, we have implemented a series of changes that were planned prior to the audit as well as additional changes based on conversations with the Comptroller's Office and the Department of Information and Telecommunication Technology (DoITT). The audit validates these actions, and points out improvements, many of which have been underway for many months. We believe that the substantial enhancements that flow from CJC's continuing efforts will ensure the integrity and reliability of ACP operations.

Attached is the Office's response to the recommendations contained in the draft audit. Four of the audit recommendations refer entirely to the now obsolete FoxPro application. Because the FoxPro system is no longer in use, we have not responded to those recommendations related to FoxPro, specifically recommendations 3, 4, 13 and 14.

We appreciate the courteous and professional conduct of your staff throughout the audit process. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shari C. Hyman', with a large, stylized flourish extending to the right.

Shari C. Hyman  
Deputy Criminal Justice Coordinator

Attachment

**ATTACHMENT**

**Criminal Justice Coordinator's Response to the Office of the Comptroller's Draft Audit Report dated December 5, 2008, *Audit of Billings for Work Submitted by Panel Members in the Assigned Counsel Plan***

- 1. Create a system control that ensures that future-date activities are not paid prior to the actual work being completed to prevent the potential for over-billing or double-billing (p.10)**

*Response: Not Applicable.* A system control has been in place preventing future billing since 2004. On September 16, 2008 MIS demonstrated to the auditors that no future billing activity has occurred since 2004. All instances of future billing activity that occurred prior to the implementation of the system control were attributable to data entry errors and not fraudulent billing.

- 2. Create a system control that ensures that all mandatory data fields have the required information (p.10)**

*Response: Not Applicable.* In 2004 18-B Web replaced an older system that contained an optional field titled "Description." Since February 2004, a system control has been in place to ensure that mandatory data fields have the required information. On September 16, 2008 MIS demonstrated to the auditors that no assignments created after February 6, 2004 lacked required data.

- 5. Ensure future system development will allow users to enter accurate court reporter information (p.11)**

*Response: Accepted.* Effective June 1, 2008 a new table was created to track pages as opposed to hours for the court reporters. This functionality exists in the 18-B Web application and was demonstrated to the auditors on September 16, 2008. Additionally, no erroneous payments occurred as a result of the previous billing practices in FoxPro before it was decommissioned.

- 6. Ensure that prior to providing compensation ACP staff receives judges' approvals and attorneys' affirmations specifying the time and billable services for all cases exceeding the standard rates and maximum limits (p.14)**

*Response: Accepted.* This policy has been in place since May 13, 2008.

- 7. Enforce the time period for submitting vouchers (p.16)**

*Response: Not Applicable.* Effective February 15, 2008 all criminal panel attorney and expert vouchers not submitted within 45 days of the date of disposition of the case, or the date the attorney is relieved from the case, are locked out of 18-B Web and require a court order for payment to be issued. Therefore payments issued on vouchers submitted after 45 days are only made pursuant to a court order, which attorneys and experts are required to obtain. The City may not knowingly ignore a judicial order by refusing to pay the voucher. This same functionality will be deployed for all other voucher types in 2009.

**8. Ensure all vouchers submitted more than 12 months after the date of disposition are not processed (p.16)**

*Response: Rejected.* There is no requirement that vouchers be submitted within 12 months from the date of disposition. See response to recommendation 7.

**9. Develop a data purification plan that ensures that all inadequate data is corrected before it is transferred into the 18-B Web system (p.16)**

*Response: Partially Accepted.* Data purification steps were included within the data migration procedure that was utilized when FoxPro data was migrated to 18-B Web on June 1, 2008. Data was migrated for the purposes of historical reporting and that data had no effect on payments.

**10. Ensure that the 18-B Web system will provide all the functions that should be available to users, specifically, the capability to identify over-billing and overlapping vouchers (p.16)**

*Response: Accepted.* Business processes exist governing the capability to identify over-billing within 18-B Web. 18B-Web contains an internal control that warns attorneys if they exceed daily billings.

**11. Develop written policies and procedures for the data migration of FoxPro data into 18-B Web system (p.16)**

*Response: Not Applicable.* The procedures for migrating the FoxPro data into the 18-B Web system were documented and provided to the auditors as reflected on page 15 of the report: "ACP also provided a data migration procedure..." Also, see response to recommendation 9.

**12. Work with the Appellate Division to have the Bronx attorneys use the 18-B Web Scheduling Calendar (p.17)**

*Response: Accepted.* CJC is in ongoing discussions with the Appellate Division of the First Judicial Department and will share the Comptroller's concerns with them. It is important to note that there is no risk of fraud associated with the Bronx scheduling procedures.

**15. Establish formal procedures to document and report system-access violations. Once such procedures are instituted, ACP should review and follow up all reported access violation (p.17)**

*Response: Accepted.* As a result of the audit, internal controls were further strengthened to capture login information for both successful and failed attempts. Periodic checks of this report will be performed to identify any anomalies, and email notifications are sent to CJC staff for investigative purposes.

**16. Complete and approve a formal, comprehensive disaster recovery plan for FoxPro system and the 18-B Web system in accordance with DoITT's Business Community Directive (p.17)**

*Response: Accepted.* The Disaster Recovery Plan was submitted to the auditors on November 29, 2007 and has been reviewed by DoITT. The physical hosting of 18-B Web

will be transitioned to DoITT's hosted facility in the spring of 2009 and will be governed by DoITT's disaster recovery directives.

**17. Periodically test the formal, approved disaster recovery plan (p.17)**

*Response: Accepted.* See response to recommendation 16.