

AUDIT REPORT

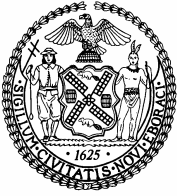


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Taxi and Limousine Commission's Controls over Taxi Medallions

FM08-075A

November 7, 2008



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 Taxi and Limousine Commission (TLC) to determine whether it maintained adequate controls over the issuance, renewal, replacement, and transfer of existing taxi medallions.

TLC is responsible for regulating and improving the taxi and livery services in New York City. TLC licenses and regulates medallion taxicabs, for-hire vehicles (community-based liveries and black cars), commuter vans, paratransit vehicles, and certain luxury limousines. It also licenses the owners and operators of these vehicles as well as the central facilities, or "bases," for these vehicles. Audits such as this provide a means of ensuring that City agencies have establish criteria and standards for professional conduct, public safety, and business accountability.

The results of our audit, which are presented in this report, have been discussed with officials from TLC, and their comments have been considered in preparing this report. Their complete written responses are 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 or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in black ink that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

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

**Audit Report on the
Taxi and Limousine Commission's Controls
Over Taxi Medallions**

FM08-075A

AUDIT REPORT IN BRIEF

The Taxi and Limousine Commission (TLC) was created in 1971 by Local Law 12 to regulate and improve the taxi and livery services in New York City.¹ The purpose of TLC is the continuance, further development and improvement of taxi and limousine service in New York City. TLC licenses and regulates medallion taxicabs, for-hire vehicles (community-based liveries and black cars), commuter vans, paratransit vehicles, and certain luxury limousines. It also licenses the owners and operators of these vehicles as well as the central facilities, or “bases,” for these vehicles. In addition, TLC licenses and regulates the businesses that manufacture, install, and repair meters used in taxicabs, agents that operate taxicab medallions on behalf of owners, and brokers that assist buyers and sellers of taxicab medallions.

Medallions are aluminum plates affixed to the hood of taxicabs to represent physical evidence of a taxicab license. Chapter 5 of the New York City Administrative Code, Transportation of Passengers For Hire By Motor Vehicles, requires TLC approval for transfers of medallions, and maintains the appropriate proportion of owners of one taxicab to owners of multiple taxicabs. Additional medallions may be sold only through enactment of a local law. Since 2000, the City Council and State legislature authorized an additional 1,050 medallions, which TLC sold through auction.

Currently, TLC classifies a medallion as “independent or “mini-fleet”. During Fiscal Year 2007, the average price for an independent and mini-fleet medallion was \$411,083 and \$518,875, respectively. TLC licensed 13,085 yellow taxicabs during that period—5,506 independent and 7,579 mini-fleet.

The audit determined whether the Taxi and Limousine Commission maintained adequate controls over the issuance, renewal, replacement, and transfer of existing taxi medallions.

¹ The Commission consists of nine members to be appointed by the Mayor with the advice and consent of the City Council. The Mayor shall designate one member of the Commission to act as the Chairman and Chief Executive Officer.

Audit Findings and Conclusions

TLC maintains adequate controls over its cash receipts for renewal fees, and the receipt and storage of medallions. TLC also ensures that waiver letters are obtained from DOF prior to the transfer of a medallion below fair market value. However, TLC should improve its controls over the issuance of temporary and replacement medallions by segregating duties that mutually pose potential risk or error, using prenumbered temporary medallions, and improving its monitoring activities. Additionally, TLC should segregate employee responsibilities over the transfer of medallions. Further, TLC should require medallion owners to satisfy outstanding summonses at renewal. If it had, it could have collected an additional \$79,820 in summons payments.

Finally, a review of medallion transfers revealed the possible misuse of a power of attorney privilege which led to the continuing operation of a taxicab six years past the death of a medallion owner.

Audit Recommendations

The audit makes 10 recommendations. Among those recommendations, we recommend that TLC should:

- Separate the responsibilities for authorizing, processing, recording and safeguarding temporary and replacement medallions.
- Order prenumbered temporary medallions.
- Separate the responsibilities for authorizing, processing, and recording of transfers as well as the determination of the fair market value for medallions.
- Amend its rules to require medallion owners to resolve summonses before medallions are renewed.
- Prepare standard operating procedures for Licensing personnel to ensure medallions with outstanding summonses are not renewed.
- Require medallion owners to periodically update power of attorney agreements with agents or personally sign renewal cards.

INTRODUCTION

Background

The Taxi and Limousine Commission was created in 1971 by Local Law 12 to regulate and improve the taxi and livery services in New York City. The purpose of TLC is the continuance, further development and improvement of taxi and limousine service in New York City. TLC licenses and regulates medallion taxicabs, for-hire vehicles (community-based liveries and black cars), commuter vans, paratransit vehicles, and certain luxury limousines. It also licenses the owners and operators of these vehicles as well as the central facilities, or “bases,” for these vehicles. In addition, TLC licenses and regulates the businesses that manufacture, install, and repair meters used in taxicabs, agents that operate taxicab medallions on behalf of owners, and brokers that assist buyers and sellers of taxicab medallions.

Chapter 65, §2303, of the City Charter mandates that TLC set taxicab fare rates and establish criteria and standards for professional conduct, vehicles, public safety, and business accountability. TLC also enforces and adjudicates rules and regulations it has established to govern the industry, promote safety, and protect the riding public.

Medallions are aluminum plates affixed to the hood of taxicabs to represent physical evidence of a taxicab license. The medallion system was established in 1937 through the Haas Act, which was passed to limit the number of taxicabs and regulate the industry. Currently, Chapter 5 of the New York City Administrative Code, Transportation of Passengers For Hire By Motor Vehicles, requires TLC approval for transfers of medallions, and maintains the appropriate proportion of owners of one taxicab to owners of multiple taxicabs. Additional medallions may be sold only through enactment of a local law. Since 2000, the City Council and State legislature authorized an additional 1,050 medallions, which TLC sold through auction.

Currently, TLC classifies a medallion as “independent or “mini-fleet”. During Fiscal Year 2007, the average price for an independent and mini-fleet medallion was \$411,083 and \$518,875, respectively. TLC licensed 13,085 yellow taxicabs during that period—5,506 independent and 7,579 mini-fleet. See Table I for details.

Table I
2007 Licensed Medallions

Type of Medallion	Unrestricted	Accessible*	Alternative Fuel**	Total
Independent	5,375	2	129	5,506
Mini-Fleet	<u>7,358</u>	<u>142</u>	<u>79</u>	<u>7,579</u>
Total	12,733	144	208	13,085

* “Accessible” medallions are medallions that are placed on vehicles that allow a passenger using a wheelchair to roll on and off the taxicab.

** “Alternative fuel” medallions are medallions that are placed on hybrid-electric or compressed natural gas vehicles.

An independent owner can own only one medallion and must personally operate the taxicab a minimum of 210 nine-hour shifts per year—if the medallion was purchased after January 7, 1990. Mini-fleet owners are not required to personally operate taxicabs; however, they must ensure that the medallion cabs are operated a minimum of two nine-hour shifts per day. Mini-fleet owners typically lease their cabs to drivers through TLC-licensed taxicab agents. A taxicab agent acts on behalf of one or more owners of a taxicab. If an agent operates 25 or more vehicles it is considered a fleet.

Fleet vehicles are dispatched from a single location and must be in operation for at least 18 hours per day. Each fleet may maintain stand-by, non-medallion vehicles (SBV) equal in number to 10 percent of all licensed taxicabs operated by the fleet. An SBV may be dispatched in place of a currently licensed taxicab when the taxicab is out of service for repairs or required inspection. It also may be used to replace a vehicle that has been stolen or permanently retired from service for up to 30 days from the date of theft or retirement.

TLC requires fleets to obtain a temporary medallion when operating an SBV in place of a taxicab out for inspection. Temporary medallions are printed at TLC's licensing division on card-stock paper and are valid for 30 days. TLC also issues temporary medallions when aluminum medallions are lost or stolen. TLC issues a replacement medallion when a temporary medallion expires and the original is not recovered and when an aluminum medallion is mutilated or destroyed. Replacement medallions retain the same physical characteristics as the original medallion, but are assigned a three-digit control number in place of the medallion number, which consists of three numbers and one letter. Replacement medallions are valid until the next renewal period.

Medallions are renewed every two years. Renewal years depend on the medallion number; the entire renewal process is spread out over two years to avoid a simultaneous mass expiration of medallions. As of Fiscal Year 2007, a medallion owner is responsible for filing a renewal application and certificate of insurance, and paying fees totaling \$1,410, by no later than April 30 of the year that the license is scheduled to expire. The fees include the following: two annual license fees totaling \$1,100; six inspection fees totaling \$300; and a \$10 fee for the medallion itself. Medallion owners must also satisfy outstanding summonses before their medallion is renewed.

TLC's standards and criteria of ownership require TLC approval of all medallion transfers. Prospective owners must be at least 18 years of age, pass criminal background checks, and must not have violated certain TLC or Department of Motor Vehicle rules within the previous two years. Each transfer is subject to a transfer tax imposed by the Department of Finance (DOF). The New York City Administrative Code requires a five percent tax of the purchase price of a taxicab license. The tax is paid by the transferee (new medallion owner) and collected by TLC upon the approval of the transfer. Currently, TLC requires transferees to obtain a tax waiver letter from DOF for all transfers that are \$10,000 below fair market value. TLC calculates fair market value by determining the average sales price of the previous month's transfers.

Objectives

The audit's objective was to determine whether the Taxi and Limousine Commission maintains adequate controls over the issuance, renewal, replacement, and transfer of existing taxi medallions.

Scope and Methodology

The scope period of the audit is July 1, 2006, through June 30, 2007 (Fiscal Year 2007). To achieve our audit objectives, we reviewed Chapter 65 of the Charter of the City of New York, Chapter 14 of the New York City Administrative code, and TLC rules and regulations. We also reviewed the Comptroller's Directives #1, "Principles of Internal Controls," of the New York City Comptroller's Internal Control and Accountability Directives. We used this directive as the criterion in evaluating TLC's controls over medallions.

We conducted interviews with TLC personnel to identify processes significant to our audit objective, in particular, the issuance, renewal, replacement, and transfer of medallions. To gain an understanding of TLC's controls over those processes, we conducted walk-throughs with appropriate TLC personnel and documented our understanding through flowcharts and memoranda. We also obtained and reviewed TLC's policies and procedures for each process. Further, we observed the safeguarding and inventory of the 2007-2009 medallions, daily cash close-out in Medallion Licensing department (Licensing) on October 29, and 30, 2007, and the issuance of a temporary and replacement medallions.

Based on our understanding of controls obtained through interviews, walk-throughs, and observations, we evaluated each process to ascertain whether controls are adequately designed. We reviewed each process to determine whether duties are separated, authorizations are required, reconciliations are performed, and monitoring activities are implemented.

To ensure TLC issued only those specific medallions authorized by law, we created a timeline of the legislative acts that sanctioned each new sale of medallions. We obtained TLC's official medallion alphanumeric sequencing to determine whether it contained only those medallions established by the timeline. The official medallion sequencing was compared to a list of current medallions and their owners obtained from TLC. Further, we independently obtained TLC's purchase order (for actual medallion tins) through the City's contract registry (OASIS) for the medallions in use during the audit scope, and compared it to the invoices found in TLC files. We then reconciled the number of medallions authorized and the number of medallions in TLC's inventory to the number of medallions listed on the purchase order. We also examined the condition of each medallion in inventory to verify that it was unused.

To determine whether TLC follows its policies and procedures, and to test the effectiveness of its controls over the renewal process, we randomly selected five medallion numbers within the 5,884 licenses up for renewal during Fiscal Year 2007. We then obtained the renewal records for each medallion to determine whether the renewal card and certificate of insurance were present and the renewal fee paid.

To determine whether TLC requires medallions owners to pay summonses prior to the renewal of their license, we obtained a list on September 12, 2007, generated by Licensing of outstanding summonses associated with each medallion to ascertain whether those summonses were outstanding prior to renewal. According to the list, 1354 summonses were outstanding as of September 12, 2007. Since medallion renewals should be completed by April 30, we eliminated 540 of the 1354 summonses that were issued after the medallion renewal deadline. The remaining 814 summonses represented 359 medallions. We randomly selected 25 of the 359 medallions and checked TAMIS to ascertain whether all the summonses that were outstanding were included, and whether those summonses on the list existed on the system.² Further, we randomly selected 25 of the 12,726 medallions without summonses and checked whether any outstanding summonses were nonetheless on TAMIS. We should note that source documents were in archives and not available for further testing. We did not specifically test the reliability of TAMIS itself because that was outside the scope of this audit

To assess whether TLC can account for all replacement medallions, we conducted an inventory count on September 11, 2007, and found 279 unused replacement medallions. We then reconciled the count to the replacement medallion log book and purchase invoices. To determine whether TLC follows its own policies and procedures, we randomly selected five replacement medallion numbers out of the 321 that were issued and obtained the records for each. For each replacement medallion, we determined whether TLC obtained a police or incident report, certificate of insurance, New York State registration, expired temporary medallion, letter notifying the Safety and Emissions department of the use of a replacement medallion, original rate card, picture identification, \$25 fee, and the power of attorney, if applicable.³

Since temporary medallions are not prenumbered, we did not conduct an inventory count or determine a complete population for temporary medallions as noted in the Findings section of this report. However, we did test whether TLC follows its policies and procedures. We randomly selected five temporary medallion numbers from the 300 that were issued according to the log book and checked whether TLC obtained the required documentation: a certificate of insurance, a rate card, New York State registration, picture identification, and a \$25 fee. Depending on the reason for the issuance of the temporary medallion, TLC may also require a police or incident report, a letter from the fleet requesting a temporary medallion, rate card and New York State registration for SBV, storage receipt, and a power of attorney.

To verify that TLC follows the procedure of issuing a temporary medallion before issuing a replacement medallion when an original medallion is lost or stolen, we compared the temporary medallion log book to the replacement medallion log book and identified 112 cases. For those 112 cases, we examined the time period between the expiration of temporary medallions and the issuance of replacement medallions to determine whether expired medallions

² TAMIS is a modified version of the City Agencies Management Information System (CAMIS) mainframe system. TAMIS resides on the City's mainframe computer operated by the Department of Information Technology and Telecommunications and is accessed and used solely by TLC.

³ Power of attorney is a written document signed by a person giving another person the power to act in conducting the signer's business, including signing papers, checks, title documents, contracts, handling bank accounts and other activities in the name of the person granting the power. Power of attorney ends at death or revocation.

were in use. We also randomly selected 20 temporary medallions to verify that the medallions numbers, issuance dates, expiration dates, and status were correctly entered in TAMIS.

To test the effectiveness of TLC's control over the transfer process, we initially obtained a list of transfers from TLC's Legal department (Legal) for Fiscal Year 2007. To ensure the completeness of Legal's list, we first obtained a list of medallion owners, as of July 1, 2006, from the TLC Management Information System department (MIS). We then compared the list from MIS to a list of current medallions owners, as of September 12, 2007, obtained from the Licensing department (Licensing). We identified each change in ownership and traced those changes to the list of transfers from Legal. To determine whether TLC is following its policies and procedures, we randomly selected 5 out of the 293 transfers during Fiscal Year 2007. For each transfer, we determined whether outstanding summonses were satisfied, required documentation and identification were submitted, mandatory fees were paid, transfer tax was collected, and transfers were reviewed and approved.

To ensure all transfers were reported to DOF, we traced and vouched the transfers on the list from Legal to the tax returns in DOF's records. To ensure all transfers that were below fair market value were referred to DOF, we initially identified each transfer that fit that criterion. For each transfer that was below fair market value, we determined whether the waiver letter was obtained.

The results of the above tests, while not projectable to their respective populations, provided a reasonable basis to assess TLC's controls over taxi medallions.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of 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 TLC officials during and at the conclusion of this audit. A preliminary draft report was sent to those officials July 21, 2008, and discussed at an exit conference held on August 12, 2008. On September 10, 2008, we submitted a draft report to TLC officials with a request for comments. We received a written response from TLC officials on September 24, 2008.

In their response, TLC officials agreed with eight of the ten recommendations. TLC disagreed with recommendations to: amend its rules to require medallion owners to resolve summons before medallions are renewed, and to prepare standard operating procedures for Licensing personnel to ensure medallion owners with outstanding summonses are not renewed.

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

FINDINGS

TLC maintains adequate controls over its cash receipts for renewal fees, and the receipt and storage of medallions. TLC also ensures that waiver letters are obtained from DOF prior to the transfer of a medallion below fair market value. However, TLC should improve its controls over the issuance of temporary and replacement medallions by using prenumbered temporary medallions, improving its monitoring activities, and segregating duties in areas prone to high risk or error. Additionally, TLC should segregate employee responsibilities over the transfer of medallions. Further, TLC should require medallion owners to satisfy outstanding summonses at renewal. If it had, it could have collected an additional \$79,820 in summons payments.

Finally, a review of medallion transfers revealed the possible misuse of a power of attorney privilege which led to the continuing operation of a taxicab six years past a medallion owner's death.

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

Controls over Temporary and Replacement Medallions Need Improvement

While TLC generally followed its policies and procedures when issuing temporary and replacement medallions, our review of the records and understanding of the process found that TLC could improve its controls over those operations by segregating employee responsibilities, using prenumbered temporary medallions, safeguarding the instruments used to authenticate temporary medallions, performing reconciliations of records to the physical inventory, and ensuring the accuracy of information entered in TAMIS. Sound internal controls provide the first line of defense in safeguarding assets and help in preventing or detecting errors and misappropriation.

Lack of Segregation of Duties

TLC lacks adequate segregation of duties over the issuance of replacement medallions because the employee who maintains custody of the medallions also processes and records transactions. The Medallion Licensing Supervisor safeguards and distributes replacement medallions, processes and reviews paper work at the counter operations service window, enters information in TAMIS, and records transactions in the logbook. Comptroller's Directive #1 states, "Key duties and responsibilities need to be divided or segregated among different staff members to reduce the risk of error or fraud. This should include segregating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets." We should note that the Medallion Licensing Supervisor also performs several functions that mutually pose potential risk or error for the processing and issuance of temporary medallions. While our audit tests did not reveal any evidence of fraud, one employee should not be in a position to commit and conceal an irregularity.

Safeguarding of Blank Temporary Medallions, Hand Stamps, and Raised Seals Could be Enhanced

According to TLC's licensing records (logbook), 244 temporary medallions were issued during Fiscal Year 2007. However, we could not be assured that additional unauthorized temporary medallions were issued since temporary medallions are not prenumbered. Consecutively prenumbered documents facilitate the identification of missing ones. Instead, temporary medallions are printed in-house on generic card-stock paper. A portion of the temporary medallions is periodically numbered using a hand stamp, which is stamped by the same employee (Medallion Licensing Supervisor) discussed in the previous section.

In addition, the unused stamped medallions, blank medallions, and hand stamp are all kept in a locked cabinet in Licensing; however, all Medallion Licensing Operators and their supervisor have access to the cabinet. Finally, the raised seals used to emboss and authenticate temporary medallions are not safeguarded and are left out in the open. Consequently, the circumstances exist in which several employees have the ability to manufacture a temporary medallion without producing a paper trail.

Lack of Effective Monitoring Procedures To Prevent Misplaced or Misappropriated Medallions

TLC lacks effective monitoring procedures to ensure that temporary and replacement medallions are accounted for and not being misused. Specifically, TLC does not perform inventory reconciliations; and information it enters into TAMIS for temporary medallions may be unreliable. Comptroller's Directive #1 states, "A sound internal control system must be supported by on going activity monitoring occurring at various organizational levels and in the course of normal operations."

TLC does not reconcile the physical inventory of replacement and temporary medallions to the log books. As a result, TLC would not have been aware had replacement or temporary medallions been missing. Reconciliations are basic control activities used to identify errors and misappropriation. More importantly, reconciliations can compensate for control weaknesses, particularly when several key functions are performed by one individual. Although the replacement medallion log book reconciled to on-hand balances when we conducted an inventory count, we were unable to conduct an inventory count of blank temporary medallions because blank temporary medallions are not prenumbered.

We also noted inaccurate data in TAMIS regarding temporary medallions. Inaccurate data in TAMIS weakens TLC's monitoring capabilities because enforcement agents rely on that information when issuing summonses and enforcing rules. A review of TAMIS records for 20 temporary medallions revealed 7 cases whose medallion numbers, issuance dates, expiration dates, or medallion statuses, were not correctly entered in the system. Furthermore, TAMIS had no record for one of those temporary medallions and for another expired temporary medallion used for illustrative purposes during a walk-through. We should note that we identified 4 instances out of 112 cases in which temporary medallions were expired for seven days or more before TLC issued a replacement medallion. In one case, a cab lacked a valid medallion for 33

days after its temporary medallion expired on September 21, 2006, and before it was issued a replacement on October 24, 2006. Given some of these control weaknesses, TLC should ensure the information entered in TAMIS and used by its enforcement agents is accurate so that unauthorized or expired temporary medallions are not permitted to operate.

Controls over Transfer Of Medallions Could be Enhanced

TLC also lacks segregation of duties over the transfer of medallions. An employee of Legal is responsible for the entire transfer process and has no oversight. Comptroller's Directive #1 states, "No one individual should control all key aspects of a transaction or event." One employee clears the medallions for sale, reviews sale documentation, conducts the closing, updates TAMIS, collects the transfer tax and fees, establishes the industry Fair Market Value, and maintains the records. TLC does have two controls designed to ensure the validity of each transfer; however, our limited review of transfer documents revealed those controls were not followed. Documentation checklists were not used, and transfers were never reviewed by a supervisor as required by the transfer form. Further, the same employee who signs each transfer form as the preparer, signs off also as a reviewer. TLC should segregate the transfer duties to ensure the integrity of the transfer process.

Summonses Are Not Satisfied at Renewal

TLC does not require medallion owners to satisfy outstanding summonses before their bi-annual medallion renewal and, if it had, may have collected an additional \$79,820 in summons payments in Fiscal Year 2006 and 2007. According to TLC's response to a prior audit, TLC stated, "TLC licensing division reviews each renewal and checks the TLC's TAMIS records to ensure that licenses are not approved whenever the licensee has unpaid summonses."⁴ However, Licensing personnel stated that they do not require medallion owners to satisfy outstanding summonses before medallions are renewed. This was subsequently confirmed through analysis. See Table II for details.

Table II
Schedule of Outstanding Summonses at Renewal

Fiscal Year	# of Medallions Renewed	# of Medallions with Outstanding Summonses at Renewal	Dollar Value of Summonses
2006	7287	132	\$36,225
2007	5798	175	43,595
Total	13,085	307	\$79,820

⁴ Audit Report on the Internal Controls of the Taxi and Limousine Commission over the Collection of Fines MH02-182A.

TLC approved the renewal of 307 medallions with outstanding summonses in Fiscal Years 2006 and 2007. Instead of approving those renewals, TLC should use the renewal process as an inducement to require medallion owners with outstanding summonses to pay the summonses and resolve any conditions that were cited.

Other Issue

Misuse of Power of Attorney

Our review of medallion transfers revealed one medallion that was in operation for six and half years after the medallion owner's death. TLC remained unaware that the owner was deceased until the individual's estate decided to transfer the medallion to another party. Since the owner's death in April 2000, TLC processed five renewals (prior to 2005 renewals were processed annually), and two vehicles were approved for operation by that owner. Moreover, vehicle registration, ownership, and insurance, all bear the name of the deceased long past his departure. These transactions were conducted on behalf of the owner by an agent with power of attorney, who managed, operated, and otherwise handled all TLC business for the medallion owner. As a result, TLC remained unaware of the owner's death and the continued operation of the taxicab. Chapter 1 of TLC's Rules and Regulations state, "An executor or administrator may continue the operation of a taxicab only with the approval of the Commission as to his qualifications. The executor or administrator must apply for such approval within 60 days of his or her appointment."

The transactions conducted on behalf of the owner after his death are highly questionable. One of the vehicles approved for operation by TLC was purchased and registered by the deceased, through power of attorney, in May 2003. That vehicle, a 2003 Ford Crown Victoria, was in use until the owner's estate intended to sell the medallion in 2006.

On November 22, 2006, the agent notified TLC it no longer represented the medallion owner. Then on November 28, 2006, the agent submitted the medallion to storage at TLC. On that same day, TLC was provided with a bill of sale for the 2003 Ford Crown Victoria on the deceased medallion owner's letterhead. The bill of sale was signed by an individual claiming to have power of attorney on behalf of the deceased. However, our review of TLC's records revealed that the person who signed the bill of sale was actually the property manager of the agent's leased premise. Although the agent's power of attorney ceased when the owner died, the agent continued to act on behalf of the owner even after it submitted the termination letter to TLC on November 22, 2006. Moreover, the letter was notarized by the agent's general manager, and the car was sold for \$500 to another medallion owner affiliated with the agent.

The owner's death may not have been reported to TLC to benefit the agent by keeping the cab in operation. Since TLC does not require medallion owners and their agents to periodically update power of attorney letters, a medallion can continue to operate after an owner's death. Medallions in operation under the names of deceased individuals may affect insurance claims and ultimately put the public at risk.

RECOMMENDATIONS

We recommend that:

1. TLC should separate the responsibilities for authorizing, processing, recording and safeguarding temporary and replacement medallions.

TLC Response: “**Accepted and Implemented.** There are currently three people that staff the Medallion Counter, one of whom was the supervisor of the unit at the time the audit was conducted. The Licensing Division has since been re-organized and a new Supervisor for all Owner\Vehicle Counter Operations, inclusive of Medallion related transactions, was appointed. The Licensing Division will begin cross training additional personnel in the processing of medallion related actions to allow us to further separate job functions.”

2. TLC should order prenumbered temporary medallions.

TLC Response: “**Partially Accepted.** The TLC accepts the premise that additional controls should be implemented by the Licensing Division over the issuance of temporary medallions. However, the TLC believes that it would be more practical from an operational perspective to implement a database to control the issuance and designation of temporary medallions. The database log will be developed in conjunction with our MIS Department and will contain adequate controls to help prevent fraud or mismanagement. Upon issuance each temporary medallion issued will be assigned a unique, sequential number by the system. This number will be entered into TAMIS. The current blank stock will be accounted for, locked up and released upon request. The system developed will record each temporary medallion issued, the individual who issues it and the date the temporary is issued. This will replace the manual logbooks currently in use that track temporary medallions.”

Auditor Comment: Although TLC acknowledges that weaknesses exist in safeguarding temporary medallions, it believes that it would be more practical to implement a database to control the issuance and designation of temporary medallions. However, we believe that the prenumbering of each actual blank temporary medallion would be an added safeguard to prevent the unauthorized use of temporary medallions. By prenumbering each blank temporary medallion, TLC officials could quickly detect the unauthorized issuance of a temporary medallion long before TLC performs its monthly reconciliation of the computer log. (See TLC’s response to Recommendation #3.) We strongly suggest that TLC reconsider its position and implement this additional control.

3. An employee independent of the temporary and replacement medallion process perform periodic reconciliations of the temporary and replacement medallion inventory to the log books.

TLC Response: “**Accepted.** The manually maintained logbooks will be replaced by the computer log reference in Recommendation 2. A monthly reconciliation of the computer log to TAMIS records and actual inventory will be instituted.”

4. Raised seals should be kept in a secure location with limited access.

TLC Response: “**Accepted.** Raised seals are used on a daily basis for the issuance of DMV plate letters, verification of ownership letters as well as in the issuance of temporary medallions, all of which are integral to our operations. During the day the seals will be kept in the care of the Supervisor of Owner\Vehicle Counter Operations and will be made available to staff on an as needed basis. The seals will continue to be locked up at the end of each day.”

5. TLC should separate the responsibilities for authorizing, processing, and recording of transfers as well as the determination of the fair market value for medallions.

TLC Response: “**Accepted and Implemented.** The Office of Legal Affairs is aware that the medallion transfer process would be better served if there were more segregation of duties. While the auditors observed that the medallion transfer clerk was not physically marking the closing checklist, the form for medallion closings was used and the closing clerk is now physically checking off items on the closing checklist. In addition, The Office of Legal Affairs has already instituted a requirement that a supervisor sign the documentation checklist used by the medallion transfer clerk. Furthermore, the TLC is exploring the cross-training of additional Office of Legal Affairs staff and/or other TLC staff. These measures will further strengthen controls in this area.”

6. TLC should amend its rules to require medallion owners to resolve summonses before medallions are renewed.

TLC Response: “**Rejected in Part, Accepted in Part and Implemented.** We believe that there may still be some confusion with respect to the summoning process. The TLC cannot require an owner to resolve an open summons prior to renewal. The summons process is such that, once a summons is issued, the licensee has the option of pleading guilty and paying the fine directly or pleading not guilty and requesting a hearing. If there is a guilty determination after the hearing takes place, a guilty finding is entered and the fine assessed to the licensee then has ten days to tender payment of the fine. If they fail to tender payment the medallion is placed on suspension. Once the medallion is placed on suspension the agency will not take any action on said medallion until the suspension is cleared, usually by payment of any open fines. In addition, a medallion taxicab is required to appear at our Woodside facility three times per year (once every four months) for a full inspection. When the medallion presents itself for inspection, the Safety and Emissions Department verifies the medallions status. If the medallion has been suspended they confiscate the credentials and will neither perform the inspection nor will the credentials be returned, until the

suspensions have been cleared. Temporary or replacement medallions are also not issued if the medallion license is in a suspended status.

“In addition, the TLC Adjudications Division has further enhanced and amended its controls over the summons process, and now runs reports to cross reference any amounts owed with open suspensions and issue an immediate notice to pay. Those who do not pay within 10 days are placed on suspension.”

Auditor Comment: TLC is being somewhat disingenuous to claim that there is some confusion with respect to the summoning process. We recognize that TLC cannot induce a medallion owner to pay a summons that has not been adjudicated; however, 289 of the 307 medallions cited had summonses that were adjudicated with guilty dispositions ranging from 15 business days (five days more than TLC allows) to in excess of 10 years prior to the renewal period. For example, medallion 5H10 was issued violation 150230A on October 25, 1995 which was adjudicated with a guilty disposition on February 16, 1996. This summons remains unpaid and the medallion has not been placed on TLC’s suspension list. Similarly, medallion 5F78 was issued violation 62541E on March 18, 2005, which was adjudicated with a guilty disposition on May 4, 2005. This summons also remains unpaid and the medallion has not been placed on TLC’s suspension list.

For the remaining 18 medallions, TLC postponed scheduled hearings and failed to reschedule them for a later date. Consequently, summonses remained open, dispositions were not rendered, and fines not assessed. For example, medallion 6J90 was issued violation 168305C on August 15, 1997 and was coded “OAD” (open-adjourned) on September 8, 1997. TLC failed to reschedule a new hearing for this medallion owner. This summons remains open without a disposition.

TLC needs to revisit its position and ensure that medallion owners with outstanding summonses in excess of 10 days from the date of disposition are not allowed to renew their medallions without paying their fines. TLC also needs to reschedule any hearing for open-adjourned summonses and instruct its Licensing personnel to withhold any medallion renewal if there are unpaid summonses associated with the medallion.

7. TLC prepare standard operating procedures for Licensing personnel to ensure medallions with outstanding summonses are not renewed.

TLC Response: “**Rejected.** Please see response to Recommendation 6.”

Auditor Comment: TLC should reconsider its position and rectify those outstanding summonses where medallion owners have either not paid their fines or have been listed as opened adjourned on TAMIS. In addition, TLC should implement standard operating procedures that would require Licensing personnel to ensure that medallions with outstanding summonses are not renewed.

8. TLC should periodically require medallion owners to update power of attorney agreements with agents or personally sign renewal cards.

TLC Response: “Partially Accepted and Implementation Pending. The authority and duration of a power of attorney is governed by state law. Existing state law in conjunction with the proposed medal transfer rules and accompanying penalties (see response to recommendation number nine (9)) should be adequate for the TLC to regulate the medallion transfer process.”

9. TLC should establish penalties for those who continue to operate a cab after an owner’s death without permission from TLC.

TLC Response: “Accepted and Implementation Pending. The TLC would consider a medallion owner (or estate) or medallion agent continuing to operate a medallion after the medallion owner’s death to be a fraudulent act. The TLC already has rules in place that would subject a medallion agent or medallion owner to penalties for fraudulent action.

“Section 12-06(e) states that ‘an agent, while performing his or her duties and responsibilities as an agent, shall not commit or attempt to commit, alone or in concert with another, any act of fraud, material misrepresentation, dishonesty or larceny or... which is in violation of any applicable provision of law.’ If an agent is so charged, it would require a personal appearance at the TLC hearing and the fine could range from \$1,000 - \$5,000 if found guilty.

“Section 1-60(b)(1)(2) has similar language in the event that a medallion owner were to engage in fraudulent activity.

“Prior to the issuance of this report, the TLC published proposed rules that would codify longstanding policies and practices regarding the operation of a taxicab medallion after the owner’s death. See, http://www.nyc.gov/html/tlc/downloads/pdf/proposed_rules_medallion_transfer.pdf. The proposed rules, among other things, impose an affirmative duty on licensees and agents to notify the TLC of the death of an owner and impose fines for failure to do so. In addition, the proposed rules make clear that if medallions continue to be operated by an estate following the death of an owner without an estate representative having qualified to operate the medallion within a set time (or unless the medallion has been transferred to an owner also qualified to own the medallion within the same period), the TLC may move to revoke the medallion.”

10. TLC should refer the matter regarding the misuse of the power of attorney to the proper authorities.

TLC Response: “Accepted and Implemented. The instance identified by the Comptroller’s Office has been referred to the City of New York Department of Investigation. If the alleged actions do not rise to the level of a prosecutable offense under New York State’s Penal Law, the TLC will have the option of taking enforcement action against its licensees for fraudulent activity as referenced above.”

September 24, 2008

John Graham
Deputy Comptroller, Audits, Accountancy and Contracts
Office of the Comptroller
One Centre Street
New York, NY 10007-2341

Re: **Audit Report No. FM08-075A**

Dear Mr. Graham:

The Taxi and Limousine Commission (TLC) has reviewed the above-referenced draft audit report, dated September 10, 2008, and submits the attached response with respect to the ten (10) specific recommendations contained in the report.

As you know, the audit was commenced in August 2007 to review TLC's control over taxicab medallions. As part of this audit, the Comptroller's staff requested and analyzed data obtained from the TLC in both documentary and electronic formats. The audit team later requested and obtained access to the TLC mainframe database, known as the TAMIS system. The auditors also visited each of the TLC facilities to review every step in the medallion process from procurement of the medallion tins to the licensing, adjudication and inspection processes.

We are pleased with the report's conclusion that "TLC maintains adequate controls over its cash receipts for renewal fees and the receipt and storage of medallions" as well as ensuring "that waiver letters are obtained from the Department of Finance prior to transfer of a medallion below fair market value." The report also stated that the TLC "generally followed its policies and procedures when issuing temporary medallions". The report further concluded that the audit tests conducted "did not reveal any evidence of fraud."

We further note that while the report did not contain any allegations of fraud, it contains a number of recommendations concerning segregation of duties during the medallion transfer process and the issuance of temporary medallions. The report also recommends the collection of all summonses prior to the issuance of a medallion renewal license as well as possibly initiating rulemaking to address possible abuse of a power of attorney by a TLC licensee. As indicated in the attachment the TLC has taken action with respect to the recommendations contained in the draft audit.


With respect to the recommendation that all outstanding fines be collected prior to issuance of a renewal license, we believe that there may still be some confusion with respect to the summoning process. The TLC cannot legally require an owner to resolve an open summons prior to renewal. The summons process is such that, once a summons is issued, the licensee has the option of pleading guilty and paying the fine directly or pleading not guilty and requesting a hearing. Once the hearing takes place, if a guilty finding is entered and a fine is assessed, the licensee then has ten days to tender payment of the fine. If they fail to tender payment the medallion is placed on suspension. Once the medallion is placed on suspension all Divisions of the TLC will not take any action on said medallion until the suspension is cleared, which results in the payment of any open fines. It is this process that the TLC has followed and continues to adhere to.

The report states that for fiscal years 2006 and 2007, TLC did not collect outstanding summonses totaling \$79,820 before 307 medallions were renewed. The auditors supplied a schedule of medallion numbers that had outstanding summonses but did not provide a specific list of summonses that were outstanding making it very difficult to verify or match payments to specific summonses on some of the medallions that had numerous summonses. Based upon our research it is believed that a majority of the \$79,820 was either already paid at the time of the audit but not properly entered into the TAMIS system or has been collected subsequent to the conclusion of the audit. The Adjudication Division now runs reports to cross reference amount(s) owed with open suspensions. These licensees are immediately sent a notice to pay. Those that do not pay within ten (10) days are placed on suspension.

Some of the report's recommendations propose additional rulemaking governing the reporting requirements and potentially fraudulent activity between a medallion agent and a medallion owner. The TLC believes that existing rules prohibiting any type of fraudulent activity by a medallion owner (Section 1-60 (b)(1) and (2)) and/or a medallion agent (Section 12-06 (e)) provide sufficient legal basis to take enforcement action against a medallion agent or owner that illegally operated a medallion. In addition, the TLC intends to codify in its rules longstanding policies and practices with respect to the length of time that an estate may continue to operate a medallion upon the death of the owner.

I wish to thank the Comptroller and its audit team for the opportunity to respond to the draft audit report. The Taxi and Limousine Commission respectfully requests both this letter and the attached response to the specific audit recommendations be included in the final audit report. In conclusion, the TLC believes that the specific steps as outlined in this letter and the attachment provide adequate controls to help ensure that the TLC collects summons revenue due to the City of New York.

Very truly yours,



Ira J. Goldstein
Chief of Staff

ATTACHMENT

Taxi and Limousine Commission's Response to
Office of Comptroller's Draft Audit Report dated 9/10/2008
Taxi and Limousine Commission's Controls over Taxi Medallions (FM08-075A)

The draft audit report contains ten (10) specific recommendations to enhance the operations of the Taxi and Limousine Commission ("TLC"). This attachment addresses each of these recommendations and sets forth the TLC's response and, where appropriate, implementation plan.

1. **Recommendation:** TLC should separate the responsibilities for authorizing, processing, recording and safeguarding temporary and replacement medallions.

TLC Response: Accepted and Implemented. There are currently three people that staff the Medallion Counter, one of whom was the supervisor of the unit at the time the audit was conducted. The Licensing Division has since been re-organized and a new Supervisor for all Owner/Vehicle Counter Operations, inclusive of Medallion related transactions, was appointed. The Licensing Division will begin cross training additional personnel in the processing of medallion related actions to allow us to further separate job functions.

2. **Recommendation:** TLC should order pre-numbered temporary medallions.

TLC Response: Partially Accepted. The TLC accepts the premise that additional controls should be implemented by the Licensing Division over the issuance of temporary medallions. However, the TLC believes that it would be more practical from an operational perspective to implement a database to control the issuance and designation of temporary medallions. The database log will be developed in conjunction with our MIS Department and will contain adequate controls to help prevent fraud or mismanagement. Upon issuance each temporary medallion issued will be assigned a unique, sequential number by the system. This number will be entered into TAMIS. The current blank stock will be accounted for, locked up and released upon request. The system developed will record each temporary medallion issued, the individual who issues it and the date the temporary is issued. This will replace the manual logbooks currently in use that track temporary medallions.

3. **Recommendation:** An employee independent of the temporary and replacement medallion process perform periodic reconciliations of the temporary and replacement medallion inventory to the log books.

TLC Response: Accepted. The manually maintained logbooks will be replaced by the computer log referenced in Recommendation 2. A monthly reconciliation of the computer log to TAMIS records and actual inventory will be instituted.

4. **Recommendation:** Raised seals should be kept in a secure location with limited access.

TLC Response: Accepted. Raised seals are used on a daily basis for the issuance of DMV plate letters, verification of ownership letters as well as in the issuance of temporary medallions, all of which are integral to our operations. During the day the seals will be kept in the care of the Supervisor of Owner/Vehicle Counter Operations and will be made available to staff on an as needed basis. The seals will continue to be locked up at the end of each day.

5. **Recommendation:** TLC should separate the responsibilities for authorizing, processing and recording of transfers as well as the determination of the fair market value for medallions.

TLC Response: Accepted and Implemented. The Office of Legal Affairs is aware that the medallion transfer process would be better served if there were more segregation of duties. While the auditors observed that the medallion transfer clerk was not physically marking the closing checklist, the form for medallion closings was used and the closing clerk. is now physically checking off items on the closing checklist. In addition, The Office of Legal Affairs has already instituted a requirement that a supervisor sign the documentation checklist used by the medallion transfer clerk. Furthermore, the TLC is exploring the cross-training of additional Office of Legal Affairs staff and/or other TLC staff. These measures will further strengthen controls in this area.

6. **Recommendation:** TLC should amend its rules to require medallion owners to resolve summons before medallions are renewed.

TLC Response: Rejected in Part, Accepted in Part and Implemented. We believe that there may still be some confusion with respect to the summoning process. The TLC cannot require an owner to resolve an open summons prior to renewal. The summons process is such that, once a summons is issued, the licensee has the option of pleading guilty and paying the fine directly or pleading not guilty and requesting a hearing. If there is a guilty determination after the hearing takes place, a guilty finding is entered and the fine assessed to the licensee then has ten days to tender payment of the fine. If they fail to tender payment the medallion is placed on suspension. Once the medallion is placed on suspension the agency will not take any action on said medallion until the suspension is cleared, usually by payment of any open fines. In addition, a medallion taxicab is required to appear at our Woodside facility three times per year (once every four months) for a full inspection. When the medallion presents itself for inspection, the Safety and Emissions Department verifies the medallions status. If the medallion has been suspended they confiscate the credentials and will neither perform the inspection nor will the credentials be returned, until the suspensions have been cleared. Temporary or replacement medallions are also not issued if the medallion license is in a suspended status.

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TLC Response: Rejected. Please see response to Recommendation 6.

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