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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK CITY
DEPARTMENT OF
CONSUMER AFFAIRS**

**CONTROLS OVER
RESTAURANT AND FOOD
VENDOR LICENSES AND
PERMITS**

Report 2007-N-15

AUDIT OBJECTIVE

The objective of our audit was to determine whether the New York City Department of Consumer Affairs has adequate controls over restaurant and food vendor licenses and permits.

AUDIT RESULTS - SUMMARY

The New York City Charter and the New York City Administrative Codes allow the Commissioner of the New York City Department of Health and Mental Hygiene (DOHMH) to impose fees for licenses and permits required for restaurants and food vendors. Pursuant to a Memorandum of Understanding between New York City's Department of Consumer Affairs (DCA) and DOHMH agreed upon in November 1996, DCA, on behalf of DOHMH, has been responsible for administering the issuance of these licenses and permits, as well as the collection and deposit of the fees. DCA's Licensing Center (Licensing Center) is responsible for entering all relevant application and fee payment information into the City-wide Agency Management Information System (CAMIS) or into NYCServ, the City-wide payment processing system run by the New York City Department of Finance. When businesses renew their licenses or permits, they send the renewal fee payments to a lockbox maintained by Chase Manhattan Bank (Bank), which, in turn, provides the related information to DCA.

We found internal control weaknesses over restaurant and food vendor licenses and permits. As a result, there is a risk that licenses and permits can be created and sold illegally. We also determined that DCA did collect and deposit the correct amount of license and permit fees. However, we found that 32 out of 50 sampled fees were not deposited in a timely manner.

The New York City Comptroller's Directive 1 (Directive 1) outlines the principles of a sound and effective financial control system that should be adopted by City agencies. We found that there was a lack of separation of duties over access to the blank licenses and permits and the Commissioner's signature plate, as well as the printing, voiding, and shredding of licenses and permits. We also determined that DCA does not maintain an inventory record of its blank licenses and permits. Nor does it document periodic reconciliations of blank, voided, printed, and issued licenses or permits. Due to these control weaknesses, there is a risk that licenses and permits can be created and sold illegally.

To determine whether DCA was collecting and depositing fees as required, we selected a random sample of 50 out of 50,935 license and permit fees paid by restaurants and vendors between July 1, 2005 and June 30, 2007. We found that DCA had assessed the applicable license and permit fees correctly, and had collected and recorded the fees in all 50 cases. However, we found that 32 of the 50 fee payments had been deposited between two and four days late. Not depositing the fees on a timely basis increases the risk of loss or theft.

The Bank is responsible for depositing checks that are sent to the lockbox with renewal applications. However, if applications are incomplete or incorrect, the Bank sends the applications, together with the un-deposited checks, to DCA. We found that the Bank does not provide DCA with an accounting or a list of these checks. Furthermore, DCA does not keep a distinct and separate record of the un-deposited checks sent by the bank. This lack of an audit trail increases the risk that the checks can be misplaced or stolen without being detected.

Our audit report contains five recommendations.

This report, dated June 5, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The New York City Charter and the New York City Administrative Codes allow the Commissioner of the New York City Department of Health and Mental Hygiene to impose fees for licenses and permits required for restaurants and food vendors. Pursuant to a Memorandum of Understanding between New York City's Department of Consumer Affairs and DOHMH agreed upon in November 1996, DCA, on behalf of DOHMH, has been responsible for administering the issuance of these licenses and permits, as well as the collection and deposit of the fees. New license and permit applications are submitted to DCA's Licensing Center, which is responsible for making sure applications are complete and the appropriate fees are paid. When businesses are renewing their licenses or permits, they send their renewal fee payments to a lockbox maintained by Chase Manhattan Bank (Bank) for processing. In addition, businesses can also renew their licenses or permits by mailing their renewal applications directly to DCA or submitting them in person at the Licensing Center.

The Licensing Center is also responsible for entering all application and fee payment information into NYC Serv, the city-wide payment processing system run by the New York City Department of Finance or the City-

wide Agency Management Information System, which provides a complete picture of the activities and history of the agency's business, including information on licenses and permits, violations, payments, and debts owed.

For the fiscal year ending June 30, 2006, DCA collected approximately \$8.6 million in restaurant and vendor license and permit fees, and \$8.1 million in such fees for the fiscal year ending June 30, 2007.

AUDIT FINDINGS AND RECOMMENDATIONS

Controls over License and Permit Documents

The New York City Comptroller's Directive 1 (Directive 1) outlines the principles of a sound and effective financial control system that should be adopted by the City and its agency management and staff. An integral part of Directive 1 is the agency Checklist, which represents basic internal control criteria that agency management should follow in maintaining a reliable and effective control system. We found certain internal control weaknesses over the restaurant and food vendor licenses and permits. As a result, there is a risk that licenses and permits can be created and sold illegally.

The DCA Management Information System's Operations Unit (Operations Unit) has two employees who have access to the blank licenses and permits, as well as the Commissioner's signature plate, which authenticates such documents. These employees are also responsible for printing valid licenses and permits, and recording and shredding voided blank licenses and permits. Proper internal control procedures, as outlined in Directive 1, call for these duties to be segregated. Furthermore, we found that DCA does not maintain an inventory record; nor

does it document the periodic inventory of blank licenses and permits. It also does not document periodic reconciliations of blank, voided, printed, and issued licenses and permits.

DCA officials agreed with our preliminary findings, stating that custody of the blank licenses and permits and the Commissioner's plate has been assigned to different individuals, and the duties over the printing of the licenses and permits, and the shredding of voided blank licenses and permits, have been segregated. They also said that DCA has implemented a formal inventory record of the blank licenses and permits, and has begun to formally document the periodic reconciliations of the blank and voided licenses and permits.

Recommendations

1. Assign custody of the blank licenses and permits and the Commissioner's signature plate to different individuals. In addition, segregate the duties involved in the printing of the licenses and permits, and the shredding of voided blank licenses and permits.
2. Maintain a formal inventory record of blank licenses and permits.
3. Document the periodic reconciliations of the blank, voided, printed, and issued licenses and permits.

Accountability over License and Permit Fees

All license and permit applicants are required to pay a fee at the time they submit their applications. We selected a random sample of 50 out of 50,935 license and permit fees reportedly paid between July 1, 2005 and June 30, 2007. We found that in all 50 cases, DCA had assessed the applicable license and

permit fees correctly, and that all the fees had been collected, recorded, and deposited.

The City Comptroller's Directive 11 states that deposits must be made on a daily basis. However, DCA officials explained that deposits can be made on the following business day if mitigating controls are employed. We recognized DCA's position, in that fees should be deposited no later than one business day after they are received. We found that, of the 50 fee payments collected, 18 were deposited within 1 business day. However, the remaining 32 fee payments were deposited between 2 and 4 business days late. Not depositing the fees on a timely basis increases the risk of loss or theft of the fee payments.

The Bank is responsible for depositing checks that are sent to the lockbox along with renewal applications. The Bank will process and deposit only funds for those applications that are complete and have been submitted with the correct fee. Each day, this information is updated into CAMIS. If applications are incomplete or incorrect, the Bank sends the applications with the un-deposited checks to DCA for follow-up work. However, the Bank does not provide an accounting of these checks to DCA. Furthermore, DCA does not keep a distinct and separate record of the un-deposited checks sent by the bank. This lack of accountability increases the risk that these checks could be misplaced or stolen.

Recommendations

4. Deposit all fees no later than one business day after they are received.
5. Prepare a separate and distinct list of all un-deposited checks returned by the Bank for follow-up work.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. The audit determined whether DCA had adequate controls over restaurant and food vendor licenses and permits, and the associated fees. Our audit period was from July 1, 2005 to June 30, 2007.

To accomplish our objective, we interviewed DCA officials, reviewed applicable DCA procedures, the Memorandum of Understanding, and the internal control principles outlined in the City Comptroller's Directives 1 and 11. We assessed whether DCA has a sound and effective internal control system with respect to restaurant and food vendor licenses and permits. To determine whether the associated fees were collected, recorded, and deposited timely, we selected a random sample of 50 licenses and permits out of the 50,935 such documents obtained by restaurants and vendors and recorded in CAMIS between July 1, 2005 and June 30, 2007.

It is our practice to notify agency officials at the outset of each audit that we will be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. In the representation letter, agency officials assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. Agency officials further affirm either that the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect

on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from agency officials that all relevant information was provided to us during the audit.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

This audit was performed according to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution; and Article III of the General Municipal Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to Department officials for their review and comment. Department officials generally agreed with our recommendations, and described actions they have taken or will take to implement them. Their comments were

considered in preparing this report, and are included as Appendix A.

Within 90 days of the final release of this report, we request that the Commissioner of DCA report to the State Comptroller advising what steps were taken to implement the recommendations contained herein, and where

recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Albert Kee, Santo Rendon, Robert Tabi, Ira Lipper, Unal Sumerkan, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



May 2, 2008

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Jonathan Mintz
Commissioner

**RE: Controls over Restaurant and Food Vendor Licenses and Permits
[Report 2007-N-15]**

Dear Mr. Kee:

Thank you for the opportunity to comment on the findings contained in the draft audit report entitled, "Controls over Restaurant and Food Vendor Licenses and Permits."

At the New York City Department of Consumer Affairs (DCA) we constantly work to provide the best and most accountable service to the public so we are grateful that your report validated the overall effectiveness of our work in many areas. Specifically, we note that during the course of the audit the auditors determined that all of the sampled licenses and permits were properly issued, all of the payments were appropriately applied, and all of the relevant data in the Department's proprietary database and on the license/permit void log was accurate.

Overall, we believe that the Department's existing controls have proven effective in preventing potential abuse (as validated by this audit), and while the audit report could have more fully reflected such existing controls, we generally agree with the spirit of your recommendations and have already taken appropriate action on implementation. In addition, the potential, albeit minor, operational risks brought to our attention in the report will help us to further improve our extensive system of internal controls.

More detailed comments on recommendations made in the report are attached.

Finally, we appreciate the high level of courtesy and professionalism that you and your staff displayed in the performance of this audit. If you have any questions or

need further information, please contact George Pape, Deputy Chief of Staff, at
(212) 487-2136.

Sincerely,

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

Jonathan Mintz
Commissioner

cc: George Davis, MOO
Jed Herrmann, DCA
George Pape, DCA
Alba Pico, DCA
Marla Tepper, DCA

**Response to the Draft Audit Report on
"Controls Over Restaurant and Food Vendor License and Permits."
2007-N-15
May 2, 2008**

Recommendation #1

Assign custody of the blank licenses and permits and the Commissioner's signature plate to different individuals. In addition, segregate the duties involved in the printing of the licenses and permits, and the shredding of voided blank licenses and permits.

DCA Response:

The Department agrees with this recommendation; it has already been implemented.

Recommendation #2

Maintain a formal inventory record of blank licenses and permits.

DCA Response:

Although the audit report suggests otherwise, prior to the audit the Department was already maintaining an inventory of blank licenses and permits through detailed invoice records; this information was provided during the audit and discussed at the exit conference. Nevertheless, the Department has already implemented a more formal inventory record.

Recommendation #3

Document the periodic reconciliations of the blank, voided, printed, and issued licenses and permits.

DCA Response:

This recommendation covers two separate DCA operational areas – the periodic reconciliation of blank, voided and printed licenses and permits, and the periodic reconciliation of printed and issued licenses.

Prior to this audit, the Department was periodically reconciling its blank, voided and printed licenses and permits; however the results were not formally documented. As such, the Department agrees to formally document the periodic reconciliation of its blank, voided and printed licenses. In regard to printed and issued licenses, licensing staff will continue to ensure that licenses and permits are properly reconciled before they are mailed; as such, any additional reconciliation is unnecessary.

Recommendation #4

Deposit all fees no later than one business day after they are received.

DCA Response:

In order to ensure the safe deposit of fees, the Department employs a bonded security courier to transport such amounts from DCA to the Bank. As previously mentioned to the audit staff, this transport process adds an additional day to the deposit timeline. Since the audit report concludes, "not depositing the fees on a timely basis increases the risk of loss or theft of the fee payments," the Department does not believe the fee transport time should be factored into the deposit timeline since the security courier is bonded and "the risk of loss or theft" is no longer a consideration. Nonetheless, the Department recognizes the importance of timely deposits and agrees to review its cash handling procedures to determine if there are any appropriate ways to further expedite this process.

Recommendation #5

Prepare a separate and distinct list of all un-deposited checks returned by the Bank for follow-up work.

DCA Response:

Prior to this audit, the Department recorded in CAMIS the checks returned by the Bank before returning them to the licensee. While the Department believes the operational impact of this recommendation may outweigh its potential benefit, we have already implemented the recommendation and prepared a separate and distinct list. The Department will however evaluate the effectiveness of this procedure to determine whether it should continue in the long term.