
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK CITY
DEPARTMENT OF FINANCE**

**ACCOUNTABILITY OVER
COURT, TRUST AND BAIL
FUNDS**

Report 2007-N-8

AUDIT OBJECTIVE

Our objective was to determine whether the New York City Department of Finance (Finance) adequately assured that it maintained an accurate accounting for court, trust and bail funds.

AUDIT RESULTS - SUMMARY

The New York City courts collect bail paid on behalf of defendants, payments pursuant to court orders, funds from estates controlled by public administrators and other miscellaneous revenue. These monies must be forwarded to the City's Department of Finance (Finance) for deposit and safekeeping. According to the New York City Charter, Finance must maintain separate ledger accounts whenever court, trust or bail transactions are received, and must keep an accurate accounting of all such funds. As of December 31, 2006, Finance's Statement of Condition indicated that court and trust funds totaled \$273.7 million and bail funds totaled \$50.6 million.

Finance is able to reconcile the totals on the Statement of Condition with the corresponding amounts on deposit with banks. However, the separate ledgers for the court funds showed a total of \$284.5 million as of December 31, 2006; a discrepancy of \$10.8 million that has not been reconciled with the amount shown on the Statement of Condition for this date. In addition, the separate ledger for the bail funds showed a total of \$47.3 million as of December 31, 2006; a discrepancy of \$3.3 million that has not been reconciled with the amount shown on the Statement of Condition as of this date. Because the amount of funds reflected in the supporting separate ledgers substantially disagrees with the amount shown on the Statement of Condition (and the amount on deposit), we conclude that Finance lacks adequate assurances that it has an accurate

accounting over court and trust and bail funds.

Finance officials state that they have not been successful in reconciling these differences and believe the differences are due to errors in the accounting system that processes the detailed transactions. They state that the accounting system is out of date and a new system is required, but funds are not available for a new system.

We made three recommendations to improve accountability over funds including monitoring the existing discrepancies during a monthly reconciliation between the separate ledgers and the Statement of Condition to ensure that any changes to the unresolved discrepancy amounts are identified and explained. In addition, Finance will need to formulate a long term strategy for handling the existing discrepancies and for transitioning to an updated integrated accounting system.

Finance officials agree with the report's recommendations and state that plans are underway to replace the antiquated system with a new system by January 1, 2009.

This report, dated August 26, 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

Section 2601 of the Civil Practice Law and Rules requires that all monies paid into the New York City courts be forwarded to the City's Department of Finance (Finance).

These monies include bail postings made on behalf of defendants, payments made pursuant to court orders, trust funds from estates controlled by Public Administrators (such estates have no known heirs or no heirs able or willing to administer the estates), and other miscellaneous funds. Payments made pursuant to court orders commonly involve landlord/tenant disputes and surplus monies from foreclosures.

Finance receives these monies from various City courts, New York City Public Administrators, the New York City Department of Correction (bail funds), and other City agencies. In accordance with Section 1504.3c(iii) of Chapter 58 of the New York City Charter, Finance must open and maintain separate ledger accounts whenever court, trust or bail funds are received, and keep an exact accounting of all such funds.

Finance's Client Services Unit (CSU) is responsible for the monies and maintains a computerized accounting ledger for these court, trust and bail funds. According to Finance's Statement of Condition (financial statement), as of March 31, 2007, the court and trust funds totaled \$281.2 million and the bail funds totaled \$52.8 million. (Other miscellaneous funds of \$4.1 million are also included on the Statement of Condition but were not subject to our review.)

AUDIT FINDINGS AND RECOMMENDATIONS

Accounting for Funds

We found that Finance routinely reconciles the amount of funds showed on the Statement of Condition with the amount of funds on deposit. However, we conclude that Finance lacks adequate assurances that it has an accurate accountability on court, trust and bail funds because Finance cannot reconcile the

amounts in the separate ledger accounts for the court, trust and bail funds with the amounts on deposit with the bank.

For example, on December 31, 2006, the Statement of Condition indicated that the court funds on deposit totaled \$273.7 million, while the detailed accounting records calculated by the mainframe system totaled \$284.5 million, a discrepancy of about \$10.8 million. Similarly, on that same date, the Statement of Condition for bail funds indicated a balance of \$50.6 million, on deposit while the detailed accounting records calculated by the mainframe system totaled \$47.3 million, a discrepancy of about \$3.3 million.

A Finance official explained that Finance does not perform a reconciliation to resolve the discrepancies because the mainframe system used to calculate the individual ledger accounts is an antiquated mainframe computer system that is unreliable and inaccurate. Officials also stated that Finance was exploring the option of a new system which would provide individual account balances and a recording of transactions at the various collection points. However, Finance officials stated that agency resources did not permit the development of a new system at this time.

We agree that a new system is needed. However, we conclude that the following steps should also be taken:

- Monitor the existing discrepancies to ensure they do not substantially change. If a substantial change is noted, immediately investigate it to isolate and correct the problem.
- Explore the acquisition of a simpler system similar to what a bank uses to keep the bank

balances in line with the detailed ledger account balances.

- Develop a strategy for resolving the existing discrepancies before converting to a new system.

Recommendations

1. Implement an updated integrated computer system that maintains individual account balances for court, trust and bail funds, and fully and accurately accounts for the funds.
2. Monitor existing discrepancies to ensure they do not substantially change. If a substantial change is noted, immediately investigate it to isolate and correct the problem.
3. Develop a strategy for resolving the existing discrepancies before conversion to a new system.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited Finance's controls over court, trust and bail funds for the period January 1, 2003 through August 31, 2007. To accomplish our objective, we interviewed Finance officials and reviewed New York City and New York State laws, rules and regulations related to the operations of the New York City Department of Finance. We also reviewed selected account files, records and related documentation maintained by Finance.

As is our practice, we notified agency officials at the outset of the audit that we request 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 that either 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

The audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Section 33 of the General Municipal Law.

REPORTING REQUIREMENTS

A copy of this report, in draft, was sent to Finance officials for their review and comments. Their comments were considered in preparing this report.

Finance officials agree with the report's recommendations and state that plans are underway to replace the antiquated system with a new system by January 1, 2009.

Within 90 days after final release of this report, we request that the Commissioner of the New York City Department of Finance report to the State Comptroller advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

CONTRIBUTORS TO THE REPORT

Major contributors to this report are Kenneth Shulman, Sheila Jones, Harry Maher, Brenda Maynard, Natalie Sherman and Dana Newhouse.

APPENDIX A - AUDITEE RESPONSE



FINANCE
NEW YORK
THE CITY OF NEW YORK
DEPARTMENT OF FINANCE

June 6, 2008

Kenneth Shulman
Audit Manager
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Re: **Audit #2007-N-8**
Draft Audit Report on Accountability
Over Court, Trust and Bail Funds

Dear Mr. Shulman:

Thank you for the opportunity to review and respond to the findings and recommendations contained in the above referenced Draft Audit Report.

We agree with both the findings and recommendations contained in the Draft Audit. Finance has been aware for some time of our inability to reconcile the Statement of Condition with the Detailed Accounting Records, which, as the draft audit acknowledges, is due entirely to obsolescence of the mainframe computer system that supports the detailed accounting function. We are pleased to advise you that the antiquated system is currently being replaced and that we expect to be fully operational on the new system by January 1, 2009 - at which point all accounts will be fully reconcilable.

The following are our specific responses to the Draft Audit's recommendations:

Audit Recommendation #1

Finance should implement an updated integrated computer system that maintains individual account balances for court, trust and bail funds, and fully and accurately accounts for the funds.

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www.nyc.gov/finance

Agency Response

We agree. As noted above the replacement system is currently being implemented and will be operational by January 1, 2009.

Audit Recommendation #2

Finance should monitor existing discrepancies to ensure they do not substantially change. If a substantial change is noted, Finance should immediately investigate it to isolate and correct the problem.

Agency Response

We agree. This recommendation has been implemented. We are monitoring the existing discrepancies monthly and are immediately investigating substantial changes.

Audit Recommendation #3

Finance should develop a strategy for resolving the existing discrepancies before conversion to a new system.

Agency Response recommendation

We agree. We expect that all existing discrepancies will be resolved by November 2008 and the account balances will be updated with the correct information when the new system comes on line in January 2009.

Once again, thank you for the opportunity to review and respond to the Draft Audit and especially for the professionalism of the audit team that worked on it. The report is helpful to us and serves as a further incentive for us to continue to improve our business processes and to fulfill the needs of and our obligations to the taxpayers.

Sincerely,



Rochelle Patricof
First Deputy Commissioner

- c. Martha E. Stark, Commissioner
Robert Lee, Deputy Commissioner, Treasury
Bob Bernstein, Mayor's Office of Operations