



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Practices Used by the Transit Adjudication Bureau to Collect and Account for Fines and Fees

**Metropolitan Transportation Authority
New York City Transit**



Executive Summary

Purpose

To determine whether the Transit Adjudication Bureau of New York City Transit performs its responsibilities in an effective and efficient manner. Specifically, we determined whether: fines and fees were collected timely; appropriate actions were taken to collect fines and fees that were overdue; and fines and fees collected were appropriately accounted for. The audit covered the period January 1, 2013 to December 31, 2015.

Background

The Transit Adjudication Bureau (TAB) is an administrative tribunal established by state legislation in July 1985 to provide a forum for processing and adjudicating summonses for violations of NYC Transit (Transit) rules governing public use of the transit system. TAB offers a respondent the opportunity to receive a hearing, should he/she decide to contest a Notice of Violation (NOV or summons). TAB also handles the actual processing of the NOVs including scanning images and data entry of the information, processing of payments, and the legal pursuit of those individuals who do not pay their fines. According to data provided by TAB officials, TAB had approximately 1.7 million summonses with outstanding fines and fees totaling \$383.2 million as of December 31, 2015. Transit contracted with a vendor to staff and operate the TAB.

Key Findings

- Approximately half the NOVs written are never fully collected. For the period January 1, 2013 through June 6, 2015, TAB processed 324,079 summonses. The total fine amount was \$30.41 million, of which \$16.98 million was collected. Inaccurate information written on summonses, such as bad addresses, false telephone numbers, and wrong Social Security numbers, contributes to collection difficulties. For example, in our sample of 150 uncollected fines, 60 (or 40 percent) had inaccurate respondent address information.
- Even for fines with accurate information, TAB does not do enough to enforce the collection of outstanding fines and fees, resulting in potentially millions of dollars going uncollected. For example, one of the methods that TAB uses to increase collection is call campaigns. However, TAB's contractor does not prioritize calls based on probability of collection. Moreover, the number of calls made has decreased materially over the past few years. During the week of June 14, 2013, 50.45 percent of possible calls were made, while about two years later, during the week of February 13, 2015, only 25.18 percent of possible calls were made. This may, in part, be due to staffing limitations and/or certain contract terms, which neither set expectations for the number of calls to be made nor provided incentives that could increase productivity.
- With the exception of the Statewide Offset Program (SWOP), TAB ceases active collection efforts on uncollected violations 18 months after a summons issue date, although a substantial amount of fines and fees remain unpaid. In the first nine months of 2015, TAB purged \$66.8 million of uncollected summons fines and fees because their 20-year limit had been reached.

Key Recommendations

- Ensure that a sufficient number of staff resources are assigned to: making calls on the call campaign list; collecting collection rate data; and establishing priorities for campaign list calling

based on call rate statistics.

- Establish performance metrics related to the number of calls expected to be made each week.
- Formally consider for inclusion in the new contract: specific performance metrics related to items such as the number of calls required during a period of time; and incentives for performance that exceeds the expected level of performance.
- Work with representatives of the New York City Police Department and Transit Inspectors to improve the quality of the identifying information detailed on the summonses.
- Ensure all NOVs that are not paid within nine months of issuance are referred to the collection agency in a timely manner.
- Formally explore and assess other methods of collecting fines and fees.

Other Related Audit/Report of Interest

[Metropolitan Transit Authority – New York City Transit: Subway Wait Assessment \(2014-S-23\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

August 11, 2016

Mr. Thomas Prendergast
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
2 Broadway
New York, NY 10004

Dear Mr. Prendergast:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of New York City Transit, entitled *Practices Used by the Transit Adjudication Bureau to Collect and Account for Fines and Fees*. We performed this audit pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Background

The Transit Adjudication Bureau (TAB) is an administrative tribunal established by State legislation in July 1985 to provide a forum for processing and adjudicating summonses for violations of NYC Transit (Transit) rules of conduct governing the public in the use of the transit system. TAB offers a respondent the opportunity to receive a prompt, fair, and impartial hearing, should he/she decide to contest a Notice of Violation (NOV or summons). TAB also handles the actual processing of the NOVs, including: scanning images and data entry of the information; processing of payments; and the legal pursuit of individuals who do not pay their fines.

Summonses are issued by New York City Police Department (NYPD) Officers and/or Transit Inspectors (aka Eagle Team) who enforce Transit's Rules of Conduct (Rules) adopted by the MTA Board. Rule violations can include fare evasion, smoking, or interference with the movement of a transit vehicle. Fines range from \$25, for actions such as posting a sign and carrying an open container of liquid, to \$100, for actions such as vandalism, obstruction of traffic, and carrying a weapon. Fees and interest are added if the summons is not satisfied in a timely manner.

Transit contracted with a vendor to staff and operate the TAB. This includes administrative functions, data entry and quality control, adjudication support, payments processing, information services, telephone collections, and judgment enforcement. According to the contract, the work is classified by the following categories: Inquiry, Collection, Enforcement, Payment, Hearing, and Administration. The contractor has approximately 40 employees. In addition, there are four Transit employees who oversee the contractor's work. The contract started November 1, 2001. As of December 31, 2015, the vendor was paid \$46.4 million. The contract was extended until June 30, 2016 while the new contract is being awarded.

Respondents (recipients of the summonses) are afforded various opportunities and methods to pay the fines. TAB partnered with another vendor to accept fine payments over the Internet, by phone, and at local MoneyGram locations. Payments can be made in person at TAB's headquarters by check, cash, money order, or credit card. They can also be mailed.

For the period January 1, 2013 through June 6, 2015, TAB processed 324,079 summonses. The total fine amount was \$30.41 million, of which \$16.98 million was collected. According to data provided by TAB officials, TAB had approximately 1.7 million summonses with outstanding fines and fees totaling \$383.2 million as of December 31, 2015.

Audit Findings and Recommendations

TAB has established procedures to process NOVs issued to individuals who violate Transit's Rules of Conduct. TAB's success is highly dependent on its ability to contact respondents by phone and by mail. However, we found that often information on summonses is not sufficient to enable collection and enforcement of fines. Additionally, even when necessary information is available, TAB's collection efforts could be improved. For example, 62 of the 150 unpaid summonses reviewed contained information on driver's licenses or New York State Identifications that TAB could have used to determine the respondent's correct address. Further, summonses with identifiable information are not sent to a collection agency at the time of default judgment. Instead, TAB waits an additional nine months. In the first nine months of 2015, TAB purged \$66.8 million of uncollected summons fines and fees because the 20-year limit had been reached.

We recommended that TAB meet with representatives of NYPD and the Eagle team to improve the quality of information recorded on the summonses. TAB should also prioritize collection calls based on probability of collection and materiality and establish a target for the number of calls to be made each week. In addition, we recommend NOVs should be referred to collection agencies in a timely fashion. Lastly, TAB should explore other methods of collecting fines and fees, such as obtaining an agreement with the Department of Motor Vehicles (DMV) for use of its database.

Use of Call Campaigns to Collect Unpaid Fines

Failure to pay a fine, appear in person, or request a hearing by mail within 30 days results in the forfeiture of the right to contest the violation and a "default judgment" is entered against the respondent. The default judgment triggers the start of the collection process.

TAB's Collection Unit is responsible for collecting outstanding fines for TAB summonses. TAB has various options for collection. It contacts respondents by phone, sends a series of letters/notices, and files default judgments in the New York City Civil Court. TAB can also use other legal means to collect a judgment, such as referral to the New York City Sheriff and/or imposition of a lien against future New York State income tax refunds (referred to as a SWOP, the Statewide Offset Program).

From January 1, 2013 to June 6, 2015, 324,079 NOVs were delivered to TAB. Respondents paid fines on 74,738 of them within 30 days of being issued. Another 39,778 were paid from 31 days to 60 days after the issue date, and 42,108 were paid after 60 days. However, 157,687 (48.7 percent) still had an amount due as of June 6, 2015 (149,118 had no payments and 8,569 had partial payments).

One of TAB's primary methods of collection is through its call campaign. Every Friday, TAB's contractor generates a weekly report on the different status of summonses for all violations. This list is used by the vendor for the call campaign. On the following Monday, the list is loaded into TAB's automated call system, where it is placed in a queue. Collection Unit staff handle the calls sequentially, as representatives become available to take them. An official with the contractor indicated there were four parts of the call campaign list: first default, impending judgment, judgment list, and hearing list.

We determined that the Collection Unit made the following calls during the five weeks we sampled (June 14, 2013, November 8, 2013, April 11, 2014, September 12, 2014, and February 13, 2015) as detailed in the following table.

Action Phase	Unique NOVs	First Call	Second Call	Percent of Total Calls	No call	Percent of No Calls
First Default List	7,861	3,839	936	40.94	4,022	51.16
Impending Judgment	5,600	1,329	193	13.05	4,271	76.27
Judgment List	5,387	1,419	86	12.90	3,968	73.66
Hearing List	12,389	3,356	505	33.11	9,033	72.91
Total	31,237	9,943	1,720	100.00	21,294	68.17

According to TAB officials, calls to first default respondents generate the highest returns. Respondents in this category are more likely to pay the fines. As the summonses age, collection becomes more difficult. Our review of the payments from the 3,839 respondents called on the first default list showed that 936 payments were received and 317 of these payments were made in 0 to 30 days from the call date. However, TAB does not keep statistics on which calls result in payments. Moreover, a review of the call data does not indicate that TAB sets the priority of calls based on those which will yield the highest return. A TAB official, in response to our preliminary findings, confirmed that they do not place priorities on any particular category of calls.

Additionally, our review of call campaign data noted that the percentage of possible calls made appeared to decrease over time. For example, during the week of June 14, 2013, 50.45 percent of possible calls were made while about two years later (during the week of February 13, 2015), only 25.18 percent of possible calls were made. A TAB official told us the reason for the declining number of calls may be related to staffing issues. However, the official added that as TAB is not a traditional collection setting, there are no bonuses or commissions for increasing collections, so there is no incentive to increase the number of calls made. Furthermore, Transit's contract with the vendor does not have any performance metrics related to numbers of calls required to be made.

In responding to the preliminary finding, TAB officials indicated they are phasing out the current contracts and soliciting proposals for new vendors. As part of awarding a new contract, they will take this opportunity to have meaningful conversations with prospective vendors on collection industry performance standards and appropriate collection performance metrics.

Recommendations

1. Ensure that a sufficient number of staff resources are assigned to: making calls on the call campaign list; collecting collection rate data; and establishing priorities for campaign list calling based on call rate statistics.
2. Establish performance metrics related to the number of calls expected to be made each week.
3. Formally consider for inclusion in the new contract: specific performance metrics related to

items such as the number of calls required during a period of time; incentives for performance that exceeds the expected level of performance; fines, penalties, and/or credit offsets for performance below the expected level of performance; and reports on the collection results from each type of activity to identify those activities with the highest returns.

Mail Notification and Collection Agency Referrals

In conjunction with the Collection Unit's activities, TAB mails a series of letters/notices to respondents that encourage payment or resolution of the summonses. The Collection Unit receives many incoming calls in response to the letters and notices.

Accuracy of Contact Information

Because much of the communication related to fines and fees is by mail, accurate address information is critical. We therefore examined a sample of summonses to determine whether there were errors that could compromise TAB's ability to communicate with respondents and/or enforce summonses. As summonses are entered into the database, a "Violation Update Report" (Report) is generated. According to the May 15, 2015 Report, 157 out of 858 summonses entered (or 18.3 percent) had errors. We reviewed the information for the 157 summonses and found that many were rejected for incomplete address information. For example, 22 had no house number, 5 had no street address, and 17 did not include the city.

According to TAB officials, bad addresses on NOVs make collecting fines more difficult by preventing TAB from mailing notices and other correspondence to respondents. Our review of a random sample of 150 summonses issued since January 1, 2013, with outstanding fines and fees found many had bad address information. When TAB determines a respondent address in its database is "bad," either from returned mail or computer edit checks on the address, the record is tagged as having a bad address. Sixty (or 40 percent) of our random sample of uncollected fines were designated as having bad addresses. TAB officials indicated that if returned mail has a forwarding address, it is updated in TAB's database.

In addition, to missing addresses, we also found that summonses were often missing other critical information, such as employment information and Social Security numbers. This information should be collected by the officer at the time the summons is written. For example, our review of 150 summonses found that none had employment information. A TAB official advised that if a summons is missing vital information, it would stay in the system and TAB would perform research to obtain more information (e.g., Social Security number, employment information, new address). However, TAB did not provide any documentation to support these activities were done, or what the results were.

Further, when we researched the 59 uncollected NOVs in our sample with "bad addresses," we were able to obtain a more accurate address for 26 without a significant investment of time using the DMV database. In addition to making correspondence more difficult, the lack of accurate addresses coupled with the lack of other critical information also hinders TAB's other enforcement

efforts. For example, in our sample, only 7 of the 150 NOV with balances due were enrolled in SWOP (a lien against future New York State income tax refunds) as of June 6, 2015. This may be due to failing to collect Social Security numbers as well as accurate addresses.

Mail Notifications

For summonses with “good” address data, TAB sends various letters to encourage payment of fines and fees. For example, 30 days after the NOV issue date, TAB notifies the addressee of the first default letter (DDO); 30 days after the DDO letter, TAB sends a Notice of Impending Judgment letter to notify the addressee of impending judgment. Our review shows that TAB generally followed its prescribed timetable for sending these letters/notices to respondents who did not pay their fines and did not request or appear for a hearing on or before the appointed date, which is 30 days after the issue date.

If after approximately 90 days the violation remains unresolved, TAB will enter the default judgment in New York City Civil Court. Depending on the information on the summons, TAB can then employ an array of legal means to collect the amount of the judgment. These include referral to collection agencies, referral to the New York City Sheriff, assignment to a New York City Marshal for possible wage garnishment, and imposition of a lien against future New York State income tax refunds.

Fines not paid within nine months of the judgment date (approximately 270 days) are sent to a collection agency. Only NOV with a balance of \$25 or more that are not assigned to a Marshal are assigned to the collection agency. If the collection agency fails to collect on an NOV within nine months from the date of assignment, the NOV is returned to TAB.

Timely referral is important for collection because as the summonses age, collection becomes more difficult. However, of the 101 NOV in our random sample of 150 sent to the collection agency, 97 of them were sent late - by 3 days to 92 days.

Recommendations

4. Coordinate with representatives of NYPD and the Eagle Team to improve the quality of the identifying information detailed on the summonses.
5. Ensure all NOV that are not paid within nine months of issuance are referred to the collection agency in a timely manner.

Other Potential Collection Methods

Eighteen months after a summons’ issue date, TAB ceases active collection efforts on uncollected violations, except for SWOP. Despite these efforts, a substantial amount of fines and fees remain unpaid.

Pursuant to State law (CPLR 211(b)), TAB's judgments are enforceable for 20 years, and even if they are not collectable, they must be administratively tracked until they expire after 20 years. After 20 years the files can be purged. According to detailed listings provided by TAB, from January through March 2015, 118,094 judgments totaling \$25.13 million were purged. Additional TAB information indicated that another \$41.7 million of unpaid NOV's were purged by September 2015.

On January 19, 2016, TAB provided us with a file of approximately 1.7 million summonses with outstanding fines and fees of \$383.2 million. We noted that the overall amount of outstanding fines appears to be lower for more recent years' summonses. The data shows the number of unpaid summonses is highest for 1996 (285,289 unpaid summonses) and lowest for 2010 (43,527 unpaid summonses). Applying the law and past practice, by the end of calendar year 2016, TAB will purge approximately \$80 million in summonses from 1996.

NOV's remain with the collection agency for nine months and then are recalled by TAB. In August 2014, for example, 4,638 NOV's were assigned to the collection agency, with a value of \$691,530. TAB records show that as of November 2015, the collection agency received \$7,914 on 70 of the 4,638 NOV's, representing collection of only 1.15 percent of the total amount due.

However, instead of attempting to collect individual summonses for a limited period, it may be beneficial to assess the entire pool of summonses to determine if there are individuals with multiple summonses. We examined the 1.7 million summonses with outstanding balances, reviewing name, Social Security number, zip code, street name, and date of birth, and found many instances in which TAB could identify individuals with multiple summonses on file for collection. For one name, for instance, there were over 60 summonses, and of these, 37 had the same Social Security number. At the average amount due of \$225 per summons, this represented \$8,325 in unpaid summonses for this person. A further analysis of the outstanding summonses showed there were an additional 53 respondents with valid Social Security numbers with a total of 314 summonses totaling \$58,750. By focusing collection efforts on those persons with the highest amounts of unpaid summonses, TAB could improve the results of such efforts.

TAB might also be able to increase the collection of fines and fees by working with DMV to expand DMV's regulation that currently prevents persons with outstanding fines and unpaid parking violations summonses from registering their vehicles. Collection of unpaid MTA summonses could be improved if vehicle owners had to pay outstanding debts prior to registering their vehicles.

In response to our preliminary findings, TAB officials advised that they are transitioning to a new staffing vendor as well as a new MTA computer application and will be better positioned to analyze the data. They added that they had considered sending older debt to a collection agency, but the response to a Request for Proposal was low, and the bidders asked for a high contingency fee (39 percent). Further, TAB officials stated they are exploring use of an auto-dialer to call respondents who have received summonses, but are not yet in default.

Recommendations

6. Formally explore and assess other methods of collecting fines and fees, such as:
 - Selling the accounts receivable;
 - Running an amnesty program;
 - Hiring seasonal employees to do research of addresses via the DMV database to improve collection;
 - Providing an incentive clause in the contract with the third-party vendor based on amount of fines and fees collected; and
 - Working with DMV to expand its regulation that prevents respondents with outstanding fines and fees from registering their vehicles.
7. Match summonses by name or other identifying information to identify persons with multiple summonses. Focus collection efforts on such violators.

Payments and Bank Deposits

TAB uses two bank accounts to facilitate its business: the Crime Fund account and the Refund account. Crime Fund receipts include payments received through Official Payments, payments received at the Cashier's window, and lockbox payments. Deposits to the Refund account include miscellaneous revenues (for example, TAB fees for information provided to respondents who request data concerning their violations). TAB officials do not have the authority to transfer funds from the Crime Fund or between the two accounts. This authority is limited to the MTA Treasury Department.

Crime Fund

We reviewed the Crime Fund account and selected 991 NOV numbers from the documentation attached to the bank statement to check that respondents who paid fines were properly credited. We also selected 100 NOV numbers from the vendor's database system and checked the documents attached to the bank statement. We determined the funds collected were recorded, received, deposited, and posted correctly to the accounts of the 991 NOVs sampled.

However, six deposits were made in error to the Refund account instead of the Crime Fund account during the period between January 1, 2013 and June 30, 2015. During monthly bank reconciliations, MTA's Business Service Center (BSC) identified several of the deposit errors and requested that Transit's Treasury unit correct them in September 2014, a number of months after the errors occurred. We determined that four (of the six) errors were corrected. Nevertheless, as of September 30, 2015, more than a year and a half after they occurred, the remaining two errors (totaling \$17,928) had not been reversed. After we brought this matter to their attention, TAB officials corrected the errors in December 2015.

It is important that deposits are made to the correct account as the funds in the accounts are used

for different purposes and controls over account expenditures differ. The Crime Fund account is under the control of the MTA Treasury Department and may be used to fund the MTA's operations, invested, or used for other purposes based on MTA-Treasury's decision. The Refund account is used for TAB-specific purposes and is under the control of TAB staff. Further, in responding to our preliminary findings, TAB officials advised us that they notified its vendor of the importance of making deposits to the correct bank account.

Dummy Notice of Violation Numbers

The vendor's computer system issues computer-generated dummy numbers in sequential order for all payment instruments entered without NOV numbers. This is done as a means to track fines paid by respondents when the NOV numbers cannot be readily determined at the time the payments are recorded.

We reviewed the account to determine if the amounts received were accounted for. TAB provided information which showed that 1,073 of these cases occurred between January 1, 2013 and June 30, 2015. The document also showed that 282 cases, totaling \$18,661 in fines collected, remained unmatched to the NOVs. According to TAB, the remaining 791 cases were matched to NOVs. However, TAB did not have a record of all of the NOVs that these payments were matched to, nor did it record the individual amounts of payments for the matched violations. A contractor official stated that once the unidentified payment has been matched to the actual violation, they are not able to identify the NOV that was adjusted on the system. Therefore, we have no assurance these payments were appropriately recorded and credited to the correct NOV.

In response to our preliminary findings, TAB officials stated that the issue regarding dummy NOVs will be addressed when a new computer system is implemented in 2016.

Account Balances

Our review of the Crime Fund bank statements for the period January 2013 thru April 2015 showed the end of month balance averaged almost \$500,000, ranging from about \$83,000 to more than \$1.2 million. By not establishing a maximum bank balance to be maintained in the TAB Crime Fund, with the balance invested, the MTA is losing out on investment income. The excess funds that are not needed for operational purposes could be invested by the MTA Treasury. Using an end of month balance of \$50,000 and an interest rate of 0.12 percent, we determined the amount of interest income lost each year was about \$6,450 and approximately \$15,000 for the period January 2013 thru April 2015.

In responding to the preliminary findings, TAB officials indicated that they met with MTA officials on May 29, 2015 and established a maximum balance of \$50,000 for the Crime Fund account. TAB officials also indicated they will continue to review the Crime Fund account daily and send a weekly report to the MTA Treasury Department. At the audit's closing conference (on April 12, 2016), TAB officials advised us that the daily balance in this account was lowered to \$5,000.

Recommendations

8. Improve monitoring to ensure payments are deposited to the correct bank account.
9. Contact the MTA Treasury Department in a timely and effective manner to reverse errors.
10. Ensure that the appropriate amount is credited to the correct NOV for the dummy accounts used when payment is received.
11. Review the Crime Fund account on a regular basis to determine if amounts being held are reasonable, document the decision, and ensure that excess monies are forwarded to MTA Treasury in a timely manner.

Audit Scope and Methodology

The objectives of this audit were to determine whether the NYC Transit Adjudication Bureau performs its responsibilities in an effective and efficient manner and whether fines and fees are collected promptly, and when they are not, whether actions were taken to collect the fines and fees due. We also determined whether fines and fees collected were accounted for properly. This audit covered the period January 1, 2013 through December 31, 2015.

To accomplish our objectives, we interviewed TAB management to obtain an understanding of the internal controls related to TAB. In addition, we interviewed vendor staff and reviewed records and relevant regulations and laws pertaining to summonses issued to respondents who violate Transit's Rules of Conduct.

From January 1, 2013 to June 6, 2015, we received a file of 324,079 NOVs issued during this period. To determine whether TAB was following its procedures related to mail notifications to the respondents, we selected a statistical sample of 321 NOVs from a population of 157,687 NOVs issued to respondents during the period January 1, 2013 to June 6, 2015. Our review of TAB's records for the first 150 NOVs indicated it was following the procedures, and, as a result, we did not review the remaining 171 NOVs.

We reviewed the Crime Fund monthly bank statements to determine whether TAB properly accounted for the fees and fines collected. We selected the deposits and credits on Mondays in 14 of the 30 months from January 2013 through June 2015. The months selected were: January through June 2013; September and December 2013; March, June, September, and December 2014; and March and June 2015. We selected 991 NOV numbers to check whether respondents who paid fines were credited.

For the Refund account, we selected a sample of three months (December 2013, January 2014, and March 2015). We reviewed disbursements from this account to determine if the checks were supported by documentation. Further, we selected all 39 checks paid from the January 2014 bank statement and traced them to the original check stubs in the checkbooks and the supporting

documentation. We then traced them to the vendor's system to ensure they were credited to the appropriate payees. We also judgmentally selected a total of 50 check payments over \$25 in December 2013 and March 2015 from the bank statements to trace them to the original check stubs. We also judgmentally selected the six highest dollar value deposits over our audit period to determine why such large deposits were made to this account.

In addition, we selected a sample of the call campaign lists for five Fridays (June 14, 2013, November 8, 2013, April 11, 2014, September 12, 2014, and February 13, 2015) during our audit period. We obtained the call campaign lists for those dates. We also obtained a list of respondents called on those days and compared it to the call campaign list to determine how many of the respondents were called. Our selection was based on the fact that call campaign lists are created on Fridays and we wanted to include dates for all four lists in our sample.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

Reporting Requirements

A draft copy of this report was provided to MTA officials for their review and formal comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of it.

In their response, Transit officials did not specifically agree or disagree with our report's recommendations. On balance, however, Transit officials' comments were consistent with our recommendations' general intent. Officials also indicated that the recent implementation of a new database system (TABIS) and the award of a new TAB office management/staffing contract

will help enhance the efficiency of TAB operations. Officials added that they will continue Transit's commitment to process and procedure improvements that will make the most efficient and effective use of their resources. Also, our rejoinders to certain Transit comments are included in the report's State Comptroller's Comments.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chairman and Chief Executive Officer of Metropolitan Transportation Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments

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Thomas F. Prendergast
Chairman and Chief Executive Officer



Metropolitan Transportation Authority

State of New York

July 8, 2016

Ms. Carmen Maldonado
Audit Director
The Office of the State Comptroller
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59 Maiden Lane – 21st Floor
New York, NY 10038

Re: Draft Report #2015-S-33 (Practices Used by the Transit Adjudication Bureau to Collect and Account for Fines and Fees)

Dear Ms. Maldonado:

This is in reply to your letter requesting a response to the above-referenced draft report.

I have attached for your information the comments of Veronique Hakim, President, New York City Transit, which address this report.

Sincerely,

A handwritten signature in blue ink, appearing to read "TFP", with a stylized flourish extending to the right.

Thomas F. Prendergast
Chairman and Chief Executive Officer

c: Donna M. Evans, MTA Chief of Staff

Attachments

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Metro-North Railroad
MTA Bridges and Tunnels


MTA Capital Construction
MTA Bus Company



Memorandum

Date: July 8, 2016

To: Thomas F. Prendergast, Chairman and Chief Executive Officer

From: Veronique Hakim, President, NYC Transit 

Re: New York State Comptroller's Request for Response to the Draft Audit Report "Practices Used by the Transit Adjudication Bureau to Collect and Account for Fines and Fees" 2015-S-33

New York City Transit has reviewed the Office of the State Comptroller's Draft Audit Report on "Practices Used by the Transit Adjudication Bureau to Collect and Account for Fines and Fees" 2015-S-33, and provides the following response.

At the outset, insofar as the stated purpose of the Audit was to "determine whether [TAB] performs its responsibilities in an effective and efficient manner" (Audit, p. 1), it is worthwhile to note, notwithstanding the Audit's narrower focus on collecting fines and fees resulting from summonses, that TAB has a wider statutory mission. TAB's primary function, pursuant to the state law that established the Transit Adjudication Bureau within NYCTA, is to serve as an adjudicatory body that provides an administrative forum for persons wishing to challenge a summons he or she receives for a violation of the Transit Rules of Conduct while using the transit system. See Public Authorities Law Section 1209-a(4) (creating power and duty of TAB to "accept pleas . . . and to hear and determine charges" of transit infractions).

In fulfillment of that primary adjudicative function, TAB processed well over 400,000 summonses during the audit period (January 1, 2013 to December 31, 2015), and conducted over 80,000 adjudications by hearing before a hearing officer (or, in a small percentage cases, by administrative dismissal) during the same period. To provide timely due process through these adjudicative procedures to thousands of individuals, in accordance with its statute (see PAL Section 1209-a(2)), New York City Transit appoints a roster of per diem independent hearing officers, who provide prompt, fair and impartial hearings for thousands of persons challenging their summons. The achievement of prompt, fair and impartial adjudication of summonses for thousands of individuals – a primary function of TAB, by statute – is performed effectively and efficiently, and nothing in the Draft Audit Report suggests otherwise.

With respect to the Office of the Comptroller's chosen focus of the Audit, "[s]pecifically . . . whether fines and fees were collected timely; appropriate actions were taken to collect fines and fees that were overdue; and fines and fees collected were appropriately accounted for," (Audit,

p.1), as detailed below in this response, we submit that TAB undertakes appropriate efforts to collect unpaid summonses, despite enforcement limitations that are unique to TAB. Moreover, TAB is committed to improving its collection efforts using the enhanced features provided by its new operating system environment.

As the auditors were informed at the outset of this audit, during the period of examination of TAB's collection practices (which covered the period 2013 through 2015), TAB was poised to undergo fundamental changes to its operating environment that achieved implementation in 2016, post-audit. This significant transition included (a) moving from an outsourced operating system supplied by an outside vendor, which TAB had relied upon for more than thirty years, to a new data management system developed by MTA IT; and (b) a competitive RFP solicitation process that, simultaneously with the implementation of the new data management system, would result in an award of a new TAB office management/staffing contract to replace the existing management/staffing contract that had been in place for decades.

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Effective May 1, 2016, TAB launched the new database system – TABIS – owned, operated and maintained by MTA. TABIS replaced the CGI Technologies and Solutions TAB System which had limited processing and reporting capabilities. In addition, effective May 1, 2016, Republic Parking System replaced CGI Technologies and Solutions as the contractor responsible for the operation and staffing of the TAB office. Therefore, much of the audit report pertains to a database system no longer in use and to the performance of an outgoing operations contractor. Although transitions typically involve some shorter term inefficiencies in adapting to a new operating environment, from this two-fold transition TAB anticipates opportunities to enhance the efficiency of its operations, including its collection activities, in the upcoming years.

Below is presented the New York City Transit's detailed response to the Office of State Comptroller's Draft Audit Report discussion, findings and recommendations, by Section:

Background

As the Draft Audit Report notes (at p.5), recipients of summonses are afforded a variety of means to pay a summons fine. Although in the past, fines required payment by check or cash/money orders only, either in person at the TAB facilities or by mail, TAB more recently (spurred by the efforts of a new Executive Director) has instituted more modern and more customer-friendly means of payment commonplace elsewhere, introducing payment processing by credit card, and extending the means to do so by adding options that include payment by phone or Internet, increasing the efficiency of the payment collection function.

During the Audit period, TAB collected payments totaling over \$26.5 million. And the trend in dollars collected has been upward in recent years. Total collections in the two most recent complete years of operation (2014 and 2015) compared to the two prior years (2012 and 2013) show an increase in collections of over 10 percent. The Draft Audit Report (p.5) states that summons with total fines of \$30.41 million were issued for the period 1/1/13 to 6/6/15, and \$16.98 million in collections were received during the same period, which reflects a collection-to-

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*See State Comptroller's Comments, page 29.

summons-issued ratio of 56%.¹ As reported elsewhere in the Draft Report (at p. 10), data indicate that in recent years TAB's collection performance has improved, the "overall amount of outstanding fines" being "lower for more recent years' summonses" when compared to summonses issued in older years.

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Use of Call Campaigns to Collect Unpaid Fines

After receiving a TAB summons, the respondent must respond to the summons (pay the fine or request a hearing) on or before the hearing date listed on the summons. Failure to respond by the hearing date will result in a default judgment and penalties added to the fine amount. Collection activities begin with in-house collection calls referred to as call campaigns. Every Friday, a call campaign list is generated and then distributed to the collections representatives on the following Monday. The call campaign lists of Notices of Violations (NOVs) are divided into four categories: Hearing, First Default, Impending Judgment, and Judgment. The call campaigns are loaded into the automated dialer phone system. The automated dialer phone system does not actually place the outbound calls. It puts the calls into a queue, for the collection representative to take the next call on the queue. Once a collections representative is prompted by the automated dialer system, he/she will review the respondent's information on the database system to verify the status of the NOV and then place the outbound call to the respondent.

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As to prioritization of calls by category, there were no statistics presented to or by the auditors to demonstrate that calls to respondents with NOVs in "First Default" status resulted in higher returns than did calls to other categories of respondents. TAB considers all four call campaign categories important opportunities to facilitate payment on NOVs. Although the call campaign list is divided into four distinct categories of NOV statuses, this does not represent a preferred or previously specified ranking of the four categories for prioritization of call completion. The call campaign in its entirety represents an effort at prioritization, in that the NOVs that have been placed on each of the four lists are those that have most recently aged into the specified campaign categories. The campaign lists are refreshed every week in order to capture the NOVs as soon as they enter a new status. This allows TAB to call respondents at the earliest point in time when an NOV issued to them enters a new status.

The auditors sampled approximately 5% (five weeks) of the call campaigns conducted during the audit period, including a call list generated on Friday, February 13, 2015, which was a call list for a week that included President's Day – a day on which TAB is closed. The audit findings state that many of the calls identified in the call campaign list were not completed. The finding appears premised upon an assumption that TAB should have the contracted staff achieve completion of calls for each and every identified NOV listed in the call campaign list. There was no such performance standard embedded in the vendor operations contract, nor is it self-evident that it would be cost beneficial to pay a contractor the amounts that would be required to perform to a

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¹ Just under half (48.3%) of TAB summonses in the Audit sample were collected within 90 days of issuance, according to the Audit (p.6). This number is actually understated, because the 324,079 summons total figure in the sample included summons issued up to June 6, 2015 and measured collections as of the same date. Collections received in the period 1 to 90 days after that June 6 cutoff date on the most recent of those summonses would not be reflected in the collections data used by the auditors, based on the collections cut-off date.

100% call completion standard. However, prior to the audit, TAB began exploring options that would increase the number of calls completed, such as by using “robo-calling” for the hearing campaigns and a predictive dialer to improve the speed of calls sent to the collection representative. Now that a new operating system is in place, and a new management /staffing contract awarded, TAB will revisit these techniques to determine whether they would enhance the efficiency of calling campaigns.

Finally, the findings also note that there “appeared” to be a decline in calls completed over the period sampled (Audit, p. 7). The audit report does not clearly support that finding, as the number of completed calls appears to have fluctuated considerably (and not chronologically consistently) in the different five weekly campaigns audited. For example, the audit shows 2,507 total calls completed associated with the 6/14/2013 campaign, in comparison to 2,982 completed calls associated with the 4/11/2014 campaign, representing an absolute increase by over four hundred calls in that instance. It is the case that given the impending end of the CGI staffing contract, there was some attrition in Collections Unit staff over the past two years. The implementation of the new operations staffing contract has resulted in bolstering the number of staff assigned to the Collections Unit.

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Efficient collections operations must balance cost (actual resources expended on collection) and benefit (actual money collected) to evaluate what techniques are best applied. While recommending prioritization of calls to first default respondents and recommending assignment of greater staff resources to making calls on the call campaign list, the Draft Audit Report does not provide cost benefit analyses that evaluate the net impact of either increasing the number of possible calls or of prioritizing first default calls over other categories of possible respondents with unpaid summonses. TAB agrees with the auditors that improved data, which measures the success rate of different call lists approaches and also measures the transaction costs associated with such calls, will promote optimization of collection resources. Establishing performance metrics for numbers of calls to make per week, in the absence of such a cost/benefit analysis, will not necessarily result in improved collections efficiency, as collection efforts themselves come at some cost.

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Mail Notification and Collection Agency Referrals

At the time of an alleged violation, the respondent receives personal service of the NOV by the issuing officer. The NOV provides information about the fine owed, imposition of penalties and judgment entry for non-payment of fine, information on the various ways to pay the fine and other information on how to resolve the TAB summons. In the event that the respondent defaults on the summons, TAB sends various letters to the respondent in an effort to collect the unpaid debt. As acknowledged in the Draft Audit Report, the auditors found that these letters are sent timely. *See* Audit Report at 9 (“TAB generally followed its prescribed timetable for sending . . . [First Default, dunning and Notice of Judgment] letters/notices to respondents who did not pay their fines and did not request or appear for a hearing. . . .”)

Oftentimes, the collection efforts are hampered by incomplete, inaccurate and outdated information provided to TAB on the summons. As recognized by the auditors, inaccurate address information contained on summonses hampers the collection efforts. TAB attempts to ameliorate

the problem of bad addresses by a number of means. If a notice that is mailed to a respondent is returned by the post office, the respondent's address will be flagged as a bad address. If there is a forwarding address provided, it will be updated in the TABIS system. Whenever contact is made with a respondent, TAB staff seeks to verify the respondent's address and update it in the system.

The Draft Audit Report states that the auditors were able to obtain "more accurate addresses" on 26 NOV's out of its 150 NOV sample, by searching the NYS DMV database. It is not clear from the Report what steps were taken to determine that the DMV addresses identified as matches were actually "accurate addresses" (Report, at p. 8) the use of which would aid in collection. Nevertheless, TAB has initiated the process of obtaining access to the NYS DMV database, as recommended in the report, as it could prove to add value to TAB's collection efforts. In addition, other methods to cleanse the address data are also being explored.

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As noted above, and recognized by the auditors, the accuracy of the information on NOV's impacts TAB's ability to collect outstanding fines. *See* Audit Report at p. 6 (noting that TAB's success in collecting summons is highly dependent on TAB receiving summonses that contain necessary identifying information, such as accurate names, phone numbers, addresses, and further noting that "often information on summonses is not sufficient to enable collection and enforcement of fines.") Although the presence of inaccurate information on the NOV's is not caused by TAB, a concerted effort to correct the quality of identifying information contained in summonses and thereby improve the collectability of the NOV's is warranted, and TAB appreciates the various methods mentioned in the report. As TAB has previously informed the auditors, TAB will have more flexibility in running reports with the new MTA IT application that assesses the adequacy of information contained in summonses. For example, using TABIS, TAB now will have the ability to generate a "Quality of Summons" report. TAB intends to use this newly-generated report to provide feedback to law enforcement about the percentage of summonses with incomplete essential data. Improving detail and accuracy of information on summonses would enable TAB to collect more summonses.²

Please note that the finding on page 9 of the Draft Audit Report that 100 sampled NOV's were untimely referred to the collection agency (i.e., referred well more than nine months from the judgment date) is not accurate. The judgment dates indicated on the spreadsheet supporting the finding, which was recently provided to TAB by the auditors, are not the correct judgment dates. In the CGI system, the job for new judgments is run monthly on the 3rd Friday. These cases are not placed in judgment until a return file is received from NY Office of Court Administration (OCA) and processed on the 1st Friday of each month. The actual OCA judgment dates are used to calculate the start of the 9 months, for purposes of referral to the collection agency. The job for collection assignment runs at the end of the month, and results in referrals within approximately 9 months. Because this referral file to the collection agency is transmitted monthly, and not daily, there is, of course, some minor variance from exactly 9 months, but that variance should be one month or less in duration.

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² While the auditors correctly observe (Audit Report, p.8) that summons information concerning employment and the social security number of a respondent is helpful for collection efforts, and is typically not included on the completed summons, as a practical matter law enforcement officers may be unable to obtain such information, or accurate versions of such information, voluntarily, in a large proportion of cases in which summonses are being issued.

Other Potential Collection Methods

TAB makes numerous efforts to collect unpaid fines including:

- Contacting respondents by phone and motivating them to pay their summonses.
- Sending a first default judgment letter encouraging payment or resolution of the summonses.
- Sending a notice of impending judgment encouraging payment or resolution of the summonses.
- Sending a letter from the NYC Sheriff's Office encouraging payment or resolution of the summons.
- Sending an attorney letter encouraging payment or resolution of the summons.
- Filing a default judgment in the New York City Civil Court approximately 90 days from the summons issue date if the violation remains unresolved.
- Assigning cases with verified employment information to a New York City Marshal for possible wage garnishment.
- Imposition of a lien against future New York State income tax refunds (through the NYS Statewide Offset Program known as SWOP).
- Referral to a collection agency.
- Requesting updated information on the Notice of Appearance form when a respondent appears for a hearing.
- Requiring staff to request updated information on inbound and outbound calls.
- Offsetting NYCT tort settlements by withholding any amounts that may be due to TAB.

The information below sheds further light on the depth of TAB's collections efforts and its planned improvements to those efforts:

Use of Debt Collection Agencies and Robo-Calling Services. The Draft Audit Report correctly states that, after about nine months of attempting to collect the funds, unpaid summonses are sent to a collection agency for further collection action, but questions whether older debt that remains uncollected after such efforts should again be sent out to collection agencies. In the past, TAB has explored contracting with a collection agency to work its older debt. In 2006, CGI issued a Request for Proposals (RFP) on behalf of TAB to solicit bids from collection agencies in order to amplify collection efforts. TAB received two responses. One collection agency would take on only new debt. The other agency would take on new and older debt, at a 39% contingency fee rate. The lack of overall interest and the high contingency fee requested illustrate the heightened difficulty of taking on older debt, even by professional debt collection agencies. It should be noted that for many cases (such as those without SSNs) the collection agency is the last resort, after TAB has pursued normal collection procedures that include sending letters, calling respondents, Sheriff's assignment, and Marshal's assignment.

In 2014, TAB explored using a virtual collection agent with a debt collection services company. It was determined that this product would not realistically enhance TAB's collections efforts. TAB is currently exploring the use of computerized auto dialer calls to deliver a pre-recorded message to respondents who have received summonses but are not yet in default. This would free up TAB's collections staff to concentrate on making calls to respondents who are already in default to encourage them to pay their fines. In 2014, TAB met with a robo-calling firm to explore the

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possibility of using its services. However, due to the impending expiration of the current vendor contract (with CGI), it was not feasible to implement those services at the time. Now that a new staffing vendor contract is underway, further discussions with robo-calling firms will be pursued.

Enhancing Computer Applications to Aid Collection Efforts. TAB had explored having CGI enhance the CGI-owned TAB computer operating system (which was in use during the audit period, and replaced very recently) by doing additional programming to maximize collections. This plan ultimately was not pursued because of the cost limitations. TAB is optimistic that the new MTA IT computer application (TABIS), which has replaced the CGI-supplied computer system, will increase in-house collections capabilities, through usage of its improved data and reporting capabilities.

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Use of the SWOP Procedure. TAB takes full advantage of the NYS Statewide Offset Program (SWOP) as a means of collection when an NOV record has actionable data (summons in judgment, valid SSN, and \$25 or more due). As TAB informed the auditors on November 5, 2015, an annual SWOP file is generated at the start of each new year. Letters are sent to the respondent's newly eligible cases in the preceding August or September. Letters are also sent to the currently assigned cases, if they haven't been sent a letter in the previous three years. As long as the case still owes money, has a valid SSN, and is not due to be purged in the upcoming year, it will stay assigned to the SWOP program. Previously, in August 2013, TAB enlisted staff members for a special project to clean up SSNs so that the associated NOV's could be added to the yearly SWOP file. This was extremely labor intensive, time consuming, and did not yield significant results. Since then, TAB has taken other measures to capture SSN information. Currently, both TAB's Notice of Appearance and Appeal Form request SSNs in an effort to capture data that was not included on the original summonses. These SSNs are then verified by TAB staff, overseen by TAB's Legal Director, before they are entered into the NOV record. This procedure results in valid SSN information on which TAB can take collection action.

Use of Marshal's Office/Wage Garnishment. With regard to assigning NOV's to the Marshal's Office for wage garnishment, availability of employment information is a significant limitation. Employment information is typically not obtained from the respondent when the summons is issued, and it can be very difficult to gather such information later on. However, TAB attempts to get updated employer information on occasions when there is contact with the respondent. Also, TAB amended its Notice of Appearance and Appeal Form to request employer information in an effort to capture data that was not included on the original summonses. As the auditors were informed on October 28, 2015, this newly captured employment data is updated and if all other criteria are met, the NOV will be assigned to a Marshal. This is an ongoing effort as Marshals' assignments are made on a weekly basis. Please note that TAB previously conducted a pilot program to obtain employment information for respondents who were New York City employees from the New York City Office of Payroll Administration (NYC OPA). NYC OPA checked TAB respondents' SSNs and last names against the NYC Human Resource Management System (CHRRMS). If there was a match, TAB could assign the case to a Marshal for wage garnishment. TAB is evaluating whether it will be cost-beneficial to re-start this program on a wider scale.

Outstanding Debt and Purging of Summonses. The Draft Audit Report states that as of December 31, 2015, TAB provided the auditors with a file of approximately 1.7 million summonses with outstanding fines and fees of \$383.2 million. As noted in the report, much of this represents debt

from summonses issued nearly 20 years ago. Significantly, the amount of outstanding debt associated with summonses issued in more recent years is lower than that associated with older summonses. *See* Draft Audit Report, p.10 (number of summonses that remained unpaid was far higher in distant past years, such as 1996, in which there were in excess of 285 thousand unpaid summonses, than in more recent years such as 2010, which had approximately 43.5 thousand unpaid summonses). The data appear to reflect the improved payment and collection methods applied by TAB in more recent years (although it should be noted that an older unpaid summons by definition have been aging longer, and accordingly, will have a higher amount due as interest is applied).³

Respondents with Multiple Summonses. TAB acknowledges the value of identifying respondents who have multiple unpaid summonses by culling through its data to match essential information. This information can be used to identify recidivists and notify law enforcement so that other future alternative means of enforcement for further violations, such as filing a criminal case and seeking restitution, may be taken. TAB will also explore the use of data cleansing software in conjunction with its new MTA IT computer application. This may aid in identifying respondents with multiple NOV's and in streamlining collection action. With respect to the citation in the report of an example of 60 summonses issued to one name, upon close examination, this one name with a purported 60 summonses has associated records with various name spellings, dates of birth, SSNs, and addresses, in different combinations. We note that for the 37 records with SSNs, those NOV's are in SWOP and/or collection agency status.

Payments and Bank Deposits

TAB uses two bank accounts to support its operations: the Crime Fund Account and Refund Account. Both accounts are under the supervision of MTA Treasury. As the Draft Audit Report correctly notes all the funds collected of the 991 NOV's sampled were recorded, received, deposited and posted correctly to the summons record. The report also notes that less than 1% of the sampled deposits were recorded in the wrong account. TAB has emphasized to both the former and current vendor staff the importance of using the correct deposit slip to ensure that payments are deposited in the correct bank accounts. In the event that an error is made in the deposits, TAB policy is to notify and follow-up with MTA Treasury to correct the deposit glitch.

With regard to the dummy NOV numbers, the (now replaced) CGI system did not *electronically* record or retain the NOV's to which dummy number NOV's are matched. However, the matched payments are recorded and retained on *paper adjustment forms*, which were available to the auditors for review. The new MTA computer system, TABIS, captures and electronically preserves the information when a previously unmatched payment is credited to a specific NOV.

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³ As noted in the report, TAB's judgments are enforceable for 20 years, and even if not collectable, must be administratively tracked until they expire after 20 years. Subsequent to 20 years the files can be purged. During the three months of January to March 2015, a total of 118,094 cases (not records) were purged. The report states that by the end of calendar year 2016, TAB will purge an additional \$80 million in uncollectable summonses from 1996. However, with respect to the projected number of summonses to be purged for the remainder of this calendar year, TAB cannot definitively know the number of NOV's that will be purged for summonses issued in 1996 until the close of 2016.

Regarding account balances, effective February 1, 2016, MTA Treasury, at the request of TAB, began automatic daily transfers of any money in excess of up to \$5000 from the Crime Fund account to the MTA Investment account. The invested amount is based on the opening balance. The current day deposit is invested the following business day.

Response to Specific Recommendations

Comptroller's Recommendation #1: *Ensure that a sufficient number of staff resources are assigned to: making calls on the call campaign list; collecting collection rate data; and establishing priorities for campaign list calling based on call rate statistics.*

- The award of the new staffing contract, which occurred in April, 2016, has bolstered the staffing levels. TAB will work with the new vendor to ensure that the vendor maintains appropriate staffing levels.
- The new computer operating system, TABIS, which was placed into service in May, 2016, improves TAB's ability to monitor and appraise the effectiveness of collection efforts. TABIS, relative to the former CGI system, generates on demand reports useful for measuring and managing collection activities.
- In the absence of call rate efficiency statistics, TAB has treated all call campaign categories as being equally important but is exploring various methods to maximize the number of calls made, such as using robo-calling for the hearing calls and implementing a predictive dialer feature, which will increase the number of calls sent to the representative. Should collection rate data that is obtained demonstrate that particular call categories are more cost-efficient than others, TAB will take steps to allocate campaign list calling resources in a manner reflecting relative efficacy.

Comptroller's Recommendation #2: *Establish performance metrics related to the number of calls expected to be made each week.*

- TAB will continue to monitor the performance metrics of the vendor's staff and work with the vendor to improve staff performance.

Comptroller's Recommendation #3: *Formally consider for inclusion in the new contract: specific performance metric related to items such as the number of calls required during a period of time; incentives for performance that exceeds the expected level of performance; fines, penalties, and /or credit offsets for performance below the expected level of performance; and reports on the collection results from each type of activity to identify those activities with the highest returns.*

- The staffing contract that was executed in April 2016 does not include specific performance metrics or performance incentives provisions, due to the significant challenges of managing the transition to a new computer operating system and new external staffing contract, and the need to establish appropriate baseline performance standards in the resulting new operating environment. It is anticipated that such provisions will be negotiated and included in future contracts (or, subject to vendor acceptance, may be considered for possible future

modifications to the existing contract). Improved data reports on collections activities is part of the proposed enhancement to the Phase II implementation of the TABIS system.

Comptroller's Recommendation #4: Coordinate with representatives of NYPD and the Eagle Team, to improve the quality of the identifying information detailed in the summonses.

- As mentioned above, the Phase II release of the TABIS system will have the ability to generate a "Quality of Summons" report. TAB intends to use this newly-generated report to provide feedback to law enforcement about the percentage of summonses with incomplete essential data.

Comptroller's Recommendation #5: Ensure all NOVs that are not paid within nine months of issuance are referred to the collection agency in a timely manner.

- As explained above, the auditors finding that TAB was non-compliant in referring cases to the Collection Agency timely is unsupported. TAB will continue its practice of referring cases timely.

Comptroller's Recommendation #6: Formally explore and assess other methods of collecting fines and fees, such as:

- Selling the accounts receivables;
- Running an amnesty program;
- Hiring seasonal employees to do research on addresses via the DMV database to improve collection;
- Providing an incentive clause in the contract with the third-party vendor based on amount of fines and fees collected ; and
- Working with DMV to expand its regulations that events respondents with outstanding fines and fees from registering their vehicles.
- TAB will explore the legality and feasibility of these recommendations and work towards implementing methods that achieve the most cost-beneficial results.

Comptroller's Recommendation #7: Match summonses by name or other identifying information to identify persons with multiple summonses. Focus collection efforts on such violators.

- TAB acknowledges the value of identifying respondents who have multiple unpaid summonses and will evaluate the best way to include this aspect in its overall collection efforts.

Comptroller's Recommendation #8: Improve monitoring to ensure payments are deposited to the correct bank account.

- TAB will continue its practice of reviewing and reconciling the bank statements daily.

Comptroller's Recommendation #9: *Contact the MTA Treasury Department in a timely and effective manner to reverse errors.*

- TAB will continue to timely notify and follow-up with the Treasury Department in the event that there is an incorrect account deposit.

Comptroller Recommendation #10: *Ensure that the appropriate amount is credited to the correct NOV for the dummy accounts used when payment is received.*

- There is no finding in the Draft Audit report that suggests that there was an incorrect application of funds to the NOV. TAB will continue its practice of applying the funds from the dummy account number to the correct NOV number.

Comptroller's Recommendation #11: *Review the Crime Fund account on a regular basis to determine if amounts being held are reasonable, document the decision and ensure that excess monies are forwarded to MTA Treasury in a timely manner.*

- As referenced previously in the report, the MTA Treasury Department automatically transfers funds in excess of \$5,000 to the Investment account on a daily basis. TAB will continue to monitor the bank accounts daily to ensure compliance.

Conclusion

We have carefully reviewed the findings and recommendations in the Draft Audit Report. TAB will continue its commitment to improvements in processes and procedures that will make the most effective and efficient use of our resources.

cc: M. Chubak
J. Henly
N. Renek
M. Maloney

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State Comptroller's Comments

1. TAB officials replied that their new system, TABIS, will address many of the issues identified by the audit. However, replacing the system is only part of the solution. Without more accurate and complete information about the respondents and an improved action plan to collect fines and fees, the causation of many of the issues identified in the report will still not be addressed. Most of the actions that TAB takes to collect unpaid fines (eight of the 12 bullets listed by TAB) require accurate and complete information, including contacting the respondents via telephone and mail, and making referrals to the Sheriff's Office, Marshal's Office and SWOP. Moreover, as TAB officials acknowledge in their response, many of the process improvements suggested in the report were not included in the contract with the new vendor. If process improvements are not made, changing the vendor will not resolve the issues identified. Nonetheless, we acknowledge TAB's recent efforts to improve their processes.
2. The \$26.5 million is the sum of all collected amounts reported to the MTA for the three years ended December 31, 2015. This is not comparable to the payment collections described in the audit. TAB's amounts included all collections regardless of when the NOV's were issued and for an additional six months (through December 31, 2015). The audit reported on the amount of fees and fines collected for the summonses issued from January 1, 2013 to June 6, 2015 and the amounts collected as of that date. If TAB officials intended to make an accurate comparison, they needed to identify all of the NOV's that were issued during the same time period.
3. The number of outstanding fines was lower in more recent years because the number of summonses issued in 1996 was 285,289, while only 67,673 summonses (just 23.7 percent of the 1996 amount) were issued in 2015. As such, the number of outstanding fines alone is not a reliable indicator of improvement in TAB's collection performance.
4. We revised the final report, as appropriate, based on information in the response to the draft report.
5. TAB replied that one of the five work weeks resulted in a lower number of calls because it was a four-day work week due to a holiday. We reviewed all of the weeks sampled and determined that two (of our five selected) weeks had four work days due to holidays (the weeks of November 8, 2013 and February 13, 2015), and three had five work days (the weeks of June 14, 2013, April 11, 2014, and September 12, 2014). Nevertheless, after taking this into consideration, the numbers of calls still decreased over time. For the three five-day work weeks, the percentage of calls decreased from 50.45 percent to 44.02 percent, and then to 31.13 percent. Also, for the two four-day work weeks, the percentages decreased as well, from 40.86 percent to 25.18 percent.
6. MTA and TAB management are responsible for exploring different methods of processing summonses to achieve the highest rate of collection. As such, it is incumbent upon them to do a cost benefit analysis to make a knowledge-based decision on whether certain actions will improve the efficiency and effectiveness of collection practices.
7. TAB has initiated the process of obtaining access to the DMV database based on the audit. OSC will share its methodology for identifying more "accurate addresses" with TAB.
8. TAB replied to the draft report that the date for summonses to be referred to the collection

agency must include time for TAB to receive a return file from the NY Office of Court Administration. In our initial calculation, we allowed 15 days for the file to be returned, and based on TAB's response, increased the window to 30 days. Nevertheless, using the 30-day window, 97 NOVs were sent to the collection agency late, ranging from three days to 92 days.

9. Due to the conversion to a new system and a new vendor, TAB had only 48 paper adjustment forms for our review. We reviewed the 48 adjustments and determined that 18 of them were not attributable to an NOV. Rather, they resulted from fees TAB charged to issue letters to requestors confirming that they did not owe TAB any money. We were advised that assigning a dummy NOV to these transactions was the process used by the prior vendor. Some of the adjustments in question (where the NOV was identified) were done after we discussed this matter with TAB officials, during audit field work. Officials added that the new MTA computer system (TABIS) captures and electronically preserves the information when a previously unmatched payment is credited to a specific NOV.