



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

Division of State Government Accountability

Selected Aspects of Collection of Bridge and Tunnel Tolls and Fees

Metropolitan Transportation Authority – Triborough Bridge and Tunnel Authority



Executive Summary

Purpose

To determine whether the Triborough Bridge and Tunnel Authority (TBTA) has taken action to collect unpaid tolls and fees, whether it has fully implemented the new Department of Motor Vehicles (DMV) toll enforcement regulations, and whether there are on-site deterrents put in place by TBTA related to cashless tolling at the Henry Hudson Bridge (HHB). The audit covers the period November 1, 2012 through January 31, 2017.

Background

The Metropolitan Transportation Authority (MTA) is a public benefit corporation chartered by the New York State Legislature. TBTA, also known as MTA Bridges and Tunnels, is an MTA agency that operates seven toll bridges and two tunnels which interconnect parts of New York City. Created in 1933, TBTA serves more than 290 million vehicles per year and carries more traffic than any other bridge or tunnel authority in the nation. Toll revenues from TBTA help subsidize MTA's transit and commuter rail services. TBTA's total operating revenue for 2016 was approximately \$1.9 billion.

For most TBTA bridges, drivers can pay tolls either in cash or by E-ZPass. E-ZPass is an electronic toll collection system that allows customers either to prepay their tolls or to automatically have tolls charged to a checking account at the end of the day. The system has three components: a toll tag (or transponder) that can be placed inside the car; an overhead antenna located in the toll lane, which reads the toll tag and collects the toll; and cameras to identify cars without toll tags. However, at TBTA crossings that are gated, the cameras are part of the toll violation enforcement system. TBTA is part of a consortium of 26 agencies in 15 states that participate in the E-ZPass system.

In addition to regular tags, TBTA also offers an E-ZPass On-the-Go (OTG) tag, which is a prepaid tag designed to make it easy for cash customers to try the electronic device. OTG tags are sold in the cash lanes of TBTA facilities, and allow travelers to open an E-ZPass account without completing an application or waiting in line. TBTA does not limit the number of OTG tags that can be purchased by an individual motorist.

For customers without E-ZPass who do not have sufficient cash to pay the toll at a TBTA gated facility, some lanes accept credit/debit cards; otherwise, a Deferred Toll Payment Request is issued. A Deferred Toll enables motorists to remit their toll payment at a later time either electronically or by check.

In November 2012, to improve efficiency in toll collection, TBTA implemented cashless tolling at the Henry Hudson Bridge (HHB). Cashless tolling uses the E-ZPass system, but replaces cash with Tolls by Mail. Under Tolls by Mail, cameras are used to take pictures of the license plates, and toll bills are mailed to the registered owners of the vehicles. To further encourage the use of E-ZPass, vehicles with E-ZPass tags issued by the New York E-ZPass Customer Service Center¹ are charged

¹ The New York E-ZPass Customer Service Center is operated by a third-party contractor and serves customers of TBTA, Port Authority of New York and New Jersey, New York State Thruway Authority, New York State Bridge Authority, and the Buffalo and Fort Erie Bridge Authority.

a reduced toll each time they cross the HHB, while Tolls by Mail drivers are charged the current cash rate. Approximately 94 percent of the HHB drivers use E-ZPass. In 2015, total revenue for the HHB was over \$71 million (including \$8.5 million through Tolls by Mail).

In December 2016, the MTA announced that, as part of cashless tolling, it was moving to “open road” tolling by dismantling the toll booths from seven bridges and two tunnels by the end of 2017. Motorists no longer have to slow down or wait to pay a toll, or wait for the gate arm to rise in a toll lane.

To deter nonpayment of tolls, an administrative fee can be added to each unpaid toll. For example, at HHB, a \$50 fee will be added to each Tolls by Mail toll 30 days after a second monthly statement is issued, if payment is not made. Also, a new regulation (New York Codes, Rules and Regulations, Title 15, Part 127.14) was implemented in January 2016 that allows the DMV to suspend vehicle registrations for owners with five or more unpaid toll violations on different days within an 18-month period.

Key Findings

While TBTA makes efforts to collect unpaid tolls, we found \$11.3 million in tolls that were either written off (\$5.4 million in OTG tolls) or uncollected (\$2.3 in OTG tolls and \$3.6 in Deferred Tolls). We determined that major portions of the unpaid tolls resulted from the following:

- A listing of OTG tags as of November 22, 2016 showed 65,561 unregistered OTG tags with negative balances totaling \$2.3 million (amounts owed by motorists whose tag use exceeded the original value of the tag). TBTA cannot pursue collection because no information about the individuals who purchased the OTG tags is available.
- In February 2016, TBTA was owed at least \$2.79 million in unpaid Deferred Tolls. We were advised that while there was a one-time effort to collect from nine egregious Deferred Toll violators, no additional action has been taken.

In addition, TBTA had more than \$72 million in unpaid fees for the HHB from 2013 through 2015. TBTA officials advised that they consider the fees a deterrent, but have waived as much as 90 percent of fees due upon receipt of the payment of the unpaid tolls. Based on the informal nature of their analysis and the limited data to support it, it is unclear how rigorously TBTA has examined the options related to deterrence. With TBTA’s plan to have cashless open road tolling at all of its crossings by the end of 2017, the amount of fees assessed will substantially increase, and a more formal analysis of such options should be considered so that TBTA can maximize the amount of tolls collected without being unduly punitive on drivers.

TBTA also did not fully utilize the new DMV registration suspension program, as evidenced by submitting only a limited number of registrations for suspension each week after the initial introductory period. From April 28, 2016 to September 28, 2016 (23 weeks), TBTA submitted 225 plates for registration suspension. During this period, the total number of plates eligible for suspension was 4,645. As of May 15, 2017, the number of plates eligible for suspension had increased to 10,421, with 736 submitted to DMV for suspension.

Finally, regarding TBTA's new open road tolling system, officials indicated that the system has no mechanism to alert officials that a vehicle crossing its facility is on a toll violator list and should be pursued. In addition, TBTA officials stated that a "Hot List," which would allow law enforcement to locate vehicles of out-of-state violators, was not implemented because other change orders for open road tolling and other New York E-ZPass agencies took priority. However, open road tolling has existed at HHB for over four years.

Key Recommendations

- Revise the OTG tag program, either to require registration before use or to add additional controls, to prevent loss of revenue from customers who fail to register their OTG tags as required. Such controls can include: collecting the license plate number of drivers who purchase OTG tags; limiting the number of OTG tags a customer can purchase; and maintaining a database to track the sale of OTG tags to prevent their sale to repeat offenders who do not register their tags.
- Develop a system to collect the unpaid tolls that are in the Deferred Toll database, including (but not limited to):
 - Using the E-ZPass account management system to search license plate numbers to determine the mailing addresses of violators who are E-ZPass customers;
 - Using DMV access to determine addresses for motorists who do not pay tolls as required; and
 - Sending notices and assessing violation fees as with other unpaid tolls.
- Partner with DMV to send pamphlets with motorists' registration documents alerting them of the consequences of not paying their toll bills as well as options to use E-ZPass.
- Evaluate options for fee collection to ensure that collections are maximized without being unduly punitive on drivers.
- Examine resources allocated to weekly submissions to DMV.
- Prioritize the implementation of controls relating to deterrence at sites where open road tolling will be allowed.

State of New York
Office of the State Comptroller

Division of State Government Accountability

November 14, 2017

Mr. Joseph J. Lhota
Chairman
Metropolitan Transportation Authority
2 Broadway
New York, NY 10004

Dear Mr. Lhota:

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 entitled *Selected Aspects of Collection of Bridge and Tunnel Tolls and Fees*. This audit was performed pursuant to the State Comptroller's authority under 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 Metropolitan Transportation Authority (MTA) is a public benefit corporation chartered by the New York State Legislature. The Triborough Bridge and Tunnel Authority (TBTA), also known as MTA Bridges and Tunnels, is a subsidiary agency of the MTA that operates seven toll bridges and two tunnels which interconnect parts of New York City.² Created in 1933, TBTA serves more than 290 million vehicles per year and carries more traffic than any other bridge or tunnel authority in the nation. Toll revenues from TBTA help subsidize MTA's transit and commuter rail services. TBTA's total operating revenue for 2016 was approximately \$1.9 billion.

For most TBTA bridges, drivers can pay tolls either in cash or by E-ZPass. E-ZPass is an electronic toll collection system that allows customers either to prepay their tolls or to automatically have tolls charged to a checking account or credit card at the end of the day. The system has three components: a toll tag (or transponder) that can be placed inside the car; an overhead antenna located in the toll lane, which reads the toll tag and collects the toll; and cameras to identify cars without toll tags. At TBTA crossings that are gated, the cameras are part of the toll violation enforcement system. TBTA is part of a consortium of 26 agencies in 15 states that participate in the E-ZPass system.

In addition to regular tags, TBTA also offers an E-ZPass On-the-Go (OTG) tag, which is a prepaid tag designed to make it easy for cash customers to try the electronic device. OTG tags are sold in the cash lanes of TBTA facilities, and allow travelers an opportunity to open an E-ZPass account without first completing an application or waiting in line. TBTA does not limit the number of OTG tags that can be purchased by an individual motorist.

For customers without E-ZPass who do not have sufficient cash to pay the toll at a TBTA gated facility, some lanes accept credit/debit cards; otherwise, a Deferred Toll Payment Request is issued. A Deferred Toll enables motorists to remit their toll payment at a later time either electronically or by check.

In November 2012, in order to improve efficiency in toll collection, TBTA implemented cashless tolling at the Henry Hudson Bridge (HHB). Cashless tolling uses the E-ZPass system, but replaces cash with Tolls by Mail. Under Tolls by Mail, cameras are used to take pictures of the license plates and toll bills are mailed to the registered owners of the vehicles. To further encourage the use of E-ZPass, vehicles with E-ZPass tags issued by the New York E-ZPass Customer Service Center³ are charged a reduced toll each time they cross the HHB, while Tolls by Mail drivers are charged the current cash rate. Approximately 94 percent of HHB drivers use E-ZPass. In 2015, total revenue for the HHB was over \$71 million (including \$8.5 million through Tolls by Mail).

In December 2016, the MTA announced that, as part of cashless tolling, it was moving to “open road” tolling by dismantling the toll booths from seven bridges and two tunnels by the end of

² TBTA's bridges are the Robert F. Kennedy, Throgs Neck, Verrazano-Narrows, Bronx-Whitestone, HHB, Marine Parkway-Gil Hodges Memorial, and Cross Bay Veterans Memorial; its tunnels are the Hugh L. Carey and Queens Midtown.

³ The New York E-ZPass Customer Service Center is operated by a third-party contractor and serves customers of TBTA, Port Authority of New York and New Jersey, New York State Thruway Authority, New York State Bridge Authority, and the Buffalo and Fort Erie Bridge Authority.

2017. Motorists no longer have to slow down or wait to pay a toll, or wait for the gate arm to rise in a toll lane.

To deter non-payment of tolls, an administrative fee can be added for unpaid tolls. For example, at HHB, a \$50 fee will be added to each Tolls by Mail toll remaining unpaid 30 days after a second monthly statement is issued. Also, a new regulation (New York Codes, Rules and Regulations [NYCRR], Title 15, Part 127.14) was implemented in January 2016 that allows the Department of Motor Vehicles (DMV) to suspend vehicle registrations for owners with five or more unpaid toll violations on different days within an 18-month period.

Audit Findings and Recommendations

TBTA failed to collect \$11.3 million in tolls during the audit period. This includes \$5.4 million in OTG tag tolls that were written off because motorists failed to register tags as required; \$2.3 million (as of November 2016) in overdue tolls related to unregistered OTG tags that have yet to be written off; and \$3.6 million in Deferred Tolls that TBTA has not collected, citing a lack of necessary information regarding the drivers. Furthermore, when motorists do not pay their tolls, TBTA has not taken sufficient action to enforce payment of amounts due. For example, in 2016 TBTA was granted authority to request that DMV suspend New York State automobile registrations when tolls were unpaid. This process started in April 2016. However, from April 28, 2016 to September 28, 2016 (23 weeks), TBTA submitted only 225 plates for registration suspension – out of 4,645 plates that were eligible. As of May 15, 2017, the number of plates eligible for suspension had increased to 10,421, with 736 submitted to DMV for suspension.

TBTA imposes fees as a deterrent for non-payment of tolls, and had \$72 million in fees due just for the HHB for the three years ended December 2015. However, its procedures allow for up to 90 percent of the fees to be waived when motorists pay the tolls. TBTA claimed this waiver policy enables it to have higher rates of collection on the plates submitted for registration suspension, as compared to other tolling agencies, but could not supply the analysis or the data for this assertion due to its confidentiality. Based on the informal nature of this analysis and the limited data to support it, it is unclear how rigorously TBTA has examined the options related to deterrence and if the current mechanism is effective compared with other options.

Further, regarding TBTA's new open road tolling system, officials indicated that while there are no alarms in that system to discourage motorists from utilizing the HHB without paying the tolls, the new gantry License Plate Readers alert TBTA officers of violators. In addition, "Hot Lists" were to be provided to law enforcement agencies: one for in-state motorists whose registrations have been suspended for non-payment of tolls, and a second for out-of-state violators who have not paid their Tolls by Mail bills. According to TBTA officials, the out-of-state Hot List was not implemented because other change orders for open road tolling and other New York E-ZPass agencies took priority over the Hot List change order. However, open road tolling has existed at HHB for over four years.

Unpaid Tolls and Fees

On-the-Go Tags

TBTA started selling OTG tags in cash lanes at the HHB in June 2011 and expanded the sale of the tags to TBTA's eight other facilities in March and April 2012. TBTA had sold 875,517 OTG tags at its facilities through October 2016. There is no limit as to the number of tags an individual may purchase. Three facilities stopped selling tags prior to the end of our audit period (specifically, HHB as of November 10, 2012, the Hugh L. Carey Tunnel as of January 10, 2017, and the Queens Midtown Tunnel as of January 4, 2017).

The cost to purchase an OTG tag in the cash lane is \$30, in addition to payment of the toll for the current trip. Customers may use OTG tags immediately thereafter at any TBTA facility as well as any of the 26 participating E-ZPass agencies in 15 states. TBTA does not obtain the name and address of the purchaser at the time the OTG tag is sold in order to keep traffic from backing up in the lane. Instead, customers have a grace period to register their tags with the E-ZPass Customer Service Center. Customers are not required to register their OTG tags prior to using them for the first time because TBTA wants the tags to be available for immediate use and to avoid any traffic issues at its plazas from use of the tags. Until the tag is registered, \$10 is kept as a deposit on the tag and up to \$20 is immediately available to pay for tolls.

Once an OTG tag is used for the first time, a customer has a two-day grace period (48 hours) to register the tag on the New York E-ZPass website or via a toll-free number. If not registered within 48 hours, the OTG tag will be deactivated, and if used, can be retained by a TBTA officer (a \$25 tag retention fee is charged for the cost of retaining and processing the retained tag). During the grace period, a customer is allowed to use the tag and can accumulate a negative balance. A negative balance occurs when a motorist accumulates more toll charges than the original value of the tag. Charges to E-ZPass are posted once a day. TBTA determines the tag status (i.e., valid or invalid) daily and transmits the status to its E-ZPass partners daily; however, this process is not immediate. In the meantime, tolls can accumulate without TBTA having any means to collect, because TBTA cannot identify unregistered tag purchasers. In addition to forgone revenue, TBTA is obligated to pay participating agencies for transactions at their facilities that occurred while tags are valid.

While we understand the rationale behind OTG tags, their use and abuse has caused TBTA to lose significant revenue, and thus additional controls may be warranted. As of November 22, 2016, TBTA had uncollected tolls and fees of \$2.3 million related to 65,561 unregistered OTG tags with negative balances, ranging up to \$811.39 per tag. These amounts had not been written off as bad debt. In the case of the highest balance amount, the entire \$811.39 was incurred at facilities not operated by TBTA over a three-day period. In addition to current outstanding balances, TBTA wrote off \$5.4 million associated with 183,060 unregistered tags with a negative balance for the period 2013 through 2015. In total, the value of the OTG tags that were written off and that may be written off in the future is \$7.7 million (\$2.3 million + \$5.4 million).

We note that the Thruway Authority's OTG tag is sold "inactive," and must be registered before use. TBTA, in its response to our preliminary findings, indicated that, in order to avoid problems in its gated lanes with inactive OTG tags holding up traffic, it will reconsider changing its OTG program to a "register before first use program" only after it finishes converting all of its plazas to open road tolling. In the interim, it continues to lose money with OTG tags.

Deferred Tolls

When motorists who do not have sufficient cash to pay the toll attempt to cross a TBTA gated facility, they may be able to pay with a credit or debit card (only at certain plazas), or otherwise will be issued a Deferred Toll Payment Request (Form O-62) by a Bridge and Tunnel Officer (BTO). This process enables motorists to remit their toll payment at a later time electronically or by

check. The BTO scans the vehicle windshield registration sticker bar code (or manually enters information for a vehicle with an out-of-state or government license plate) into a handheld device and completes Form O-62, which provides the motorist and TBTA with all the necessary information to make and process a future toll payment electronically or by check. According to the All Electric Tolling Procedure, motorists who have at least three Deferred Toll requests that are unpaid after 15 days can be issued a summons if another Deferred Toll is requested. TBTA advised that the handheld device will alert the BTO of prior outstanding Deferred Toll requests for the same vehicle. In addition, Form O-62 indicates TBTA can take other action, such as: placing the motorist's vehicle on a list for denial of future requests for a Deferred Toll; and potential legal action, including summons issuance, imposition of a \$50 violation fee, collections proceedings, and barring the vehicle from continued use of TBTA facilities. Summonses are forwarded to the DMV for adjudication.

In February 2016, TBTA was owed at least \$2.79 million in unpaid Deferred Tolls. However, based on our review, TBTA takes only limited action to collect these tolls. For license plates that have an E-ZPass account on file with an email address listed, TBTA sends one email notice regarding the Deferred Toll. This is done on the 1st and 15th of the month. As a practice, TBTA will only place the vehicle on the Deferred Toll denial list and may issue a summons if a future Deferred Toll is requested. However, during our audit period, TBTA did not take any of the other available actions to collect the tolls. TBTA did make a one-time effort to collect from nine egregious Deferred Toll violators who owed a total of \$2,542, or less than one-tenth of 1 percent of the tolls outstanding. Using contact information obtained from DMV, TBTA sent follow-up letters in April 2016. Per TBTA's tracking sheet, \$354 was collected from these violators in March 2016 and \$102 in October 2016.

TBTA states that it generally does not pursue these unpaid tolls because there is no mechanism to easily and readily obtain the name and mailing address of the owners of vehicles that were issued a Deferred Toll. However, as TBTA itself has shown, information is available from DMV and other sources to assist TBTA Revenue Management staff in pursuing these toll violators. Moreover, it does not appear that TBTA has made a significant effort to track down these violators. For example, one of these violators is a paratransit provider for MTA – New York City Transit (Transit) that owed \$224 for 16 tolls. As this provider is paid for transportation services by Transit, locating and billing the provider should not be an issue.

At the closing conference for this audit, TBTA officials indicated they are planning to review the Deferred Toll database and develop a plan to collect the unpaid tolls. Failure to collect unpaid Deferred Tolls will cost TBTA \$3.6 million as of November 29, 2016.

Actions to Deter Non-Payment of Tolls

Administrative Fees

Under State regulations (15 NYCRR 127.14 and 21 NYCRR 1021.3b), the amount that motorists owe can be increased by an administrative toll violation fee (violation fee) if they do not pay their tolls due. TBTA's violation fee structure greatly increases the amount motorists owe when

they fail to pay Tolls by Mail tolls when due. For example, one violator's toll bill generated from use of the HHB increased from \$22 to \$222 because of violation fees (four \$50 violation fees). Moreover, the owner of a New York State-registered vehicle that traverses a crossing without paying the toll on multiple occasions may be subject to having their registration submitted to DMV for suspension. TBTA had more than \$72 million in unpaid fees for the HHB from 2013 through 2015. TBTA officials stated they do not book fees as revenue at the time of the violation because the collection of fees is uncertain. If the fees are paid, they are then reported as revenue.

Fees, however, can be waived through one of two fee-waiver matrices TBTA provides to the New York E-ZPass Customer Service Center and its collection agency. One matrix is for those motorists whose registration was submitted to DMV for suspension, while the other is for all other violators. Each lists the different actions to be taken depending on violation type and frequency of dismissals and suspensions. For example, toll violators on the non-DMV matrix who have not been granted a prior dismissal outside of 14 days are granted a 90 percent discount on fees (assessed 10 percent) provided their payment is received within 30 days of the determination letter and the payment includes all outstanding tolls. Similarly, violators who are on the list of motorists for registration suspension can be granted a 90 percent discount on fees (assessed 10 percent) provided it is their first DMV registration suspension and all tolls are paid in full.

TBTA officials stated fees are charged as a deterrent and to encourage customers who do not pay owed tolls to change their behavior. Waiving fees, TBTA officials believe, provides an incentive to customers to pay tolls due. As evidence that their policy is effective, they point to a 25 percent settlement rate for New York license plates submitted for registration suspension, which they stated is a higher payment rate than toll authorities without a similar waiver policy.

However, when we requested information to support the effectiveness of TBTA's policy, officials stated they could not provide it. TBTA officials claimed that while they are privy to the operational results of several tolling authorities through informal discussion and their mutual cooperation agreements, the specific results of operations and/or statistics are not TBTA's to share or release. The license plate suspension data, therefore, is the only data provided to support the effectiveness of this policy. The use of the license plate suspension program (discussed later in the report) has been limited, resulting in the collection of less than \$85,000 as of September 28, 2016. Based on the informal nature of this analysis and the limited data to support it, it is unclear how rigorously TBTA has examined the options related to deterrence. With TBTA's plan to have cashless tolling at all of its crossings by the end of 2017, the amount of fees assessed will substantially increase, and a more formal analysis of such options should be considered so that TBTA can maximize the amount of tolls collected without being unduly punitive on drivers.

Registration Suspension Program

In an effort to collect unpaid tolls from drivers, a new regulation became effective January 20, 2016. The regulation allows the DMV to suspend the New York State vehicle registrations of vehicles whose owners have five or more unpaid toll violations on different days within an 18-month period on or after the effective date.

Initially, TBTA officials were only processing five license plates per week for suspension, but starting August 19, 2016, the number of license plates processed increased to 15 per week. DMV officials initially limited the number of license plates that all three major New York E-ZPass agencies (TBTA, the Port Authority of New York and New Jersey, and the Thruway Authority) could submit because they could not estimate the number of motorists who would request hearings as permitted by the regulation. However, even when allowed to submit more plates, the number of plates submitted remained low because, according to TBTA, the third-party staff of the New York E-ZPass Customer Service Center supporting the DMV initiative is limited, and the process for license plate suspension is manual and time consuming. Moreover, despite having limited ability to process plates, our review of 65 plates selected by the New York E-ZPass Customer Service Center's staff for processing found that 11 were not eligible to be considered for suspension. Informal practice at the time consisted of submitting registrations with the highest toll and fee balances. Existing E-ZPass customers did not qualify for suspension because their license plate was not on the violation statement. In part, the errors in prioritization of license plates for review may be due to TBTA not finalizing its procedures for selecting license plates to be sent to DMV for registration suspension.

From April 28, 2016 to September 28, 2016 (23 weeks), TBTA submitted 225 plates for registration suspension – out of 4,645 plates that were eligible. As of September 28, 2016, 22 percent of owners of vehicles whose plates were suspended had paid their tolls, and TBTA cleared them to have their suspensions rescinded. By February 2017, the success rate had improved to 25 percent. We reviewed 65 plates TBTA had selected for review over four different weeks, and found that two which were suspended and owed a total of \$3,552 were improperly cleared by TBTA due to errors at the New York E-ZPass Customer Service Center.

While registration suspension is one of TBTA's primary ways to enforce non-payment of tolls, as of late September 2016, it had submitted less than 5 percent of the eligible accounts for suspension and collected less than \$85,000. TBTA ascribes the low number of plates submitted for enforcement action to a lack of manpower. According to TBTA officials, it takes staff, who have multiple additional responsibilities, 9.5 hours to submit 15 plates weekly to DMV. However, without finalized procedures related to plate selection, the process can be inconsistently carried out by staff and create inefficiencies that can further decrease the number of plates that the All Electronic Tolling unit can process and further decrease collections.

TBTA staff advised that, as of May 15, 2017, 10,421 vehicles had met the criteria for suspension, 7,814 owe \$99 in tolls or less, and 293 no longer owe tolls (but may owe fees). As of the same date, only 736 had been submitted to DMV for suspension, and 359 had been cleared (49 percent clearance rate).

Deterrents to Toll Evasions at Open Road Tolling Facilities

While cashless tolling has existed at HHB since November 2012, the deterrents implemented to decrease toll evasion have been limited. According to TBTA officials, there is no mechanism within the open road tolling system to alert officials (e.g., BTOs) that a vehicle crossing their facility is on a toll violator list and should be pursued. The risk of being stopped and summonsed

would discourage motorists from utilizing the HHB without paying the toll bills. In addition, there is limited signage at the HHB to inform motorists of the consequences of not paying their toll bills. When we revisited the HHB on December 15, 2016, we observed various signs including “No E-ZPass, no problem – Tolls billed by Mail or E-ZPass,” but we did not observe any signage notifying motorists that their registration could be suspended for failure to pay their tolls. TBTA officials stated they had installed the applicable signs, and provided us with documentation showing one sign stating “Unpaid tolls subject to registration suspension” at the southbound entrance to the HHB and one sign at the northbound exit from the HHB. We approached the bridge from the northbound side on the day of our visit and did not see those signs. Placement of these signs is important. If placed at crucial locations, such as prior to the last exit before entering the HHB on both sides of the bridge, a motorist would be able to make the decision to exit prior to the bridge to avoid a Tolls by Mail billing.

Moreover, to strengthen deterrence, the DMV has prepared an in-state Hot List of all vehicle registrations that have been suspended, including those suspended for non-payment of tolls. The Hot List is provided to law enforcement officials, who may stop and summons an operator of a vehicle on the list. However, as previously noted, the list is not extensive. From April 28, 2016 through September 26, 2016, TBTA had only submitted 225 requests for DMV registration suspension out of the potential 4,645 motorists who had five or more HHB violations since January 20, 2016.

Additionally, TBTA officials stated their planned out-of-state Hot List was still in the development phase. This Hot List is comprised of vehicles whose owners have not paid their violations within 30 days from the date of a violation notice. Such license plates will remain on the Hot List until the violations have been paid. Law enforcement vehicles at TBTA facilities will receive electronic Hot Lists of these vehicles’ license plate numbers and, through the use of license plate readers, may intercept and summons the vehicle drivers and take other enforcement actions.

Officials stated the license plate readers went live January 4, 2017. They added that the Hot List for out-of-state violators was not implemented at the same time because other change orders for open road tolling and other New York E-ZPass agencies took priority over the change order for the Hot List. TBTA advised that the out-of-state Hot List became effective on February 16, 2017 and effectively excludes these vehicles from operating on TBTA facilities. However, we note that cashless tolling has been in effect at HHB for over four years. Moreover, as cashless tolling will be implemented at all of TBTA’s bridges and tunnels by the end of 2017, TBTA needs to improve deterrence efforts to ensure that toll revenue is maximized.

Recommendations

1. Revise the OTG tag program, either to require registration before use or to add additional controls, in order to prevent loss of revenue from motorists who fail to register their OTG tags as required. Such controls can include, but are not limited to, collecting the license plate number of drivers who purchase OTG tags, limiting the number of OTG tags that a motorist can purchase, and maintaining a database to track the sale of OTG tags to prevent their sale to repeat offenders who do not register their tags.

2. Develop a system to collect the unpaid tolls that are in the Deferred Toll database, including (but not limited to):
 - Using the New York E-ZPass VECTOR customer account management system to search license plate numbers to determine the mailing addresses of violators who are E-ZPass customers;
 - Using DMV access to determine addresses for motorists who do not pay tolls as required; and
 - Sending notices and ascribing violation fees as with other unpaid tolls.
3. Partner with DMV to send pamphlets with motorists' registration documents alerting them to the consequences of not paying their toll bills as well as options to use E-ZPass.
4. Formally evaluate options for fee collection to ensure that collections are maximized without being unduly punitive on drivers.
5. Document and communicate changes in procedures about the DMV registration suspension process to all parties involved and finalize selection procedures.
6. Ensure that appropriate processes are followed when selecting candidates for registration suspension and prior to clearance of registration suspension.
7. Examine resources allocated to weekly submissions to DMV.
8. Where open road tolling is being implemented, ensure that appropriate signage is in place alerting motorists to the consequences of crossing the bridge or tunnel without paying tolls, and strategically located to give motorists an exit option before the open road tolling begins.
9. Prioritize the implementation of controls relating to deterrence at sites where open road tolling will be allowed.

Audit Scope, Objectives, and Methodology

Our audit objectives were to determine whether TBTA is taking action to collect unpaid tolls and fees, whether it has fully implemented the new DMV toll enforcement regulations, and whether there are on-site deterrents have been put in place at the HHB. The audit covers the period November 1, 2012 through January 31, 2017.

To accomplish our objectives, we reviewed TBTA's related policies, procedures, and guidelines as well as regulations and laws. We interviewed officials and employees of TBTA, DMV, and a third-party contractor to obtain an understanding of the internal controls related to the collection of tolls and fees, the planned deterrent initiatives, and the DMV suspension process.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 comment. Their comments were considered in preparing this final report, and are attached in their entirety at the end of it. MTA officials replied that they generally or partially concurred with most of the recommendations and to their credit, the TBTA has already adopted and implemented several of OSC's recommendations. MTA officials also pointed to TBTA's ongoing efforts to collect unpaid tolls, including the percentage of unpaid tolls and fees already recovered as evidence of their strong position on collection and enforcement of unpaid tolls and violation fees. Our rejoinders to certain MTA-TBTA comments are included in the 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 of the 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 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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New York, NY 10004
212 878-7000 Tel

Joseph J. Lhota
Chairman



Metropolitan Transportation Authority

State of New York

September 15, 2017

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

Re: Draft Report #2016-S-64 (Selected Aspects of Collection of Bridge and Tunnel Tolls 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 Cedrick T. Fulton, President, MTA Bridges & Tunnels, which address this report.

Sincerely,

A handwritten signature in blue ink that reads "Joseph J. Lhota".

Joseph J. Lhota
MTA Chairman

c: Donna M. Evans, MTA Chief of Staff
Michael J. Fucilli, Auditor General, MTA Audit Services

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

2 Broadway
New York, NY 10004
646 252-7000 Tel
646 252-7902 TTY

Cedrick T. Fulton
President



September 15, 2017

Mr. Joseph J. Lhota
Chairman
Metropolitan Transportation Authority
2 Broadway, 20th Floor
New York, NY 10004

Re: New York State Office of the State Comptroller
Draft Audit Report #2016-S-64

Dear Mr. Lhota,

The Triborough Bridge and Tunnel Authority (TBTA), an affiliate of the Metropolitan Transportation Authority (MTA), reviewed the New York State Comptroller's draft audit report, "*Selected Aspects of Bridge and Tunnel Tolls and Fees*" (#2016-S-64). The following is TBTA's comments to the draft audit findings and recommendations.

TBTA makes two points at the onset. First, as more fully described below, TBTA has, and will continue to take a strong position on collection and enforcement of unpaid tolls and violation fees. This is evidenced by the fact that TBTA has already adopted and implemented several of OSC's recommendations. Second, OSC's draft report fails to acknowledge and report on TBTA's on-going efforts to collect unpaid tolls, including but not limited to the percentage of outstanding tolls and fees already recovered.

TBTA will report the steps to be taken to address selected OSC draft audit report recommendations within 90 days after final release, as required by Section 170 of the Executive Law.

Specific Responses to Draft Report:

While the TBTA acknowledges OSC's draft findings regarding unpaid tolls and violation fees, it is important to recognize that the TBTA has already taken numerous steps to address this issue.

Joseph J. Lhota
September 15, 2017
Page 2

First, the TBTA began pursuing vehicles with registrations suspended for toll violations in early 2017, following: (i) the 2016 effective date of the NYS DMV regulation that allowed the suspension of vehicle registrations for unpaid tolls; (ii) the implementation of gantry-based Cashless Tolling systems at three TBTA facilities; and (iii) the installation of LPRs on Open Road Tolling (ORT) gantries and in TBTA law enforcement vehicles.

Second, in April 2017, the TBTA began pursuing out-of-state vehicles (which represent nearly 44% of toll violations) crossing our facilities in violation of exclusion orders issued under 21 CRR §1020.7 for failure to pay tolls and violation fees. TBTA's ability to deter toll evasion by out-of-state violators has been significantly enhanced by a newly enacted statute (April 2017) which authorizes the NYS DMV to enter into reciprocity agreements with other states to suspend or not renew registrations of out-of-state vehicle owners for their toll violations in New York State. Notably, the TBTA did not have such authority during the pendency of the audit period (2013-2015), which significantly hindered the TBTA's ability to collect toll and violation fees.

*
Comment
1

Third, by the Fall of 2017, the TBTA will complete its expansion of cashless tolling to all TBTA facilities. This means that all TBTA customers will pay tolls without stopping, resulting in a smoother, safer drive for everyone. It also means that there will be **no cash accepted at any TBTA bridges or tunnels**. Customers can either pay their toll with E-ZPass, and get a 30-50% discount with an E-ZPass tag from the New York Customer Service Center, or they will be sent a full-price toll bill in the mail. While there is no cashless tolling system that has "alarms built into" the system to discourage motorists from crossing a facility without paying a toll, there is now a mechanism to alert TBTA officers that a vehicle crossing their facility is on a toll violator list and should be pursued. Information from License Plate Recognition (LPR) readers mounted on gantries and in law enforcement vehicles is used to identify vehicles from two "hot lists" of toll violators when they cross a TBTA Cashless Tolling facility.¹

*
Comment
2

Finally, as set forth below, the TBTA has already implemented several of OSC's draft recommendations to collect outstanding fees and penalties associated with unpaid tolls, and will provide a full report on the success of its efforts during the 90-day comment period after OSC's final report issued.

RECOMMENDATIONS AND RESPONSES

¹See, 21 NYCRR §1020.7.

MTA Bridges and Tunnels (Triborough Bridge and Tunnel Authority)
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*See State Comptroller's Comments, page 23.

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 Page 3

1. *Revise the OTG tag program, either to require registration before use or to add additional controls, in order to prevent loss of revenue from motorists who fail to register their OTG tags as required. Such controls can include, but are not limited to, collecting the license plate number of drivers who purchase OTG tags, limiting the number of OTG tags that a motorist can purchase, and maintaining a database to track the sale of OTG tags to prevent their sale to repeat offenders who do not register their tags.*

Response: TBTA generally concurs with this recommendation. Due to ongoing efforts to revise this program, steps taken to implement this recommendation will be provided during the 90-day comment period.

2. *Develop a system to collect the unpaid tolls that are in the Deferred Toll database, including but not limited to:*
 - *Using the New York E-ZPass VECTOR customer account management system to search license plate numbers to determine the mailing address of violators who are E-ZPass customers;*
 - *Using DMV access to determine addresses for motorists who do not pay tolls as required; and*
 - *Sending notices and assessing violation fees as with other unpaid tolls.*

Response: TBTA generally concurs with this recommendation. Due to ongoing efforts to revise this program, steps taken to implement this recommendation will be provided during the 90-day comment period.

3. *Partner with DMV to send pamphlets with motorists' registration documents alerting them of the consequences of not paying their toll bills as well as options to use E-ZPass.*

Response: TBTA generally disagrees with this recommendation. TBTA already undertakes marketing efforts with NYS DMV to communicate consequences of unpaid tolls and options to use E-ZPass. In addition, E-ZPass OTG tags are sold at all NYS DMV locations. TBTA is reviewing options to expand sales at additional retail outlets.

*
 Comment
 3

4. *Formally evaluate options for fee collection to ensure that collections are maximized without being unduly punitive on drivers.*

Response: TBTA partially concurs with this recommendation. TBTA continually monitors the collection of both tolls and violation fees. As part of ongoing business process improvement efforts, TBTA will continue to evaluate maximization of fee collection options.

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5. *Document and communicate changes in procedures about the DMV registration suspension process to all parties involved and finalize selection procedures.*

Response: TBTA generally disagrees with this recommendation. TBTA already has documented procedures for the NYS DMV registration suspension process, which have been revised several times since program inception. As part of ongoing business process improvement efforts, TBTA will continue to revise its policies.

*
Comment
4

6. *Ensure that appropriate processes are followed when selecting candidates for registration and prior to clearance of registration suspension.*

Response: TBTA partially concurs with this recommendation. TBTA already documents procedures covering the selection, submission and clearance of license plates for registration suspension, and multiple levels of review, ensuring that the NYS DMV regulation is followed. As part of ongoing business process improvement efforts, TBTA will continue to revise its policies.

7. *Examine resources allocated to weekly submission to DMV.*

Response: TBTA generally disagrees with this recommendation. TBTA has and will continue to ensure sufficient resources are available to handle the increased volume of license plate submissions in a fully automated environment.

*
Comment
5

8. *Where open road tolling is being implemented, ensure that appropriate signage is in place alerting motorists to the consequences of crossing the bridge or tunnel without paying tolls, and strategically located to give motorists an exit option before the open road tolling begins.*

Response: TBTA disagrees with this recommendation. TBTA installs appropriate signage at each facility as it transitions to Cashless Tolling. With regard to signage at the Henry Hudson Bridge (HHB) advising motorists of the potential for registration suspension due to unpaid tolls, signs warning motorists that “unpaid tolls are subject to registration suspension” were posted on March 4, 2016, six months *prior to* the auditors’ site observation at the facility.

*
Comment
2


9. *Prioritize the implementation of controls relating to deterrence at sites where open road tolling will be allowed.*

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Response: TBTA generally concurs with this recommendation. As part of ongoing business process improvement efforts, TBTA has and will continue to work with the NYCSA and partner agencies to prioritize electronic deterrence controls at open road tolling sites.

Sincerely,



Cedrick F. Fulton

President, MTA Bridges and Tunnels

MTA Bridges and Tunnels (Triborough Bridge and Tunnel Authority)
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State Comptroller's Comments

1. The audit properly recognized the actions and status of the efforts related to out-of-state vehicles. As noted in the report, the program was not started earlier due to delays in implementing a change order to program the E-ZPass system.
2. We revised the report, as appropriate, based on information provided in response to the draft report.
3. Based on the response, we requested, and TBTA provided, documents in support of the marketing efforts with DMV to communicate consequences of unpaid tolls and options to use E-ZPass. The documents provided information about cashless tolling and using E-ZPass, but they did not convey that non-payment of tolls could result in the car owner's registration suspension. Therefore, we reiterate that TBTA should partner with DMV to communicate the effect of not paying tolls.
4. TBTA officials provided "TBTA Policy and Procedures for DMV Registration Suspension (Effective for transactions from January 20, 2016)." However, our review of a sample of license plates submitted to DMV determined the procedures were not always followed. TBTA officials advised us that the process for selecting plates to be submitted to DMV had been changed more than once, but the procedures were not revised. Therefore, we recommended that the changes should be documented and communicated in an effort to preclude a recurrence of the condition identified by the audit.
5. TBTA disagrees with the recommendation stating that it "...has and will continue to ensure sufficient resources are available to handle the increased volume of license plate suspensions in a fully automated environment." However, as noted in the report, based on the criteria provided to us by the TBTA, as of May 15, 2017, 10,421 vehicles met the criteria for suspension but only 736 had been submitted to DMV for suspension. According to TBTA staff, this was due to a lack of resources.