



John L. Buono
Chairman

New York State Thruway Authority
New York State Canal Corporation

200 Southern Blvd., P.O. Box 189, Albany, NY 12201-0189

www.nysthruway.gov



Michael R. Fleischer
Executive Director
TDD/TTY 1-800-253-6244

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RECEIVED
EXECUTIVE CORRESPONDENCE

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Honorable David A. Paterson
Governor, State of New York
State Capitol, Executive Chamber
Albany, NY 12224

OFFICE OF THE STATE COMPTROLLER
THOMAS P. DI NUNZIO
COMPTROLLER

Dear Governor Paterson:

The New York State Thruway Authority/Canal Corporation (Authority) has reviewed the Office of the State Comptroller's (OSC) final audit report 2005-S-66 and 2006-S-101 concerning Board Governance and Controls Over Selected Financial Practices of the Canal Corporation and Uncollected E-ZPass Tolls and Fees, respectively.

In accordance with Section 170 of the Executive Law, the Authority is required to respond to the recommendations contained in the above stated audit reports. The Authority has adopted many of the recommendations in the audit reports and is actively pursuing the implementation of others where feasible and beneficial. The attachment provides a status on recommendations that have yet to be fully implemented and where recommendations were not implemented, the reasons therefore.

The Authority will continue to assess opportunities for improvement that result in a more efficient and effective operation.

Sincerely,

John L. Buono
Chairman

Attachment

cc w/att: Comptroller Thomas P. DiNapoli
Senator Joseph Bruno
Senator Malcolm A. Smith
Speaker Sheldon Silver
Assemblyman Ron Canestrari
Assemblyman James Tedisco
Senator Owen H. Johnson
Senator William T. Stachowski
Assemblyman Herman D. Farrell, Jr.
Assemblyman Jim Hayes
Ms. Carmen Maldonado, Office of the State Comptroller
Ms. Lisa Ng, Division of the Budget
Mr. Michael R. Fleischer
Ms. Carmella Mantello
Ms. Sharon O'Connor
Mr. John Bryan
Mr. Kevin Allen

Recommendation 3. Perform a formal analysis of the impact of suspending the pre-paid accounts of customers with unpaid violation charges when the unpaid charges are above a certain amount and have not been resolved through the standard collection process. Work with the MTA and Port Authority officials to address this collection practice.

Status: Implementation pending agreement between affected authorities and transition to the new E-ZPass New York Customer Service Center.

The Authority agrees with the concept that a customer's E-ZPass account should be suspended when the customer has outstanding violations. As indicated in the audit, the Metropolitan Transportation Authority Bridges & Tunnels ("MTAB&T") and Port Authority of New York & New Jersey ("PANY&NJ") would need to agree to that approach because those authorities share the E-ZPass New York Customer Service Center ("CSC") with the Authority and all three authorities have agreed to administer their respective E-ZPass systems in a consistent manner. Further, the Authority, PANY&NJ and MTAB&T are currently transitioning to a new E-ZPass New York CSC. The transition schedule does not allow for any significant changes to the scope of work at this time. However, the Authority will work with the other authorities to determine if this can be implemented as a system modification after successfully transitioning to the new E-ZPass New York CSC.

Recommendation 5. Develop special, targeted, collection practices for high-volume violators. Analyze violation accounts to identify such violators' travel patterns and coordinate with the Division of State Police for enforcement action.

Status: Implementation in process.

The Authority will analyze the feasibility of developing a targeted collection procedure for high-volume violators, including the provision of violator travel patterns to State Police. However, by law, State Police must witness such violations in order to utilize a law enforcement approach to deter such behavior. State Police is planning targeted enforcement efforts to the extent allowed by current law. To assist in that effort, the Authority is seeking passage of its legislative initiative (S.7380/A.10493) that would specifically include toll evasion in the Penal Law definition of theft of services.

Recommendation 7. Make use of the Notice of Liability process for persistent E-ZPass violators, where circumstances warrant.

Status: Not implemented as recommended.

As noted in the Audit, the Notice of Liability ("NOL") process requires that the Authority invest a significant amount of resources when it cannot even recover lost toll revenue in return for this investment. Further, the deterrent value of the NOL process is questionable because a violator's vehicle registration cannot be suspended unless such violator has five or more violations within the same court jurisdiction. For this reason, the Authority does not anticipate implementing this recommendation under the current law as it is an inefficient use of resources with questionable benefit. However, the Authority will continue, as it has for the past 10 years, to seek passage of its legislative initiative that would effectuate changes in the Public Authorities Law and the Vehicle and Traffic Law so that the NOL process will not only provide the Authority with its lost toll revenue but also serve as a deterrent by allowing for a violator's vehicle registration to be suspended upon 5 or more violations in any combination of

court jurisdictions along the Thruway system. This legislative initiative has been introduced in the Senate (S.3570) but has no Assembly sponsor. The Authority would certainly welcome the Comptroller's full support of this legislation.

Recommendation 8. Identify other options for collection agency services if the pending contract cannot be awarded in an expeditious manner.

Status: Implementation pending approval.

The Authority Board will consider the designation of a collection agency at its next scheduled meeting and, if approved, Authority staff will send the contract to OSC for its review and approval shortly thereafter. If OSC does not approve the contract, the Authority will take steps to either award to the next responsible proposer in this procurement, piggyback on another State agency/authority contract for such services or look to expand upon an existing Authority contract for similar services on property damage claims.

Recommendation #11. Develop and implement mechanisms, where legal and appropriate, for sharing information about unpaid E-ZPass tolls with other State agencies and public authorities.

Status: Not implemented as recommended.

The Authority has polled various State agencies and is not aware of any method whereby such agencies can assist the Authority in collecting outstanding violations. In the Audit, OSC suggested that the New York State Department of Transportation ("DOT") would be willing to assist the Authority to the extent legally permissible. However, the example given in the Audit was that DOT would be interested in knowing about trucking firms that fail to pay tolls because it may indicate the company is in financial difficulty and may be more apt to reduce vehicle maintenance and safety. This is of interest to DOT because DOT performs safety inspections of commercial vehicles. While this may provide an ancillary benefit to DOT, it does not assist the Authority in collecting outstanding tolls and associated fees. As described in the Authority's original response to Recommendation #2, the Authority is, however, coordinating with other public authorities in an effort to collect unpaid tolls and fees from individuals and companies that have E-ZPass violations on multiple E-ZPass systems.

Recommendation #12. Perform a formal analysis of the merits of establishing an administrative adjudication process for E-ZPass violations.

Status: Not implemented as recommended.

The establishment of an administrative adjudication process not only requires legislation but also a significant investment of resources. The Authority would like to first evaluate the effectiveness of using collection agency services for E-ZPass violations, to determine if there is sufficient unmet need to justify performance of a cost/benefit analysis of establishing an administrative adjudication process for such violations.