

---

---

**Thomas P. DiNapoli  
COMPTROLLER**



**Audit Objective..... 2**

**Audit Results - Summary..... 2**

**Background..... 3**

**Audit Findings and  
Recommendations..... 3**

Collection and Deposit of Fines and  
Late Fees..... 3

*Recommendation* ..... 4

Collection of Outstanding Accounts  
Receivables ..... 4

*Recommendations*..... 5

**Audit Scope and Methodology..... 5**

**Authority ..... 6**

**Reporting Requirements..... 6**

**Contributors to the Report ..... 6**

**Appendix A - Auditee Response .... 7**

**Appendix B - State Comptroller  
Comments on Auditee  
Response ..... 11**

---

---

**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE  
GOVERNMENT ACCOUNTABILITY**

---

**NEW YORK CITY  
DEPARTMENT OF HEALTH  
AND MENTAL HYGIENE**

**ACCOUNTABILITY OVER  
ADMINISTRATIVE  
TRIBUNAL REVENUES**

**Report 2007-N-10**

---

---

## AUDIT OBJECTIVE

The objective of our audit was to determine whether the New York City Department of Health and Mental Hygiene's Administrative Tribunal properly accounted for its revenues.

## AUDIT RESULTS - SUMMARY

The New York City Department of Health and Mental Hygiene (Department) conducts inspections of certain businesses (e.g., restaurants, tattoo parlors, beauty salons, etc.) to ensure compliance with the New York City Health Code. When businesses are issued violations, it is the responsibility of the Department's Administrative Tribunal (Tribunal) to conduct hearings relating to the violations.

The Tribunal is also responsible for collecting, depositing, and recording fines and late fees relating to the violations that range between \$200 and \$2,000. Respondents to violations are required to pay the fines 30 days after the hearing decision is rendered. If the respondent does not pay its fine after the 30 days, late fees are assessed. Fines and late fee information is recorded in the Citywide Agency Management Information System (CAMIS). According to CAMIS, the Tribunal collected \$31.5 million in fines and late fees in fiscal year ending June 30, 2007, and \$20.7 million in fiscal year 2006.

We determined that the Tribunal is properly accounting for its fines and late fees in accordance with the Tribunal's policies and procedures and the City Comptroller's Directives. However, we found improvement opportunities for the Tribunal that would increase its revenues generated from the collection of accounts receivables.

To determine whether fines and any late fees were collected, deposited, and recorded accurately, we judgmentally selected 120 cases, totaling \$132,210, out of 108,440 cases totaling \$52 million for which fines and late fees were imposed between July 1, 2005, and June 30, 2006. We found that the fines and late fees were collected, deposited timely, and recorded accurately. However, in our sample of 120 cases, a late fee was required in 48 cases. Of these, we identified 4 cases in which fines were paid from 31 to 38 days late, but a total of \$200 in late fees had not been imposed, as required. [Pages 3-4]

The Tribunal's Collection Unit is required to send out collection letters for accounts receivables that are outstanding for 45, 90, and 120 days after the hearing decision. We judgmentally selected 60 accounts receivables owed by restaurants totaling \$136,600 that were outstanding between July 1, 2005, and December 31, 2005, to determine whether appropriate collection efforts were made. We found that collection letters were not sent to five restaurants even though their accounts receivables, totaling \$8,150, had been outstanding for 20 months, as of August 9, 2007. [Page 4]

The Tribunal's policies and procedures require that accounts receivables that are outstanding for more than 120 days be sent to a collection agency. However, the Tribunal has not submitted any outstanding accounts receivables to a collection agency since June 30, 2006. As a result, it has lost an opportunity to increase its revenues during this period. As of June 30, 2007, CAMIS showed that the Tribunal had approximately \$111 million in outstanding accounts receivables dating back to 1996. In response to our finding, Tribunal officials stated that the agency has entered into a contract with a collection agency and will resume sending outstanding accounts receivables to a

collection agency effective October 2007. [Page 4]

City Comptroller's Directive 21 requires each city agency to develop sound write-off policies appropriate to internal operations. However, according to Tribunal officials, they have never developed a policy for writing off uncollectible accounts receivables, many of which date back to 1996. Tribunal officials indicated that they will develop a write-off policy. [Page 4]

Directive 21 requires agencies to prepare periodic reports on their aging accounts receivable. These reports are then to be forwarded to the City Comptroller's Office. We found that the Tribunal has not prepared any such reports, as required. These reports would facilitate a better tracking of outstanding accounts receivables. [Page 4]

Our audit report contains five recommendations.

This report, dated May 7, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

## BACKGROUND

The New York City Department of Health and Mental Hygiene (Department) conducts inspections of certain businesses (e.g., restaurants, tattoo parlors, beauty salons, etc.) to ensure compliance with the New York City Health Code. When businesses are issued violations, it is the responsibility of the Department's Administrative Tribunal (Tribunal) to conduct hearings relating to the violations.

Initial fines for violations are between \$200 and \$2,000, with some inspections resulting in multiple fines. The Tribunal is responsible for collecting, depositing, and recording fines and late fees relating to the violations. Fine and late fee information is recorded in the Citywide Agency Management Information System (CAMIS), which the Tribunal uses to keep track of all fine and late fee information.

According to CAMIS, the Tribunal collected \$31.5 million in fines and late fees in the fiscal year that ended on June 30, 2007, and \$20.7 million in the previous fiscal year.

## AUDIT FINDINGS AND RECOMMENDATIONS

---

### *Collection and Deposit of Fines and Late Fees*

---

Businesses are required to pay their fines within 30 days after the hearing decision. If a business does not pay its fine after the 30-day period, a \$50 late fee will be assessed, according to the Tribunal Policy and Procedures Manual (Manual). Another \$50 late fee is assessed if the fine is unpaid 60 days from the hearing decision date. A maximum of \$100 in late fee charges can be imposed on a business.

To determine whether fines and any late fees were collected, deposited, and recorded accurately, we judgmentally selected 120 cases, totaling \$132,210, out of 108,440 cases totaling \$52 million for which fines were imposed between July 1, 2005, and June 30, 2006. Each case can represent several violations for one business. Fines for the 120 cases ranged from \$200 to \$3,950. We found that the fines and late fees were collected, deposited timely, and recorded accurately.

However, of the 120 cases, 48 required a late fee to be imposed. Of these, we identified 4

instances in which payments were from 31 to 38 days late; but a total of \$200 in late fees had not been imposed, as required. Although the Manual states that late fees are to be applied 30 days after the decision is made, we found that the Tribunal applies a late fee within 45 days after the decision is rendered. This practice is contrary to the Tribunal's own Manual. Failure to apply the late fee timely can result in lost revenues. In response to our finding, Tribunal officials stated that they will revise their Manual to reflect the current practice.

### **Recommendation**

1. Revise the Manual to state that late fees are to be applied 45 days after a hearing decision is rendered.

---

#### *Collection of Outstanding Accounts Receivables*

---

The Tribunal's Collection Unit is required to send out collection letters if the fines and late fees are not paid after 45, 90, and 120 days.

To determine whether the Tribunal was sending collection letters to businesses that were late in paying their fines, we reviewed a judgmental sample of 60 outstanding accounts receivables totaling \$136,600 that were owed by restaurants between July 1, 2005, and December 31, 2005. We found that collection letters were not sent to five restaurants even though their accounts receivables, totaling \$8,150, had been outstanding for 20 months as of August 9, 2007.

Directive 21 states that, once internal collection methods fail, overdue accounts should be sent to an outside collection agency. In addition, the Manual requires accounts receivables that are outstanding for more than 120 days to be sent to a collection agency. Tribunal officials told us that they

have not submitted any outstanding accounts to a collection agency since June 30, 2006. They explained that, due to limited funding, they were unable to extend the contract beyond June 30, 2006. As a result, the Tribunal has lost an opportunity to increase its revenues during this period. As of June 30, 2007, CAMIS showed the Tribunal had approximately \$111 million in outstanding accounts receivables dating as far back to 1996.

In response to our finding, Tribunal officials stated that they have entered into a new contract and would resume sending outstanding accounts receivables to a collection agency, effective October 2007.

Directive 21 also requires each city agency to develop sound write-off policies appropriate to internal operations. However, according to Tribunal officials, they have never developed a policy for writing off their uncollectible accounts receivables. Many of these are very old, dating back to 1996. Tribunal officials stated that they will now develop a write-off policy.

City Comptroller's Directive 21 requires city agencies to prepare periodic aging accounts receivables reports that, at a minimum, should have aggregate statistics on a monthly basis of the total amounts outstanding for periods of 0-30, 30-60, 60-90, and more than 90 days. These reports are then to be forwarded to the City Comptroller's Office. We found that the Tribunal does not prepare the aging accounts receivable reports. As such, no reports are submitted to the City Comptroller, as required. These reports would facilitate the tracking of outstanding accounts; failure to prepare them makes it more difficult to track and collect the outstanding accounts receivables. In response to our finding, Department officials stated that they will now

prepare reports of aging accounts receivables, as required.

### **Recommendations**

2. Send collection letters for outstanding accounts receivables, as required in the Manual.
3. Comply with Manual requirements and submit accounts receivables that have been outstanding for more than 120 days to a collection agency.
4. Develop and implement a policy for writing off uncollectible accounts receivables, as required in the City Comptroller's Directive 21.
5. Prepare monthly aging reports for outstanding accounts receivables and submit them to the City Comptroller, as required in Directive 21.

### **AUDIT SCOPE AND METHODOLOGY**

We conducted our audit in accordance with generally accepted government auditing standards. We audited the Department to determine whether the Administrative Tribunal properly accounted for its revenues for the period July 1, 2005, through June 30, 2007.

To accomplish our objective, we interviewed officials at the Department and at the Tribunal. We reviewed the Tribunal's policies and procedures and the City Comptroller's Directives. We also reviewed files and supporting documentation at the Tribunal.

We selected a judgmental sample of 120 cases totaling \$132,210 out of 108,440 cases, totaling \$52 million, for which fines were

imposed between July 1, 2005, and June 30, 2006, to determine whether the fines and any late fees were collected, deposited and recorded accurately. The 120 cases were selected from the Tribunal's Daily Activity Reports, which comprise information on all fines levied by the Tribunal, organized by month. For the 12 months in the period noted above, we selected the dates in each month that had the greatest number of transactions. From those dates, we judgmentally selected 10 cases for each month.

We also selected a judgmental sample of 60 outstanding accounts receivables totaling \$136,600 from a population of 830 accounts receivables, totaling \$1.3 million, which was owed by restaurants between July 1, 2005, and June 30, 2006, to determine whether appropriate collection efforts had been taken. We selected restaurants because, among the various types of businesses, they constituted the highest dollar amount of outstanding accounts receivables in 2005. The 60 cases comprised 20 default cases (respondent did not appear in court to show up for Tribunal), 20 default continued cases (respondent did not appear in court to show up for Tribunal after being previously excused), and 20 sustained cases (respondent appeared in court and decision was made).

As is our practice, we notified agency officials at the outset of each audit that we will be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. In the representation letter, agency officials assert that, to the best of their knowledge, all relevant financial and programmatic records

and related data have been provided to the auditors. Agency officials further affirm that either the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from agency officials that all relevant information was provided to us during the audit.

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

## **AUTHORITY**

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

## **REPORTING REQUIREMENTS**

We provided a draft copy of this report to Tribunal and Department officials for their review and comment. Department officials expressed concerns on our reporting of the outstanding accounts receivables, indicating that the majority of them were pre-2006 receivables which should no longer be considered "highly collectible". Department officials agreed with our recommendations and indicated steps taken to implement them. Their comments were considered in preparing this report, and are included as Appendix A. Appendix B contains State Comptroller's comments that address selected matters contained in the Department's response.

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

## **CONTRIBUTORS TO THE REPORT**

Major contributors to this report include Al Kee, Sheila Jones, Marc S. Geller, Joe Giaimo, Irina Kovaneva, Adele Banks, and Sue Gold.

## APPENDIX A - AUDITEE RESPONSE

THE CITY OF NEW YORK  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
OFFICE OF THE COMMISSIONER



125 WORTH STREET, CN-28  
NEW YORK, NY 10013  
NYC.GOV/HEALTH

THOMAS R. FRIEDEN, M.D., M.P.H.  
COMMISSIONER  
TEL. (212) 788-5261  
FAX (212) 964-0472

April 8, 2008

Mr. Albert Kee  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

Re: Draft Audit Report 2007-N-10

Dear Mr. Kee:

We are responding to your letter dated March 7, 2008 regarding the State Comptroller's draft audit report on the accountability of revenues at the New York City Department of Health and Mental Hygiene's Administrative Tribunal. Your determination was that the Administrative Tribunal's fines and late fees are properly accounted for in accordance with the Tribunal's policies and procedures manual. You also identified opportunities to increase revenues, and other potential process improvements.

We are particularly concerned with the focus on a reported \$111 million in outstanding accounts receivables dating to 1996. This is misleading, in that \$85 million of this amount was levied prior to 2006, and thus cannot be considered "highly collectible." You should also note that these pre-2006 amounts had in large part been referred for collection at some point, and that many if not most of the establishments owing these fines pre-2006 no longer hold active permits, thus further reducing likely collection amounts.

We have enclosed our formal response to this audit. We appreciate the courtesy and consideration of your staff, and recommendations your office has made on behalf of the affected public. If you need further information, please contact Thomas Hardiman, Director for Internal-External Audits, (212)219-5285, thardima@health.nyc.gov).

Sincerely,

Thomas R. Frieden, M.D., M.P.H.  
Commissioner

TRF/th

\*  
Comment  
1

\* See State Comptroller Comments, page 11

NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
DIVISION OF FINANCE AND PLANNING

Statement in Response to the New York State Comptroller's Audit

The following statements address the Office of the State Comptroller's (OSC) Draft Report: "New York City Department of Health and Mental Hygiene Accountability over Administrative Tribunal Revenues Report 2007-N-10" issued on March 7, 2008.

AUDIT RESULTS - SUMMARY

The audit results summary fails to provide the proper perspective to the audit findings relating to the forwarding of the outstanding accounts receivables to a collection agency. The Department takes exception to the audit presentation that incorrectly portrays the \$111 million in "outstanding accounts receivables dating back to 1996" as being potentially collectible.

\*  
Comments  
1,2

It should be clarified that \$85 million of the \$111 million is comprised of receivables dating prior to 2006, before the lapse in transfer to a third-party collections agency. The pre-2006 amounts due to the Department had generally been referred for collection prior to the audit. These pre-2006 receivables should no longer be considered highly collectible. Therefore the audit's reference to a "lost opportunity to maximize revenues" is substantially overstated. In addition, during the last few months, the balance of past-due accounts receivables have been referred for collection.

It should also be noted that:

- DOHMH has an annual permitting safeguard for food service establishments. It does not issue renewal permits if there are any outstanding fines. Accordingly, nearly all the fines outstanding after a year are attributable to establishments that no longer hold active permits, and thus are likely no longer in business, for which collection activities are less successful.
- DOHMH has historically not considered these "outstanding accounts receivables" as being highly collectible, and has been treating the receivables on a cash basis. This methodology was never questioned in the past. Nevertheless, we have developed a draft write-off policy.

\*  
Comment  
3

We also disagree with the audit conclusion that "the Tribunal is unable to effectively track outstanding accounts receivables." The Tribunal can track its outstanding accounts receivables through the internal collection practices and can identify those that need to be forwarded to the collection agency. The only issue the auditors offer as their basis for stating the Administrative Tribunal is unable to track the

\*  
Comment  
4

\* See State Comptroller Comments, page 11

outstanding receivables is the fact, which we agree with, that the Administrative Tribunal does not prepare monthly aging reports for submission to the City Comptroller.

These aging reports were not prepared or submitted to the City Comptroller because DOHMH has historically not considered these "outstanding accounts receivables" highly collectible. Although, this methodology was never questioned in the past, we will be preparing monthly aging reports for submission to the Comptroller in the future.

\*  
Comment  
4

Lastly, we wish to highlight that DOHMH is one of four lead agencies in the Mayoral Enterprise, Billing, Payment, and Collections (EBP&C) initiative. The scope of this initiative is to develop a strategy to enable customers to view, manage, and pay their city debt in a comprehensive, consolidate manner including accepting credit cards for all in-person transactions. EBP&C also aims to develop a citywide uniform collections model, improve data accuracy, and inter-agency data sharing. DOHMH is glad to participate in this initiative and other related ones, such as the City's "Access To Justice" project aimed to improve administrative law and tribunal functions more broadly.

#### RECOMMENDATIONS AND RESPONSES

1. Revise the Manual to state that late fees are to be applied 45 days after a hearing decision is rendered.

Section 7.09(F) of the New York City Health Code states that the respondent has 30 days, after the receipt of the decision, to pay the fine. Accordingly, the internal policy and procedures manual has been modified to indicate that the automated system will add the late fee during the weekly update closest to 45 days after the decision. This will allow time for proper mailing and service on mail adjudicated cases, reserved decisions, and default decisions.

The policy and procedures manual has also been modified to clearly state that the staff is to manually apply the late fee for the few respondents who pay within the 31 to 44 day range.

2. Send collection letters for outstanding accounts receivables, as required in the Manual.

Late fee notice letters are automatically generated at 45 and 60 days. Collection letters were generated at 45, 90, and 120 days, as stated in the audit report; however the policy and procedures manual has been modified to state that collection letters are to be generated at 90 days. This change streamlines the dunning process by eliminating the 45 and 120 day collection letters. It also provides for a more timely referral of cases for collection, and for clear segregation of duties between the fines unit and the collections unit.

- 2 -

\* See State Comptroller Comments, page 11

- 
3. Comply with Manual requirements and submit accounts receivables that have been outstanding for more than 120 days to a collection agency.

After internal late fee letters and collection letters are sent to respondents, accounts receivables are to be referred to a collection agency. As indicated in the audit report, the Administrative Tribunal had a lapse in the referral of open receivables to a third-party collection agency, regardless of their likelihood to be collected. The first response to address this concern was a change in the supervisor overseeing delinquent accounts receivables. Additionally, the Administrative Tribunal has instituted a timely referral process at 120 days, for all qualified accounts receivables, and has currently sent all qualified cases to a collection agency.

4. Develop and implement a policy for writing off uncollectible accounts receivables, as required in the City Comptroller's Directive 21.

DOHMH has submitted a draft write-off policy to the Comptroller's Office, for review and approval. This write-off policy will allow receivables to remain open for up to five (5) years.

5. Prepare monthly aging reports for outstanding accounts receivables and submit them to the City Comptroller as required in Directive 21.

DOHMH is currently establishing an accounts receivables report that identifies outstanding violations by Month, Year, and Violation type that will be used to regularly monitor and take action on outstanding and past-due receivables, including timely referral to a collections agency. We will compile these aging reports monthly and submit them to the City Comptroller on an agreed-upon schedule.

---

**APPENDIX B - STATE COMPTROLLER COMMENTS ON AUDITEE RESPONSE**

---

1. Our focus was that the accounts receivables had not been submitted to a collection agency since June 2006, as required. We did not make any inference or conclusion on the collectibility of the outstanding accounts receivable balance of \$111 million. We acknowledge that \$85 million of this amount should not be considered highly collectible and that this amount in large part may have been referred for collection.
2. The focus of the audit was the period after June 30, 2006 during which the Department could have increased its revenues, had it submitted the outstanding accounts receivables to a collection agency. We rephrased the report to indicate that the Department lost an opportunity to increase its revenue.
3. We agree with the Department's comments that collection activities are less successful for food service establishments that are no longer in business. However, this does not preclude the Department from being more aggressive in its collection efforts subsequent to the establishments going out of business.
4. We acknowledge the Department's comments and revised our report accordingly. Nevertheless, the Department agrees to prepare monthly aging reports and submit them to the City Comptroller, as required. This would facilitate a better tracking of outstanding accounts receivables.