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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 17, 2003

Ms. Martha E. Stark
Commissioner
New York City Department of Finance
One Center Street
New York, New York 10007

Re: Report 2002-F-8

Dear Ms. Stark:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 and Article XII, Section 180 of the State Finance Law; and Article 3 of the General Municipal Law, we have reviewed the actions taken by officials of the New York City Department of Finance (Finance) as of February 24, 2003 to implement the recommendations contained in our audit report entitled, *Controls and Accountability of Court and Trust and Bail Funds* (Report 98-N-12). Our report, which was issued on September 14, 1999, reviewed Finance's effectiveness in the receipt, safekeeping, investment and disbursement of court and trust and bail funds.

Background

Article XII of the State Finance Law entitled "Court Funds" provides that all moneys paid into the courts in New York City be forwarded to Finance. Included in such funds are moneys that are paid as the result of a court order in a variety of situations: landlord/tenant disputes in which money is deposited, pending resolution of the problem; mechanics' liens in which a property owner pays a security deposit that allows the discharge of a lien filed on the property; and bail in which an amount set by the court allows the discharge of a defendant, on the condition that the defendant abides by the order of the court.

The New York City Charter and New York State statutes require Finance to keep an exact accounting of all funds, including separate ledgers showing each action. Finance's Clients Services Unit (CSU) is responsible for the receipt, safekeeping, investment and disbursement of court and trust and bail funds placed with it by the New York City Courts, the five county Public Administrators, the NYC Department of Correction, and any other New York City agencies that receive court and trust funds.

CSU maintains two funds, the Common Trust Fund and the Miscellaneous Trust Fund. As of November 30, 2002, the Common Trust Fund Statement of Condition showed a balance of \$223.7 million, which was comprised of \$161.9 million in court funds, \$60.2 million in bail funds, and \$1.6 million in other funds. The Miscellaneous Trust Fund had a balance of \$2.2 million, which consisted mainly of burial trust money and other miscellaneous accounts.

Summary Conclusions

In our prior audit, we determined that the balances of court and trust and bail accounts were generally accurate. However, we identified several internal control weaknesses in the control structure at CSU, at five of the seven NYC courts, the Kings County Public Administrator's Office, and the Bronx House of Detention for Men. As a result of these control weaknesses, there is increased risk that court and trust and bail funds collected and remitted to Finance may not be properly accounted for. We made seven recommendations to address weaknesses in controls and procedures over the funds, inaccurate computer data and delays in remitting funds to Finance.

In our follow-up review, we found that Finance officials have taken steps to strengthen internal controls at all levels and that the City Comptroller's Directive No. 11 regarding bank reconciliations was more closely adhered to. In addition, the responsibility for the collection of cash bail funds is now completed through a contractual agreement with a commercial bank. Our conclusions, in part, were based on an audit completed by the New York City Comptroller's Office, entitled *Audit Report on the Internal Controls Over Bail Refunds by the Client Services Unit of the New York City Department of Finance*, issued on May 30, 2002 (MJ02-081A). The City Comptroller's audit concluded that Finance remitted bail refunds in a timely manner and on the whole, the Unit's internal control structure provided adequate accountability over bail refunds.

Summary of Status of Prior Audit Recommendations

Of the seven prior audit recommendations, Finance officials have implemented five recommendations and partially implemented two recommendations.

Follow-up Observations

Recommendation 1

Strengthen internal controls by:

- a. developing an updated comprehensive manual of formal policies and procedures for the Client Services Unit's court and trust and bail operations;*
- b. requiring that all court and trust receipts are logged in and ensuring that press-numbered receipts are used in sequence;*
- c. instituting proper controls and accountability over the forms used to record account numbers assigned to court and trust accounts;*

- d. segregating the bank account reconciliation, recordkeeping, and check-signing functions;*
- e. performing bank account reconciliations properly and accurately in accordance with the City Comptroller's Directive No. 11, including adjustment of the accounting records for any unreconciled and resolved differences once they are approved;*
- f. complying with the City Comptroller's Directive No. 11 by prohibiting the employee who performs monthly bank account reconciliations from performing other incompatible functions;*
- g. and ensuring that all funds are recorded in the cash receipts ledger.*

Status - Implemented

Agency Action - Regarding recommendation 1a and 1b, Finance updated their manual and procedures for CSU, and now maintains copies of log sheets for court and trust receipts. Regarding recommendation 1c, the court and trust account blank forms are now adequately secured in a locked file cabinet and access to these forms is limited. In regard to recommendation 1d, the City Comptroller's report concluded that the CSU internal control structure provided adequate accountability over bail refunds in that key duties and responsibilities for authorizing, processing, recording, and reviewing transactions were adequately segregated among individuals. Regarding recommendation 1e and 1f, procedures have been improved whereas bank reconciliations are now performed properly and differences are reviewed and resolved timely. Procedures have been adjusted so that now a proper separation of duties exists among the staff performing these reconciliations. Regarding Recommendation 1g, we reviewed current procedures and cash receipts ledgers and were assured that controls had been improved and were now adequate.

Recommendation 2

Ensure that all receipts and disbursements are supported and documented properly in the file jackets.

Status - Implemented

Agency Action - The New York City Comptroller's report, issued May 30, 2002, stated that the controls over the receipts and disbursements had been improved and that the recommendation had been implemented. Our review indicated that the file jackets had been replaced by standard file folders and a test of the files revealed that the receipts and disbursements were adequately documented in the file folders.

Recommendation 3

Ensure that bail refunds and bail forfeitures are processed on a timely basis.

Status - Implemented

Agency Action - Finance conducted meetings with the Department of Correction, Unified Court System, Office of Court Administration and officials at correctional facilities to discuss ideas and possibilities for improving its current system. The New York City Comptroller's Report cited bail refunds were processed within the required two-week period. Our review of selected bail refund sheets indicated that these items were processed timely.

Recommendation 4

Ensure that all data for each court and trust and bail account are entered accurately into Finance's database.

Status - Partially Implemented

Agency Action - Finance officials stated that cash bail receipts are currently sent to the contracted commercial bank for data entry and an electronic disk is sent to Finance's Management Information System (MIS) for uploading into its system. To ensure that Finance has received all of the transaction numbers assigned by the commercial bank, the supervisor of the bail process checks these entries for accuracy. The Internal Audit Unit also is responsible to monitor this process. However, Finance is still working with its MIS unit, the courts and correctional facilities in developing a system that will automate the process and prevent data entry errors in the future. This process has yet to be completed.

Recommendation 5

Ensure that the accounts in the court and trust and bail master files maintained by the MIS Unit are consistent with the Client Service Unit's computer records.

Status - Implemented

Agency Action - Finance officials stated that problems cited in our previous audit were due to year 2000 testing and should not reoccur. The New York City Comptroller's Report completed audit steps to review these procedures and reported that the accuracy of these records was adequate.

Recommendation 6

Develop computer edits that will identify improper or incorrect entries, duplicate account numbers, and gaps in the sequence of account numbers; and flag such occurrences for corrective action.

Status - Partially Implemented

Agency Action - Finance officials reported that discussions with MIS personnel have been undertaken to develop the computer edits and controls recommended. The MIS is

determining what procedures need to be implemented to satisfy these requirements. These discussions are ongoing and target dates for completion are being developed.

Recommendation 7

Instruct the New York City Department of Correction, as well as the courts and the Public Administrators in New York City, to remit court and trust and bail funds with the required documents in a more timely manner; and to ensure that information in the documents is complete and legible.

Status - Implemented

Agency Action - Finance has instituted a new bail processing system that incorporates information gathered from meetings held with the numerous agencies involved in the process. Finance officials stated that they had held a series of meetings with New York City Department of Correction and Court officials. Among the topics discussed were the timely remittance of funds and the completeness of the documents submitted. We reviewed the minutes of these meetings and noted that the appropriate topics had been discussed.

Major contributors to this report were Joan Williams, Tom Trypuc and Arthur F. Smith.

We would appreciate your response to this report within 30 days, indicating any actions planned or taken to address any unresolved matters discussed in this report. We also thank the management and staff of Finance for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Steven E. Sossei
Audit Director

cc: Ms. Carla Van DeWalle