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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**METROPOLITAN
TRANSPORTATION
AUTHORITY - NEW YORK
CITY TRANSIT**

**ACCESS-A-RIDE SAFETY
ISSUES**

Report 2007-S-127

AUDIT OBJECTIVES

The objectives of our audit were to determine whether New York City Transit and its contracted paratransit carriers are adequately ensuring that (1) safety defects on paratransit vehicles are properly reported and promptly repaired and (2) the mechanics who work on the vehicles are properly qualified.

AUDIT RESULTS - SUMMARY

We found that safety defects on paratransit vehicles in New York City Transit's Access-A-Ride program are not always properly reported and promptly repaired, and as a result, the vehicles may sometimes be put into passenger service with safety defects. We also found that the mechanics who work on the vehicles may not always be properly qualified.

Paratransit is a flexible transportation service that is generally provided to disabled persons. New York City Transit (Transit), a constituent agency of the Metropolitan Transportation Authority, provides paratransit services in New York City through its Access-A-Ride program. The services are provided by 14 private carriers under contracts with Transit. Transit provides the carriers with paratransit vehicles (primarily mini-buses equipped with a wheelchair lift), and the carriers operate and maintain the vehicles. In 2007, more than 4.4 million paratransit trips were reportedly completed by the carriers.

According to State regulations, drivers of paratransit vehicles are supposed to inspect their vehicles prior to their dispatch and again at the end of the work day, and record the inspection results on a formal inspection report that is to be retained by the carrier. However, when we visited four of Transit's contracted carriers, we found indications these daily inspections may not always be

performed, as 128 of the 207 sampled inspection reports at one carrier (62 percent) and 46 of the 198 sampled inspection reports at another carrier (23 percent) were not on file. In the absence of these inspection reports, there is no assurance the inspections were actually performed, and accordingly, no assurance the vehicles were in safe condition when they were dispatched.

State regulations also specify that officials at the carriers are supposed to review the drivers' inspection reports daily, address any defects noted in the reports, and provide written confirmation that the defects have been addressed before the vehicles are put back into service. However, when we reviewed a sample of inspection reports at four carriers, we found no indication actions were taken to address 27 of the 61 potential safety defects (44 percent) listed on the reports. These defects, which included brake and engine problems, related to 10 of the 40 sampled vehicles, and each of the four sampled carriers had at least one such vehicle.

For example, a pre-trip inspection at one of the carriers found that a vehicle had a brake problem that should have been checked before the vehicle was put into service. However, there were no records showing the brakes were checked and, contrary to State regulations, no written confirmation stating that the potential safety defect had been addressed and the vehicle was safe to drive. That day, the vehicle was driven a total of 129 miles and carried 15 passengers, who may have been put at risk because of the possible brake problem. In total, on the days the potential safety defects were identified but not addressed, the ten sampled vehicles were driven 2,803 miles and carried 294 passengers.

We found that none of the carriers in our sample are complying with State regulations

and providing written confirmation that vehicles are safe to drive after possible safety defects are identified during daily inspections. We also found the carriers are not complying with other vehicle safety regulations. We note that Transit should meet more frequently with the carriers as is permitted in its contracts, is not always following up with the carriers when problems are identified, and is not always assessing the liquidated damages allowed by the contracts. We recommend Transit strengthen its oversight of the carriers and take corrective action when the carriers fail to comply with requirements relating to vehicle safety.

The contracts with the eight larger carriers require that their mechanics be “trade certified.” However, we found documentation supporting trade certification in the personnel files of only 15 of the 79 mechanics (19 percent) at the three larger carriers in our sample. If the mechanics working on paratransit vehicles are not properly qualified, there is less assurance the vehicles will be appropriately maintained and greater risk the safety of the vehicles could be compromised. We recommend Transit require the carriers to maintain documentation of their mechanics’ trade certifications in their personnel files.

Our report contains 11 recommendations for strengthening Transit’s oversight of its paratransit carriers’ vehicle maintenance and safety practices. Transit officials generally agree with our findings and recommendations and indicate they will take action to implement most of our recommendations.

This report dated, May 4, 2009, 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

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BACKGROUND

The Metropolitan Transportation Authority (MTA) is a public benefit corporation providing transportation services in and around the New York City metropolitan area. It is governed by a 17-member Board of Directors, whose members are nominated by the Governor and confirmed by the State Senate. The MTA consists of various constituent agencies, each providing different transportation services. One of these constituent agencies, New York City Transit (Transit), operates New York City’s bus and subway systems.

Paratransit is a flexible passenger transportation service generally provided to disabled persons. Paratransit services do not necessarily follow fixed routes or schedules, and typically use vans or mini-buses. Since July 1, 1993, Transit has been responsible for providing paratransit services in New York City. Before that date, the services were provided by the New York City Department of Transportation.

Transit’s paratransit services are known as Access-A-Ride. The services are provided by 14 private carriers under contracts with Transit. Under these contracts, Transit provides the carriers with paratransit vehicles (primarily mini-buses equipped with a wheelchair lift, supplemented by sedans for more ambulatory clients), and the carriers operate and maintain the vehicles. The carriers employ the drivers and mechanics, and oversee day-to-day operations. Transit’s Division of Buses oversees the carriers and provides centralized trip routing and client management services.

There are eight “primary” and six “regional” carriers. The eight primary carriers were contracted when the program started. They have more than 1,400 paratransit vehicles and serve the entire City. The six regional carriers, with almost 350 vehicles, operate within certain areas of the City and generally are not assigned trips outside their areas.

In 2007, more than 4.4 million paratransit trips were reportedly completed by the 14 carriers at a total program cost of more than \$282 million. The demand for paratransit services in New York City has increased significantly, as fewer than 750,000 paratransit trips were reportedly completed in 1997.

Transit’s paratransit carriers are subject to various vehicle safety regulations promulgated by the State Department of Transportation (DOT). For example, the driver of a paratransit vehicle is required to inspect the vehicle prior to its dispatch and again when returning to the depot at the end of the day, and record the inspection results on a formal inspection report in a manner prescribed by the regulations. Responsible officials at the carriers are required to review these inspection reports on a daily basis, address any defects that are noted in the reports, and provide written confirmation that the defects have been addressed before the vehicles are put back into service. The purpose of these requirements, which are explicitly incorporated in the carriers’ contracts with Transit, is to ensure that vehicles are not put into passenger service with safety defects.

DOT is also required by its regulations to inspect each paratransit vehicle twice a year. These biannual inspections are more thorough than the pre- and post-trip inspections performed by the carriers’ drivers. Transit’s supervising maintenance superintendents may

also inspect paratransit vehicles on an unannounced basis. These maintenance superintendents perform periodic field observations at the carriers, and if they find that a vehicle has a safety related defect, the vehicle is to be pulled from service until the defect is addressed. The carriers are also expected to perform routine servicing on the vehicles at regular intervals.

AUDIT FINDINGS AND RECOMMENDATIONS

Identification and Repair of Safety Defects

We found that paratransit vehicles in the Access-A-Ride program may sometimes be put into passenger service with safety defects. In some cases, the defects may not be identified because of weaknesses in the carriers’ daily inspection process. In other cases, the defects may not be promptly repaired once they are identified. We recommend improvements in management and oversight at both the carriers and Transit.

Daily Driver Inspections

According to DOT regulations, a paratransit driver is to perform a visual inspection of his or her vehicle prior to its dispatch and again when returning to the depot at the end of the day. The regulations and the carriers’ contracts with Transit specify what is to be inspected (e.g., brakes, steering mechanism, lights, windshield wipers, mirrors, tires, wheels, among other things), how the inspection results are to be recorded (on a three-ply inspection form with separate sections for the pre-trip inspection, the post-trip inspection, and driver comments), and how long copies of the inspection reports are to be retained by the carrier (for at least six months “filed by vehicle number and in

chronological order within each vehicle folder”).

To determine whether these inspection requirements were being met, we reviewed a sample of pre/post-trip inspection reports at four selected carriers. We judgmentally selected for review three primary carriers (Transit Facility Management Corp. or TFM; MV Transportation Inc. or MVT; and Atlantic Paratrans, Inc. or Atlantic) and one regional carrier (Dedicated Services Inc. or Dedicated), selecting the carriers to get a mixture of large, small and medium-sized carriers. Together the four carriers had 636 of the more than 1,750 paratransit vehicles in the

Access-A-Ride program and accounted for about one-third of the trips made each month. We then randomly selected ten of the vehicles that were used by each carrier in September 2007 and requested all the pre/post-trip inspection reports for those vehicles in that month. Based on the number of days the vehicles were dispatched that month, there should have been a total of 892 inspection reports for the 40 vehicles and all 892 reports should have been on file at the carriers at the time of our request. However, as is shown in the following table, the carriers did not have 188 of the 892 daily inspection reports, with two of the carriers (TFM and MVT) accounting for most of the missing reports:

Carrier	Number of Inspection Reports That Should Have Been on File	Number of Inspection Reports Provided by Carriers	Missing Reports	
			Number	Percent
Dedicated	221	219	2	1
TFM	207	79	128	62
MVT	198	152	46	23
Atlantic	266	254	12	5
Total	892	704	188	21

If the pre- and post-trip inspections are not documented on an inspection report, there is no assurance the inspections were actually performed. If the pre-trip inspection is not performed on a vehicle, any safety defects existing that day are less likely to be detected before the vehicle is dispatched. Thus, on the days the 188 inspection reports were missing, there was no assurance the pre-trip inspections were performed on those vehicles, and accordingly, no assurance the vehicles were in safe condition when they were dispatched. In the case of TFM, this is particularly worrisome, because more than half of its inspection reports were missing.

Even if the inspections were performed in some of these 188 instances, but were not documented (or if the inspection reports were

never submitted), there is still a safety risk, because repairs are supposed to be scheduled on the basis of the inspection reports. If a safety defect is identified during an inspection, but the inspection report is not submitted, there is no assurance the defect will be repaired.

We note that Transit’s supervising maintenance superintendents found inspection reports were not being submitted at TFM. For example, a memo from a superintendent on September 24, 2007 stated, “Today, I spot checked six vehicle files at TFM to determine if the OCVR cards [pre/post trip inspection forms] are being submitted I found that all six vehicle files were incomplete and the majority of the cards were missing since the middle of May.”

We recommend Transit more closely monitor the carriers' compliance with pre/post-trip inspection requirements, and take corrective action whenever carriers are found to be missing significant numbers of inspection reports. TFM's project manager informed us that they now have a new procedure in place to ensure that the drivers submit their inspection reports when they hand in their bus

keys at the end of their shifts.

The four carriers provided us with a total of 704 inspection reports for the 40 sampled vehicles. We reviewed these inspection reports to determine whether they had been properly completed and found that 204 of reports (29 percent) had not been completed in accordance with requirements, as follows:

Carrier	Number of Inspection Reports Available	Inspection Reports Improperly Completed	
		Number	Percent
Dedicated	219	26	12
TFM	79	57	72
MVT	152	115	76
Atlantic	254	6	2
Total	704	204	29

In some instances, parts of the inspection reports were left blank (e.g., the list of items to be inspected was not checked off). In other instances, the defects found during the inspections were not adequately described. Also, in some instances, the reports were not signed by the drivers, as required.

At two of the carriers (TFM and MVT), well over half of the inspections reports (72 and 76 percent, respectively) were not completed in accordance with requirements. When we visited one of these carriers (MVT) in February 2008, we reviewed a number of inspection reports right after the drivers left the depot to begin their routes. As was the case with this carrier's inspection reports in September 2007, many of the February 2008 inspection reports were not completed in accordance with requirements.

In total 35 of the 147 inspection reports reviewed were not properly completed. For example, even though the pre-trip inspection should have been performed and the

inspection results recorded in the pre-trip section of the inspection form, this section of 3 forms were completely blank; the pre-trip sections in 4 reports were only partially completed; the post-trip sections in 5 reports were partially completed, and in 2 reports fully completed, even though the post-trip inspection had yet to be performed; and post-trip sections in 21 reports were already signed.

If inspection reports are left blank, filled in ahead of time, or otherwise completed in an improper manner, there is less assurance the inspections are being done properly by the drivers, and consequently, less assurance safety defects are being promptly identified.

At TFM, the Operations Manager stated that they have a policy in place to reprimand drivers who do not properly fill out their inspection forms. According to the Operations Manager, such drivers are given a verbal warning on the first infraction and a written warning on the second infraction. We

asked for examples of these written warnings, but the Operations Manager was unable to provide any, saying that drivers generally adjust their practices after the verbal warning. In light of the high percentage of improperly completed inspection forms at TFM (e.g., 72 percent of the sampled forms in September 2007 were improperly completed), we question the effectiveness of the oversight provided by TFM in this area.

If the carriers are not vigilant in their efforts to ensure that their drivers are complying with all pre- and post-trip inspection requirements, the drivers are less likely to be committed to full compliance. It is thus critical for the carriers to ensure that all required inspection reports are being submitted and all submitted reports are being properly completed. At carriers where this is not the case, special training for the drivers and closer supervision of the inspection process may be needed.

To ensure that the carriers are adequately fulfilling their responsibilities in this critical area of paratransit operations, Transit should periodically evaluate each carrier's compliance with pre- and post-trip inspection requirements, recommend specific corrective actions for noncompliant carriers, monitor these carriers' implementation of their corrective actions, and follow up with the carriers when the corrective actions are not effectively implemented.

Potential Safety Defects

Potential safety defects may be identified in pre- and post-trip inspections. Such defects may also be identified during routine vehicle servicing and during emergency road calls. We examined whether appropriate action was promptly taken when potential safety defects were identified in pre- and post-trip inspections and during emergency road calls. We found that appropriate action was not

always taken in these circumstances, and as a result, paratransit vehicles were sometimes put into service with potential safety defects.

The four carriers in our sample provided us with a total of 704 inspection reports for the 40 sampled vehicles. These inspection reports identified a total of 145 defects, of which 61 were potentially safety related (e.g., brake and engine defects). These 61 potential safety defects were identified in 50 of the inspection reports and related to 19 different vehicles (three at Dedicated, six at TFM, six at MVT, and four at Atlantic).

We reviewed the work order history and dispatch records for each of these vehicles to determine whether the potential safety defects identified in the inspection reports were addressed before the vehicles were put into passenger service, as is required by DOT regulations. We found that 27 of the 61 potential safety defects (44 percent), on ten of the vehicles, were not addressed before the vehicles were put into passenger service.

For example, a pre-trip inspection on September 23, 2007 at TFM found that a paratransit vehicle had a brake problem ("fails to provide even and smooth stop"). This potential safety defect should have been checked before the vehicle was put into passenger service that day. However, according to the vehicle's work history records, this was not done, and the vehicle was driven a total of 129 miles that day with 15 passengers (including drivers).

Similarly, a pre-trip inspection on September 12, 2007 at Dedicated found that the door over the battery on the outside of a paratransit vehicle was not properly secured. This potential safety defect should have been addressed before the vehicle was put into passenger service that day. However, according to the vehicle's work history

records, this was not done, and the vehicle was driven a total 104 miles that day with 13 passengers (including drivers).

In total, on the days the potential safety defects were identified, the ten vehicles with the 27 unaddressed defects were driven 2,803 miles and carried 294 passengers (including drivers). Because the potential defects were not addressed, these passengers were put at

risk. We note that the ten vehicles were probably driven additional miles and probably carried additional passengers before the potential defects were finally addressed (the exact dates the potential defects were addressed, if they were addressed, cannot readily be determined from the available records). The results of our review are summarized in the following table:

Carrier	Potential Safety Defects Identified	Potential Safety Defects Not Addressed Before Vehicle Dispatched		Number of Passengers on Vehicles with Potential Safety Defects	Number of Routes Driven	Number of Miles Driven
		Number	Percent			
Dedicated	3	2	67	31	2	258
TFM	30	16	53	196	16	1,675
MVT	19	8	42	64	8	791
Atlantic	9	1	11	3	1	79
Total	61	27	44	294	27	2,803

As is shown in the table, 16 of the 27 unaddressed safety defects were on vehicles operated by TFM. We note that Transit’s supervising maintenance superintendents identified similar problems at this carrier, as vehicles often had to be pulled from service when the superintendents found defects during their unannounced inspections. For example, a memo from a superintendent on November 16, 2007 stated that, based on his field visits, on “March 15 (20 out of 32 buses removed from service), April 19 (18 out of 31 buses removed service), July 29 (11 out of 23 buses removed from service), August 22 (11 out of 20 buses removed from service), September 22 (13 out of 30 buses removed service), October 16, 2007 (12 out of 28 buses removed from service) and this month [November 2007] 20 out of 31 buses and 1 out of 16 sedans removed from service.”

According to DOT regulations, each pre/post-trip inspection report is to be “carefully examined” by the carrier, and the carrier is supposed to “ensure that any safety defects noted therein . . . [are] corrected before the vehicle is used in service.” However, as our review shows, the carriers are not always complying with this requirement.

In addition, when a potential safety defect is identified in an inspection report, the carrier, or the carrier’s designated mechanic, is required by the regulations to provide written confirmation that the vehicle is safe before it is put back into passenger service (“shall certify by signing a form that notes all defects listed in the driver reports have been repaired that could affect the safe operation of the vehicle, prior to the vehicle again carrying passengers”). However, we found no evidence of such confirmation for any of the 27 unaddressed safety defects in our sample.

As a result, there was no assurance the vehicles were, in fact, safe when they were put back into passenger service.

We acknowledge it is possible that, in some instances, the potential safety defects identified on the inspection reports may not have been “true” safety defects. Since the drivers are not qualified as mechanics, what they identified as defects may not, in fact, have been defects. However, in such instances, the carrier is required by DOT regulations to provide written confirmation of the vehicle’s safety, and we found no such confirmation. For example, the inspection reports were not annotated by a mechanic or a supervisor to indicate that the apparent defects were not, in fact, defects and the vehicles were safe to drive.

If Transit is to have reasonable assurance the carriers are acting quickly to address potential safety defects identified during driver inspections, the carriers must comply with DOT regulations and provide written confirmation of the safety of each such vehicle before it is put back into service. We recommend Transit remind the carriers of their responsibility to comply with this requirement, and periodically review the carriers’ files to ensure that they are complying with the requirement.

To provide further assurance potential safety defects are being addressed before paratransit vehicles are placed into service, each driver is supposed to receive a copy of the previous driver’s pre/post-trip inspection report, and if a potential safety defect is noted on the report, the driver is to receive written assurance from the carrier that the defect has been addressed and the vehicle is safe for dispatch. The carriers are required by DOT regulations to institute these procedures, and Transit is required to ensure that the procedures have been instituted.

However, we found that two of the carriers (Dedicated and TFM) have not instituted such procedures. We recommend Transit instruct these carriers to institute such procedures, and ensure that the carriers do, in fact, institute the procedures. We also recommend Transit determine whether its other ten carriers have instituted such procedures, and if not, ensure that they do.

Road calls occur when a vehicle becomes inoperable because of a defect while it is in service. When this happens, the vehicle must be pulled off the road and a mechanic called to either repair the defect where the vehicle sits or have it towed back to the maintenance facility for repair. If there are passengers on the vehicle, they must be transferred to another vehicle to complete their trips. Under the carriers’ contracts with Transit, all road calls must be reported to Transit and the defects, and their disposition, must be recorded in a written defect reporting system.

During September 2007, the four carriers in our sample reported a total of 356 road calls to Transit. We randomly selected 40 of these road calls and reviewed the records at the carriers to determine whether the problems causing the road calls were addressed before the vehicles were put back into passenger service.

We found that, in 23 of these 40 instances, there were work orders indicating that the problems were addressed before the vehicles were put back into passenger service. However, in the other 17 instances, there were no such work orders. The problems causing these road calls included a smoking engine, an engine that shut off, and transmission difficulties. In each instance, the vehicle was put back in service the following day with no indication the problems had been addressed. The results of our review are summarized in the following table.

Carrier	Total Road Calls	Sampled Road Calls	Defects Not Addressed
Dedicated	21	10	7
TFM	98	10	3
MVT	144	10	6
Atlantic	93	10	1
Total	356	40	17

Thus, in these 17 instances, it appears that the carriers either did not perform, or failed to properly document, repairs or other actions that could affect the safety of the vehicles. In either case, there is no assurance the vehicles were, in fact, safe when they were put back into service. To provide better assurance vehicles are being thoroughly checked for problems after road calls, and if necessary repaired, we recommend Transit require the carriers to provide written confirmation of the vehicles' safety before they are put back into service and instruct its supervising maintenance superintendents to review the carriers' files during their field visits to ensure that they are complying with this requirement.

Addressing Safety Issues with Carriers

Transit officials meet periodically with carrier officials to address safety issues and other matters. In addition, the contracts with the primary carriers allow Transit to assess liquidated damages for poor vehicle maintenance and repair practices. Transit also investigates customer complaints about paratransit vehicles. We identified opportunities for improvement in each of these areas of carrier oversight.

According to the contracts with the primary carriers, Transit officials should meet with carrier officials monthly, or as otherwise required, to discuss any problems encountered in the course of business, measure contractor performance, and take corrective actions. The contracts with the regional carriers state that

Transit should meet periodically with these carriers.

We reviewed the minutes from Transit's meetings with the four carriers in our sample between January 2007 and March 2008 to determine how often the meetings were held and identify what was discussed at the meetings. We found that Transit met with these four carriers an average of once every 3.75 months, and on several occasions, there were as many as five months between meetings.

We recommend Transit meet with its primary carriers on a monthly basis, as is stated in the contracts. In addition, we recommend Transit meet with its regional carriers more frequently than once every 3.75 months, especially if problems are identified in the carriers' operations.

The minutes from these meetings also showed that, while problems with vehicles were often discussed and corrective actions proposed, Transit officials did not follow up with the carriers at subsequent meetings to determine whether the corrective actions were taken. As a result, there was no assurance the actions were actually taken.

For example, the minutes from the October 23, 2007 meeting with the regional carrier Dedicated noted that only 9 of the 20 vehicles checked by Transit were in compliance with the maintenance requirements for wheelchair lifts. It was agreed that Dedicated would bring the vehicles into compliance. However,

there was no follow up on this matter at the next meeting, which was held on February 29, 2008. As a result, there was no assurance the vehicles were brought into compliance.

When matters requiring further carrier action are discussed at meetings, we recommend Transit follow up with the carriers on the status of this action. We note that such follow up would be facilitated if it were a regular agenda item at the meetings.

The contracts with the primary carriers allow Transit to assess liquidated damages regarding poor vehicle maintenance and repair practices. Specifically, if deficiencies in these practices are serious enough, in the opinion of Transit, to place the safety of the carrier's paratransit operations at risk, Transit can assess the carrier liquidated damages of \$250 a day until such time as the carrier has implemented a plan Transit believes will adequately address the deficiencies.

Transit has records of maintenance and repair deficiencies at each individual carrier. These deficiencies may be identified by Transit's supervising maintenance superintendents or they may be identified by DOT in its biannual inspections of the paratransit vehicles. We reviewed these records for two of the carriers in our sample (MVT and Atlantic) and found that Transit assessed damages for some of the deficiencies, but not for others.

For example, Transit assessed MVT liquidated damages for 4 of the 36 potentially serious deficiencies that were identified in a three-month period, and assessed Atlantic liquidated damages for 7 of the 11 potentially serious deficiencies that were identified in a one-month period. Examples of deficiencies that were not assessed damages include problems with wheelchair lifts and fire extinguishers.

Transit may have been justified in charging the carriers in some circumstances, but not others. However, Transit did not document the reasons why damages were charged. Also, there was no documentation to explain why damages were not charged when it appeared damages were warranted. We recommend Transit maintain such documentation.

In the absence of this documentation, there is no assurance the liquidated damages are being appropriately applied. In addition, if the liquidated damages are not being assessed in circumstances when they would be warranted, Transit may not be doing all it can to ensure that the carriers are correcting safety defects in a timely manner.

Transit investigates customer complaints about paratransit vehicles. Its contracts with the primary carriers specify the process that is to be followed for such investigations. We reviewed the investigations for eight complaints to determine whether this process was followed. The eight complaints involved problems that were reported in vehicles operated by Atlantic and TFM.

We found that Transit did not always follow the investigation process specified in the contracts. For example, the contracts state that the carrier should be involved in the solution of the problem. However, the carrier is not always made aware of the complaint. Instead, a Transit superintendent may pull the vehicle out of service and inspect the vehicle himself to verify the complaint. We recommend Transit follow the investigation process specified in the contracts.

Unaccounted for Use of Vehicles

A vehicle's beginning and ending mileage for the day are supposed to be recorded in the pre-trip and post-trip sections of the

inspection report. Generally, the ending mileage for one day should be the same as the beginning mileage for the next day, because Transit's contracts with the carriers do not allow the vehicles to be used for purposes other than authorized paratransit services. There may occasionally be small discrepancies for valid reasons (e.g., a vehicle was moved to be repaired), but these reasons should be documented.

However, when we were reviewing the 704 inspections reports for the 40 vehicles in our sample, we noticed that the ending mileage for one day was often different than the beginning mileage for the next day. Moreover, in no instance were the reasons for these discrepancies documented, because Transit does not require, and the carriers do not prepare, such documentation.

Specifically, we identified 48 instances in which the pre-trip inspection mileage for a vehicle was either (a) higher than the prior day's post-trip inspection mileage by at least 6 and as many as 100 miles (26 instances) or (b) lower than the prior day's post-trip inspection mileage (22 instances). We identified these discrepancies at all four carriers in our sample.

In some of these instances, the mileage may have been recorded erroneously by the drivers. However, there was no indication any such errors were noticed by the supervisors who were responsible for reviewing the inspection reports. It is also possible that some of the discrepancies were the result of additional driving for repairs or other valid reasons. However, in the absence of documentation explaining the reasons for the discrepancies, there is no assurance the reasons are valid. It is possible that, in some instances, the vehicles were being used for unauthorized purposes.

To help ensure that these vehicles, which were purchased by Transit, are being used only for authorized paratransit purposes, we recommend Transit require the carriers to document the reasons for all ending/beginning mileage discrepancies above a certain minimum threshold (e.g., five miles).

Recommendations

1. Periodically evaluate each carrier's compliance with pre- and post-trip inspection requirements, recommend specific corrective actions for noncompliant carriers, monitor these carriers' implementation of their corrective actions, and follow up with the carriers when the corrective actions are not effectively implemented.
2. Remind the carriers of their responsibility to provide a written confirmation of safety for vehicles before they are returned to service after the identification of potential safety defects in pre- or post-trip inspections, and periodically review the carriers' files to ensure that they are complying with this requirement.
3. Ensure that all carriers have instituted the required procedure for providing drivers with a copy of the prior driver inspection report.
4. Require carriers to provide a written confirmation of safety for vehicles before they are returned to service after road calls, and periodically review the carriers' files to ensure that they are complying with this requirement.
5. Meet with the primary carriers on a monthly basis, as is stated in the contracts. Meet with the regional carriers at least once every two months, especially if problems are identified in the carriers' operations.

(In response to our draft audit report, Transit officials indicated the contract terms state “The Contractor shall be required to meet monthly or as otherwise required with NYCT to discuss operations and contract management issues. . .” NYCT’s current goal is to meet with the carriers quarterly and this practice will continue due to the number of vendors. They also indicated that the Compliance Unit regularly visits carriers and discusses many issues that are normally covered at carrier meetings.)

Auditor’s Comments: The performance levels of the four carriers we visited clearly indicate that there is a need to meet with them more often. We urge Transit officials to use a risk assessment process to determine the optimal frequency of meetings with each of the carriers.

6. When matters requiring further action are discussed at meetings with the carriers, follow up with the carriers on the status of this action. Consider making such follow-up a regular agenda item at the meetings.

(Replying to our draft audit report, NYCT officials indicated that matters requiring follow up with the carriers are addressed prior to the next scheduled meeting. They indicate this is accomplished through Contract Management correspondence, site field visits, and standards and compliance observations. As a result, generally there are no topics of concerns at scheduled carrier meetings that have not been previously discussed with carriers.)

Auditor’s Comments: Although Transit officials indicate that issues requiring follow-up actions are addressed in a timely and effective manner, our review of the four carriers indicated otherwise.

Our recommendation that it be made an agenda item at each meeting does not require any additional work, but it serves as a reminder to check on what has happened since the last meeting.

7. Maintain documentation explaining why liquidated damages are assessed against certain carriers for maintenance and repair deficiencies and not others.
8. Follow the complaint investigation process specified in the contracts with the carriers..
9. Require the carriers to document the reasons for all ending/beginning mileage discrepancies on paratransit vehicles above a certain minimum threshold.

(In response to our draft audit report, NYCT officials indicated that carriers are required to reconcile all trip data into the ADEPT system. They added that the reconciliation process in most cases provides the accurate odometer mileage used by Paratransit for reporting purposes.)

Auditor’s Comment: Transit officials claim there is a process in place to determine the accuracy of the mileage reported. However, we question the effectiveness of this control because it does not address the discrepancies noted in this audit report.

Mechanics Qualifications

The carriers are responsible for maintaining the paratransit vehicles provided by Transit. The contracts with the primary carriers require that the carriers’ mechanics be “trade certified and thoroughly trained and retrained to complete the maintenance tasks required by this contract.” The contracts with the regional

carriers are silent on their mechanics' qualifications.

At the time of our audit, the three primary carriers (TMF, MVT and Atlantic) in our sample employed a total of 79 mechanics and the one regional carrier (Dedicated) employed four mechanics. We reviewed the personnel files for these mechanics to determine whether the mechanics at the three primary carriers were certified in accordance with contract requirements and the mechanics at the regional carrier were similarly certified.

We found documentation supporting relevant trade certification in the personnel files of

only 15 of the 79 mechanics (19 percent) at the three primary carriers. The employment applications of the other 64 mechanics claimed certain qualifications and credentials (e.g., certain prior work experience and attendance at certain trade schools), but there was no indication the carriers had verified any of these claims. As a result, there was no assurance the claims were accurate.

At the regional carrier, we found documentation supporting relevant trade certification in the personnel files of three of the carrier's four mechanics. The results of our review are summarized in the following table:

Carrier	Number of Mechanics	Mechanics With Trade Certification	Mechanics Without Trade Certification	Percentage Without Trade Certification
TFM	28	4	24	86
MVT	21	7	14	67
Atlantic	30	4	26	87
Dedicated	4	3	1	25
Total	83	18	65	78

If the mechanics working on paratransit vehicles are not properly qualified, there is less assurance the vehicles will be appropriately maintained and greater risk the safety of the vehicles could be compromised.

Officials at the carriers told us that newly hired mechanics undergo a probationary period during which they work under the direct supervision of more experienced personnel. They also said they do not focus on hiring mechanics with trade certifications, in part, because their contracts do not specify the types of certification that are required.

We recommend Transit clarify its expectations for trade certification and modify the contracts accordingly. We also

recommend Transit require the same certifications from its regional carriers that it requires from its primary carriers. We further recommend Transit require the carriers to maintain documentation of their mechanics' trade certifications in their personnel files. Such documentation would include the carriers' verification of credentials not otherwise documented.

Recommendations

10. Clarify the expectations for mechanics' trade certifications and modify the carrier contracts accordingly. Require the same certifications from the regional carriers that are required from the primary carriers.

11. Require the carriers to maintain documentation of their mechanics' trade certifications in their personnel files. Also require that relevant training and retraining be documented.

AUDIT SCOPE AND METHODOLOGY

We audited selected aspects of Transit's Access-A-Ride program relating to vehicle maintenance and safety for the period January 1, 2006 through February 26, 2008. Our audit examined whether vehicle maintenance and safety procedures were performed in accordance with Transit's contracts with its carriers and DOT regulations (Title 17, sections 720 through 723 of the New York Codes, Rules and Regulations).

To accomplish our objectives, we reviewed the relevant sections of the contracts and regulations, and examined selected records maintained by Transit and selected carriers. We also interviewed relevant officials and staff at both Transit's Access-A-Ride program and four of the contracted carriers. We judgmentally selected the four carriers (Dedicated Services Inc., Transit Facility Management Corp., MV Transportation Inc., and Atlantic Paratrans, Inc.) on the basis of the size and age of their fleets and their contract status (i.e., primary or regional).

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 under 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. We considered their comments in preparing this final report, and they are included as Appendix A.

Within 90 days after 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, 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 therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Carmen Maldonado, Robert Mehrhoff, Tony Carbonelli, Peter Schmidt, Menard Petit-Phar, Altagracia Rodriguez, David Schaeffer and Dana Newhouse.

APPENDIX A - AUDITEE RESPONSE

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H. Dale Hemmerdinger
Chairman



Metropolitan Transportation Authority

State of New York

March 12, 2009

Ms. Carmen Maldonado
Audit Director
The Office of the State Comptroller
Division of State Government Accountability
123 William Street – 21st Floor
New York, New York 10038

Re: Report #2007-S-127 (MTA New York City Transit Access-A-Ride Safety Issues)

Dear Ms. Maldonado:

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

I have attached for your information the comments of Mr. Howard H. Roberts, Jr., President, MTA New York City Transit, which address this report.

Sincerely,

A handwritten signature in black ink, appearing to be "H. Dale Hemmerdinger".

Attachment

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

Memorandum



Metropolitan Transportation Authority
NYCT, Department of Buses

Date: March 3, 2009

To: H. Dale Hemmerdinger, Chairman

From: Howard H. Roberts, Jr., President *DDR*

Re: NYS Comptroller Report 2007-S-127 Access-A-Ride Safety Issue

We have reviewed the above referenced NYS Comptroller Report concerning Paratransit safety issues, and generally agree with its findings and recommendations. The following are our specific responses to the report's recommendations.

Recommendation 1: *"Periodically evaluate each carrier's compliance with pre- and post-trip inspection requirements, recommend specific corrective actions for noncompliant carriers, monitor these carriers' implementation of their corrective actions, and follow up with the carriers when the corrective actions are not effectively implemented."*

Response: NYC Transit will perform monthly reviews of pre and post inspections during regular site visits to carriers. These reviews will include ensuring that forms are accurately completed and that safety defects noted are addressed by carrier maintenance. Missing or improperly prepared inspection reports, and/or the lack of maintenance could result in the assessment of liquidated damages.

Recommendation 2: *"Remind the carriers of their responsibility to provide a written confirmation of safety for vehicles before they are returned to service after the identification of potential safety defects in pre or post trip inspections, and periodically review the carriers' files to ensure that they are complying with this requirement."*

Response: NYC Transit will notify and remind the carriers of their responsibility to document and record vehicle repairs before they are returned to service after the identification of potential safety defects in pre and post trip inspections. Standard and Compliance superintendents periodically review the carriers' files to ensure compliance.

Recommendation 3: *"Ensure that all the carriers have instituted the required procedure for providing drivers with a copy of the prior driver inspection report."*

Response: NYC Transit will require the carriers implement procedures to ensure drivers are provided with the prior inspection reports upon their request. This will provide the driver with a confirmation that any safety defects noted had been addressed by maintenance.

Recommendation 4: *"Require the carriers to provide a written confirmation of safety for vehicles before they are returned to service after road calls, and periodically review the carriers' files to ensure that they are complying with this requirement."*

Response: NYC Transit will require the carriers submit a daily summary of pre and post trip inspections performed. The Project Manager will verify that the inspection forms were accurately completed and that safety defects were noted. These forms will be subsequently reviewed by Paratransit. Any missing or improperly prepared pre and post trip inspection reports could result in the assessment of liquidated damages.

Recommendation 5: *“Meet with the primary carriers on a monthly basis, as is stated in the contracts. Meet with the regional carriers at least once every two months, especially if problems are identified in the carriers’ operations.”*

Response: Section 18.12 of the contract states, *“The Contractor shall be required to meet monthly or as otherwise required with NYCT to discuss operations and Contract Management issues.....”* Currently the Paratransit goal is to meet with the carriers quarterly. With the addition of the Regional carriers over the past several years, it is no longer practical to meet monthly with fourteen vendors. In 2009, the number of vendors will increase to seventeen with the award of new contracts. Paratransit’s Contract Management and Standards and Compliance Unit regularly visit carriers and discuss many issues that would be normally be covered at carrier meetings.

Recommendation 6: *“When matters requiring further action are discussed at meetings with the carriers, follow up with the carriers on the status of this action. Consider making such follow up a regular agenda item at the meetings.”*

Response: Most items discussed at the carrier meetings are usually followed up for corrective action, prior to the next scheduled carrier meeting. This is accomplished through Contract Management correspondence, site field visits, and Standards and Compliance observations. Additionally, demand responsive service scheduling requires a daily dialogue between Paratransit and carriers to address vagaries of demand. Generally, there are no topics or concerns at scheduled carrier meetings that have not been previously discussed with carriers in a timely and effective manner.

Recommendation 7: *“Maintain documentation explaining why carriers are penalized, or not penalized, for maintenance and repair deficiencies.”*

Response: It should be noted that “Liquidated Damages” are not penalties, and should not be administered in this manner. The Standards and Compliance Unit identifies maintenance and repair deficiencies as part of their regular duties at the carriers. In certain instances, NYC Transit reports may indicate a maintenance deficiency. However, it is at the discretion of the Maintenance Officer to apply Liquidated Damages.

* Comment

Recommendation 8: *“Follow the complaint investigation process specified in the contracts with the carriers.”*

Response: Because AAR service complaints are reported directly to NYC Transit, Paratransit may investigate an allegation concerning a vehicle problem without consulting the carrier, to determine whether the complaint is valid. After assessing whether a problem exists, a Standards and Compliance superintendent will consult with the carrier’s maintenance department to ensure the problem has been or will be addressed.

* This recommendation and the report were revised based on the response.

Recommendation 9: *“Require the carriers to document the reasons for all ending/beginning mileage discrepancies on Paratransit vehicles above a certain minimum threshold.”*

Response: Carriers are required to reconcile all trip data, including mileage, into the ADEPT system. The source for this information is the driver manifests and trip tickets. Although the pre and post trip inspection reports noted by the audit found discrepancies, it is the reconciliation process in most cases that provides the accurate odometer mileage that is utilized by Paratransit for reporting purposes.

Recommendation 10: *“Clarify the expectations for mechanics’ trade certifications and modify the carrier contracts accordingly. Require the same certifications from the regional carriers that are required from the primary carriers.”*

Response: Under this contract, New York City Transit requires and expects the carriers to comply with all aspects of vehicle maintenance. With that, it is at the discretion of the carrier to hire, train and ensure all mechanics have the ability to adequately maintain and repair the vehicle fleet. With the award of new contracts in late 2008, any regional carrier who was awarded a primary contract will now have to comply with the provision.

Recommendation 11: *“Require the carriers to maintain documentation of their mechanics’ trade certifications in their personnel files. Also require that relevant training and retraining be documented.”*

Response: NYC Transit will require the carriers maintain certifications in their personnel files and that relevant training and retraining be documented.

cc: J. Smith
T. Charles
R. Picarelli