

THOMAS P. DiNAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NY 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 27, 2012

Mr. Joseph J. Lhota
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
347 Madison Avenue
New York, NY 10017

Re: Report 2012-F-17

Dear Mr. Lhota:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of the Metropolitan Transportation Authority-New York City Transit to implement the recommendations contained in our audit report, *Access-A-Ride Safety Issues* (Report 2007-S-127).

Background, Scope, and Objective

Since July 1, 1993, MTA-New York City Transit (Transit) has provided paratransit services in New York City. Transit's paratransit service, called Access-A-Ride (AAR), is a flexible transportation service provided to disabled persons and the elderly. Paratransit services do not necessarily follow fixed routes or schedules. Paratransit operates 24 hours, 7 days a week, by way of a demand-response service, that requires the customer to schedule a trip a day or two in advance. Transit contracts with 14 carriers, who provide van and mini-bus services equipped with wheelchair lifts and passenger cars services. Transit also contracts with livery and "black car" services to provide door-to-door services using vouchers. Clients can also use taxis when authorized and will be reimbursed.

In 2011, Transit reported the 14 carriers, black car livery and taxi services completed approximately 6.6 million trips. This represents a 50 percent increase from 2007 when 4.4 million trips were reported.

Transit owns the vans, mini-buses and passenger cars operated by the 14 carriers under the terms of their contracts. Carriers are responsible for the safety of their vehicles and for complying with the contract and State regulations regarding the reporting of safety defects by drivers and for addressing reported defects before vehicles are returned to service. Under the contracts, the carriers are also responsible for ensuring that the mechanics they employ are trade-certified. Transit is responsible for oversight of the carriers and for monitoring contract compliance.

Our initial audit, which was issued on May 4, 2009, examined whether Transit and its

carriers adequately insured that safety defects on paratransit vehicles are properly reported and promptly repaired, and the mechanics who work on the vehicles are properly qualified. The objective of our follow up was to assess the extent of implementation as of September 5, 2012, of the 11 recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found Transit officials have made some progress in correcting the problems we identified. However, additional improvements are needed. Of the 11 recommendations, 3 were implemented, 3 were partially implemented, and 5 were not implemented.

Follow-up Observations

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.

Status - Partially Implemented

Agency Action - Prior to visiting the carriers, each Transit Safety and Compliance Supervisor randomly selects 5 to 7 vehicle numbers for each of his carriers and prints out the vehicle's prior month usage and inspection results report. At the carrier, they review the drivers' pre/post trip inspection reports (known as OVCRs) for completeness and compliance and check for discrepancies between the inspection reports and the information report on Transit's vehicle information system. We found that their reviews are not in-depth. For example, we reviewed the same inspection reports they sampled and found that drivers indicated that a bus had steering problems that were not addressed timely. Transit Field Supervisors stated that they only give verbal corrective action and do not document the conversation for follow up.

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.

Status - Implemented

Agency Action - On November 23, 2009, Transit officials provided all Paratransit Carrier Project Managers with an email which included a document entitled "Pre and Post Trip Vehicle Inspections, Operator Vehicle Condition Reports and Road Call Processes." This document outlines the carrier's responsibility to comply with contract provisions and provides a process that addresses riders' safety.

Recommendation 3

Ensure that all the carriers have instituted the required procedure for providing drivers with a copy of the prior driver's inspection report.

Status - Not Implemented

Agency Action - New York State Department of Transportation regulations require that carriers ensure that their drivers have reviewed a legible copy of the previous inspection report. The carrier contracts also require that drivers are to be provided with the inspection report from the previous driver prior to beginning their route. Transit's memo dated November 23, 2009, states "Operators are entitled to see the previous OVCR should they ask for them." Based on discussions with carrier officials, the previous driver's inspection report is reviewed only if the next driver asks to see it. This practice contradicts the regulation and contract.

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.

Status - Implemented

Agency Action - Transit provided clear and concise actions addressing road calls and the process required by the carrier in a process diagram. In addition, Transit Field Supervisors periodically review road call forms and mechanic work order forms on a monthly basis, randomly selecting vehicles that had road calls.

Recommendation 5

Meet with the primary carriers on a monthly basis, as is stated in the contracts. Meet with the regional carriers at least every two months, especially if problems are identified in the carriers' operations.

Status - Not Implemented

Agency Action - Transit officials formally meet with the carriers on average twice a year. Transit officials stated that they do not plan monthly meetings because the work effort is too much for the staff to manage. The recommendation related to regional carriers is no longer applicable because Transit discontinued contracting with regional carriers.

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.

Status - Not Implemented

Agency Action - Transit officials meet with the carriers on average twice a year. According to the contract, issues of concern should be addressed at the subsequent meeting; which, based on Transit's practice will be at least six months, which is too far in the future to properly monitor and address issues on a timely basis.

Recommendation 7

Maintain documentation explaining why carriers are penalized, or not penalized, for maintenance and repair deficiencies.

Status - Implemented

Agency Action - We reviewed one month billing for five carriers to determine whether AAR officials properly enforced the contract's liquidating damages related to repairs and maintenance. Liquidated damages (LD) are also applied to deficiencies identified by DOT semi-annual Inspection Reports and Maintenance Reports. Monthly reviews by Safety and Compliance Supervisors' can also result in LDs. Transit developed a *Performance and Liquidated Damages Chart* in 2009 which includes all of the deficiencies that can result in an LD and the acceptable threshold which for some items is less than 100 percent. AAR officials told us that there is no documentation to support where the threshold for each item was set. They indicated it is based on judgment and years of experience.

Recommendation 8

Follow the complaint investigation process specified in the contract with the carriers.

Status - Partially Implemented

Agency Action - Transit refers complaints to the carrier's project director for investigation and follow-up by the carrier, who in-turn responds via email. Most replies are done by the third day. Complaint resolution is one of the items that should be discussed at the monthly meetings. However, two carriers stated that they never held monthly meetings to discuss complaint resolutions. A review of the meeting minutes that are held about every six months shows that customer complaints are discussed, but the meetings are too far apart to effectively address complaints that occurred several months earlier.

Recommendation 9

Require the carriers to document the reasons for all ending/beginning mileage discrepancies on Paratransit vehicles above a certain minimum threshold.

Status - Not Implemented

Agency Action - Transit officials claim that they do not require carriers to address and reconcile

all ending/beginning mileage discrepancies because there are many valid activities that create mileage discrepancies. They added that reconciling mileage discrepancies would be arduous and time consuming.

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.

Status - Not Implemented

Agency Action - Transit officials have not clarified their expectations for the contractual requirements for mechanic's trade certifications.

Recommendation 11

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

Status - Partially Implemented

Agency Action - Transit does not enforce contract terms which require its carriers to hire mechanics that are trade certified. One of the carriers and two of the Transit Safety and Control Field Supervisors stated that the mechanics' salary is too low to ask them to be trade certified. We found documentation showing three mechanics that completed trade school and received certification. However, Transit has no assurance that these certifications achieve industry proficiency.

Major contributors to this report were Robert Mehrhoff, Joseph F. Smith, Aurora Caamano, Dana Bitterman, and Slamon Sarwari.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Metropolitan Transportation Authority-New York City Transit and its carriers for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Carmen Maldonado
Audit Director

cc: K. Malloy, MTA Audit Services
T. Charles, Vice President, Transit Paratransit Division
T. Lukacs, Division of the Budget