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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 28, 2020

Theodore Kastner, M.D.
Commissioner
Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229

Re: Oversight of Passenger Safety
Report 2020-F-1

Dear Commissioner Kastner:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Office for People With Developmental Disabilities (OPWDD) to implement the recommendations contained in our audit report *Oversight of Passenger Safety* (Report [2017-S-50](#)).

Background, Scope, and Objective

OPWDD is responsible for coordinating services for more than 130,000 New Yorkers with developmental disabilities. It provides services directly and through a network of approximately 500 not-for-profit agencies.

Regional Developmental Disabilities State Operations Offices administer and oversee State operations for OPWDD, including transporting clients from OPWDD-run residences to service providers or medical appointments. OPWDD uses more than 3,000 State-owned vehicles as well as contractors to transport clients. OPWDD uses the Office of General Services' (OGS) Fleetwave Centralized Inventory Management System to maintain information about its vehicle fleet.

Within the New York City (NYC) region, four local Developmental Disabilities Services Offices (DDSOs) – Metro NY (the Bronx and Manhattan), Brooklyn, Bernard M. Fineson (Queens), and Staten Island – are responsible for overseeing 115 State-run residences. According to OPWDD and information obtained from OGS, as of October 2018, these four DDSOs had a fleet of about 484 vehicles. While residences are assigned their own vehicles, each DDSO's transportation office maintains certain vehicles for business use. These vehicles are available to the residences as needed, such as when their vehicles are being serviced. About 136 of the 484 vehicles were assigned to the transportation offices of the four NYC DDSOs. State vehicles may be assigned to specific employees only in extraordinary circumstances. Statewide policy requires vehicles to be used only for official State business, vehicle logs to be maintained for all State vehicles, agencies to conduct audits of vehicle logs to ensure use is consistent with policy, and agencies to adopt vehicle use and control procedures

consistent with the statewide policy. Accordingly, OPWDD's Fleet Management Policy requires that a vehicle use log be maintained for all State vehicles to record specific trip information, such as date and time of use, driver, occupants, and purpose of the trip.

We issued our initial audit report on October 1, 2018. The audit objective was to determine whether OPWDD ensures that its vehicles are being operated safely by employees with valid driver licenses. Specifically, the audit found OPWDD did not analyze traffic violations to identify whether employees needed training or counseling, or if they should be reassigned. The audit also found that DDSOs were not properly monitoring the New York State Department of Motor Vehicles' License Event Notification System (LENS) reports to identify drivers whose licenses had been suspended. We identified seven employees who continued to drive OPWDD vehicles that were assigned to transport clients, despite having suspended driver licenses. In addition, we determined that repairs related to manufacturer recalls were not being done timely, or at all.

The objective of our follow-up was to assess the extent of implementation, as of June 5, 2020 of the four recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

OPWDD has made limited progress in addressing the problems we identified in the initial audit report. Of the initial report's four audit recommendations, one was partially implemented and three had not been implemented.

Follow-Up Observations

Recommendation 1

Analyze traffic violations and driving histories to identify whether employees need training or counseling, or if they should be reassigned.

Status – Not Implemented

Agency Action – OPWDD is still not analyzing traffic violations and driving histories to identify whether employees need training, counseling, or reassignment. In addition, we found OPWDD did not accurately track the type of traffic violations being issued to its vehicles. OPWDD officials indicated that they believed most of the violations pertained to parking issues. However, our analysis showed that this was not the case. OPWDD Central officials provided a list of 261 traffic violations the agency incurred from April 1, 2019 through December 31, 2019. We traced the violation numbers to the NYC Department of Finance online database and determined that 95 percent of the traffic violations were for speeding through school zones or failure to stop at a red light.

OPWDD officials stated that they will continue to rely on LENS reports to be notified when employees' licenses are suspended or revoked and will address driving history issues on a case-by-case basis. As noted in the initial audit, it is imperative that OPWDD monitor employees who have poor driving records to ensure that they receive appropriate training in safe driving practices, thus minimizing the risks to clients and the public.

Recommendation 2

Establish procedures to identify employees responsible for traffic violations so that fines are paid timely and/or can be recouped. Ensure that the fines, penalties, and interest identified in this report are collected from employees, as warranted.

Status – Not Implemented

Agency Action – In their 90-day response dated December 2018, OPWDD officials stated that they drafted procedures formalizing responsibilities of employees for paying fines and identifying employees with traffic violations. Subsequently, OPWDD officials informed us that these procedures were still not finalized as of January 2020.

Our review found OPWDD currently identifies and collects fines and penalties from very few employees. Furthermore, OPWDD officials informed us that they will not retroactively collect fines, penalties, and interest from employees who were identified in the initial audit report. According to OPWDD officials, as of February 3, 2020, they have recouped just \$805 of the \$14,275 incurred from the 261 traffic violations previously mentioned.

Recommendation 3

Monitor LENS reports to ensure employees maintain valid driver licenses, and strengthen the monitoring process to ensure employees with suspended licenses do not drive OPWDD vehicles.

Status – Partially Implemented

Agency Action – We found DDSOs' Human Resources officials have improved their monitoring of LENS reports and are timely informing the employees' supervisors of license suspensions so that employees do not drive with suspended licenses. We reviewed a judgmental sample of 45 LENS notifications for 27 different employees whose drivers' licenses were pending suspension or had been suspended during the period of April 1, 2019 to December 31, 2019. We identified two employees who drove on the day their licenses were suspended, even though OPWDD officials had received notification of their pending suspensions one month in advance. In addition, we could not determine if three employees drove OPWDD vehicles during their license suspension periods because the Brooklyn DDSO could not provide us with all relevant vehicle logs. We note that our initial audit also could not determine whether seven employees had driven OPWDD vehicles when their licenses were suspended because the Brooklyn DDSO office could not provide us with the relevant vehicle logs.

Recommendation 4

Ensure recall repairs are done timely and maintain supporting documentation of the repairs.

Status – Not Implemented

Agency Action – The National Highway Traffic Safety Administration issues vehicle safety standards and requires manufacturers to recall vehicles that have safety-related defects or that do not meet federal safety standards. Our review indicated that some recall repairs are still not being performed timely. We found that it took OPWDD officials an average of 66 days to complete the six recall repairs received during our scope period.

An additional recall repair from 2010 was not completed until October 2018 – eight years later. Furthermore, a vehicle recall repair from June 2002 for a serious safety issue that could result in fuel leaks and a fire hazard is still outstanding. According to OPWDD officials, this vehicle, which was acquired from OGS in 2012 but has not been used for two years, is generally used for snow plowing. Officials advised they will perform the recall repair before using the vehicle in the future. This outstanding vehicle recall repair was reported to OPWDD officials in our initial audit.

Major contributors to this report were Cheryl May, Jasbinder Singh, and Xuen Qiu.

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 thank the management and staff of OPWDD for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Aida Solomon
Audit Manager

cc: Richard Cicero, OPWDD
Anthony Dolan, OPWDD
Ken Sifontes, OSC