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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 10, 2014

Mr. Thomas F. Prendergast
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
347 Madison Avenue
New York, NY 10017

Re: MTA-NYC Transit Medical Assessment
Centers
Report 2013-S-33

Dear Mr. Prendergast:

According 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 audited selected practices of the MTA-NYC Transit Medical Assessment Centers (MAC) program to determine if the MACs performed medical examinations for NYC Transit and MTA Bus employees in an economical manner.

Background

The MTA has six operating constituent agencies; two of them, MTA Bus Company (MTA Bus) and New York City Transit (Transit), provide bus service. In 2008, the MTA established its Regional Bus Operations (RBO) to consolidate maintenance and transportation operations of MTA Bus and Transit into one operating unit.

Transit issued a policy instruction which requires medical assessments for a broad range of its employees. MTA Bus has adopted similar policies for its employees. For example, bus drivers are subject to Article 19-A of the New York State Vehicle and Traffic Law, which requires that bus drivers meet certain requirements to obtain and retain the ability to operate a passenger bus. One of the requirements is passing a medical examination every two years. Other assessments can be for pre-employment to determine if there is some medical reason that a person may not be qualified for a position or a promotion. Employees are also assessed when there has been an on-the-job injury or incident, when an employee is returning to work after an absence of 21 days or more, or when an employee has a medical condition that needs to be monitored. The data

from these assessments is stored by Transit's Office of Health Services on a computer database system.

For RBO employees, these medical examinations and assessments are done at one of Transit's five MAC locations. In addition, there is a 24-hour lab located in Brooklyn. The MACs use a Request for Service form (or G-46 form) to document all visits. This form is used to record an employee's time of arrival, the purpose of the visit, the results of the visit and the employee's time of departure. The G-46 is prepared by the depot where the employee is assigned and sent in bulk to the MAC for all of the employees scheduled on a date or hand delivered by the employee.

Employees are assigned to a MAC according to their work location. If testing is needed after regular business hours (normally 8:00 a.m. to 4:00 p.m.), an employee, regardless of location, will go to the 24-hour lab.

MTA Bus was created in September 2004 to assume operation of franchised bus carriers. Initially, rather than using the MACs, MTA Bus entered into a contract with a contractor to provide medical examinations and assessments for its employees from July 1, 2005 through December 31, 2009 at an annual cost of \$1.04 million. The contract was renewed for 2010 and 2011, for a total of \$965,600.

A Staff Summary from 2005 supported contracting out medical assessments and indicated that it was not economical or practical to provide the services in-house. Transit officials could not find any evidence that a cost-benefit analysis had been done in 2005 to support this statement. In 2006, MTA Bus began using the MACs for pre-employment examinations.

In 2011, MTA Bus signed a Memorandum of Understanding (MOU) with Transit to use the MACs for all of its medical evaluations. Under the MOU, MTA Bus is required to reimburse Transit for all costs related to the services provided. In January 2012, Transit opened its fifth MAC to accommodate employees from six of the eight MTA Bus depots. Employees from the other two depots are assigned to an existing MAC.

Results of Audit

On a unit cost basis, we determined that the MACs were not more costly than the contractor. Nonetheless, we also concluded that there are opportunities to attain further efficiencies in the MAC program. Specifically, at the 22 bus depots we visited, there were widely varying practices regarding the amount of time employees were authorized to use for medical assessments and examinations at the MACs. For example, an employee assigned to a depot that paid for a workday at overtime rates may be paid \$360.22, while one assigned to a depot that paid for three hours at regular pay would get as little as \$86.28. In addition, we determined that employees were not always assigned to the closest MAC. This practice cost about \$151,000 during our audit period. We also noted that MAC staff did not always check employees' identification upon visits and that the database used to maintain pertinent MAC program information (regarding medical assessments and examinations) sometimes had errors in employees' arrival and departure times for appointments.

Payroll Costs for MAC Appointments

Out of 150 sampled employees, 53 visited the MAC and were out of work for an entire work day. For the remaining 97 employees, the estimated total cost was \$13,552 for 466 hours for travel and the MAC visit (or an average payment of \$140 for 4.8 hours per visit for the 97 employees). In addition, 36 of the 97 visits were covered by other MTA Bus personnel, for a total of \$5,561 for 192 hours. Thirty-four of the 36 were covered at regular rates by individuals who are in the MTA Bus Extra Pool and substitute for other employees who are not available for work. The remaining two were covered by employees paid at overtime rates.

During the two years from July 1, 2011 through June 30, 2013, there were 32,470 visits wherein employees were paid for going to a MAC. These visits cost \$4,536,441 (or \$2,268,220 per year). Also, in 2012 the MTA Bus reimbursed Transit \$710,693 for using the MACs. This includes start-up costs for the new MAC, salaries for five personnel, and other expenses.

The annual cost for the MTA Bus medical assessment contractor was \$920,237. MTA Bus employees had 3,248 total visits for 2012, and thus the average cost per visit was about \$283 (\$920,237 divided by 3,248 visits). That same year, there were 2,793 visits to MAC #9 at a cost of \$615,349. As such, the average cost for a visit to MAC #9 was about \$220 (\$615,349 divided by 2,793 visits). Thus, the average cost per visit at MAC # 9 was \$63 less than the average cost for a contractor visit. (Note: RBO employees also use other MACs, but the costs for those other MAC locations could not be discretely segregated.)

Time Allowance for MAC Appointments

Our sampled employees worked at 22 depots. We visited these depots to obtain an understanding of the official policies concerning the amount of time an employee was allowed to visit a MAC outside of regularly scheduled work hours. Three of the depots stated that they allowed 3 hours for MAC visits. Two of these depots (LaGuardia and Far Rockaway) gave us a copy of an MTA policy entitled "Medical Assessment Center Visit Matrix," which gives a three-hour allowance for medical assessments held before or after a scheduled tour, or during an unpaid swing. (Note: An unpaid swing is the time between two paid half shifts, normally the morning and evening rush hours.)

The remaining 19 depots did not provide any MTA written policies, and therefore, we asked depot officials what policies they followed for MAC visits. There was a wide range of responses. According to officials: 12 depots allowed 3½ hours at regular pay; two depots allowed 3½ hours at overtime rates; three depots had no time limit and allowed overtime for the entire period; and two depots allowed two hours at overtime rates. The differences in policies could have material financial impacts. For example, for an employee assigned to a depot that paid for a workday of overtime (using a base hourly rate of \$28.76), the gross amount of pay for that day would be \$360.22. In contrast, if the same employee worked at a depot that allowed only three hours at the same base hourly rate, the gross amount of related pay would be \$86.28.

Efficiency of Employee MAC Assignments

Usually, an employee's designated MAC location would be the MAC closest to the depot where he/she works through the use of public transportation. (Officials indicated that employees are instructed to use public transportation for MAC visits.) We reviewed the MAC assignments for 28 depots and determined that employees of six depots were not assigned to the nearest MAC. For the six depots, we estimate that the additional cost for MAC appointments (at straight time) was about \$150,837 per year.

For example, employees at the Queens Village Depot are assigned to a MAC that is over two hours away by public transportation, although there is a MAC at this location. If Queens Village employees went to the MAC at this location, we estimate that it could save at least \$68,000 a year (based on straight time). Agency officials indicated that they are renovating the MAC at Queens Village, which will allow them to reassign Queens Village and Jamaica Depot employees to that MAC. At the time of our field work, however, there were no plans to re-assign employees of the other five depots.

Other Matters

We also identified certain other matters pertaining to employee identification for MAC services, maintenance of G-46 forms, and the accuracy of pertinent database information which MTA officials should address. Those other matters are detailed as follows:

- Employees who seek services from a MAC must present some form of identification prior to receiving such services. We observed the intake process at MAC #9 on October 9, 2013 for one hour. We observed five individuals arrive at the MAC, but none of them were asked for identification. This poses a risk that the evaluation was done of the wrong individual, meaning that an employee with a medical problem could slip through the process.

Agency officials stated that an employee's identity is verified when a 19-A/Federal CDL is completed for a MTA Bus employee. The physician asks the employee for his/her current license to enter information on the certificate. However, not all examinations are Federal CDL examinations. In addition, following our closing conference, an email was sent to all the MACs as a reminder that all employees visiting a MAC must be asked for and are required to present identification. Information from the identification will be written on a sign-in sheet and initialed by the administrative staff completing it.

- G-46 forms should have been maintained on file for each of the 150 MAC visits we tested. In 148 instances, the G-46 forms were provided by the MAC, the employee's depot, or both. For the remaining two visits, neither the MAC nor the depot could provide the G-46. In these cases, the employees went to a lab (and not the MAC), and therefore G-46 forms were either not prepared or retained. According to officials, the G-46 forms for the employees in question might not have been available because the employees were transferred or their employment was terminated.

- To manage and control employee MAC visits, MTA facilities maintain an automated database with pertinent MAC-related information. From our sample of 150 visits, we identified 21 database errors. In 9 of the 21 cases the arrival times on the G-46 differed from the arrival time on the database by 20 minutes or more. Similarly, in the remaining 12 cases, the departure times on the G-46 differed from the time on the database by 20 minutes or more. In one case, the database showed a visit as starting at 1:38 a.m., but the time on the G-46 was 1:38 p.m. In another instance the departure time on the database was 12:20 p.m., but the time on the G-46 was 10:20 a.m. Such disparities could hinder efforts to monitor employees' time and attendance and possibly to compensate them correctly.

According to agency officials, the discrepancies were the results of data entry errors, including entering 'A.M.' when 'P.M.' should have been entered and vice versa. To address this issue, MAC officials designated an individual to perform internal quality assurance for these administrative tasks and to ensure prescribed procedures are followed.

Recommendations

1. Formally assess the cost-effectiveness of the overall MAC program and individual MACs.
2. Formally review the varying depot policies pertaining to time and attendance related to employees' MAC visits. As warranted, establish policies to ensure that time allotments for MAC visits are reasonable.
3. Formally review the depot assignments to their designated MACs. Adjust depot assignments as warranted.
4. Ensure that MAC intake units confirm the identities of the employees arriving for examinations.
5. Instruct MAC staff on the importance of entering accurate times of arrival and departure to the MAC database.

Audit Scope, Objective and Methodology

The primary objective of our audit was to determine whether the MACs performed medical examinations for NYC Transit and MTA Bus employees in an economical manner. The audit covered the period from June 30, 2011 through October 9, 2013. For the two years ended July 1, 2013, RBO employees made 38,354 visits to the five MACs.

To accomplish our objective, we reviewed applicable MAC policies, procedures, and regulations, such as Article 19-A. We selected 50 employees from three of the largest MACs for review (or a total sample of 150 employees). We also interviewed MAC employees and management and Bus Depot timekeepers and management and made site observations to determine whether internal controls related to our objective were adequate and functioning as intended. RBO officials reviewed the pay rates we used for our cost estimates and confirmed the rates used or provided another rate.

We conducted our 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.

Reporting Requirements

A draft copy of this report was provided to MTA officials for their review and comments. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report. Our rejoinders to certain MTA comments are included in the State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman and Chief Executive Officer of the Metropolitan Transportation Authority shall report to the Governor, the State Comptroller, and 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 why.

Major contributors to this report were Robert Mehrhoff, Erica Zawrotniak, James Eugene, Richard Moriarty, Jonathan Bernstein, Altagracia Rodriguez, and Slamon Sarwari.

We wish to thank the management and staff of the Metropolitan Transportation Authority Transit, Medical Assessment Centers and MTA Bus for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Carmen Maldonado
Audit Director

cc: M. Fucilli, MTA Auditor General
D. Jurgens, Audit Director
NYS Division of the Budget

Agency Comments

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Thomas F. Prendergast
Chairman and Chief Executive Officer



Metropolitan Transportation Authority

State of New York

August 8, 2014

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

Re: Draft Report #2013-S-33 (Medical Assessment Centers)

Dear Ms. Maldonado:

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

I have attached for your information the comments of Carmen Bianco, President, NYC Transit, and Darryl C. Irick, President, MTA Bus Company, and Senior Vice President, Department of Buses, which address this report.

Sincerely,

A handwritten signature in black ink, appearing to read "T. F. Prendergast", with a long horizontal line extending to the right.

Thomas F. Prendergast
Chairman and Chief Executive Officer

Attachment

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Metro-North Railroad
MTA Bridges and Tunnels

MTA Capital Construction
MTA Bus Company



Memorandum



New York City Transit

Date July 24, 2014

To Thomas F. Prendergast
Chairman and Chief Executive Officer, Metropolitan Transportation Authority

From Carmen Bianco, President, NYC Transit 
Darryl C. Irick, Senior Vice President, NYC Transit Department of Buses 
President, MTA Bus Company

Re **MTA NYC Transit Response to OSC Audit of Medical Assessment Centers
(Report 2013-S-33)**

We have reviewed the Office of the State Comptroller's ("OSC") draft report of the MTA New York City Transit ("Transit") Medical Assessment Centers ("MACs"), and we appreciate the opportunity to respond on behalf of Transit and the MTA Bus Company ("MTA Bus") as follows:

Transit and MTA Bus response to the background section of the draft report:

As indicated in documentation distributed at a March 4, 2014 exit conference related to this audit, the OSC "received a complaint that alleges there will be significant increased costs resulting from using the MACs instead of an outside vendor for MTA Bus employees". The primary focus of this audit, as indicated in the OSC's letter was "to determine if the MACs performed medical examinations for New York City Transit and MTA Bus employees in an economical manner". We are pleased that the audit determined that the MACs are less costly than the previously utilized contractor.

With respect to the MTA Bus operations, we would like to reiterate that the decision to use a contractor to provide medical assessments during the early period of formation of MTA Bus was, as stated in the Staff Summary, both more economical and practical. MTA Bus was created in September 2004 in response to a request by New York City for the MTA to assume the operations of several franchised private bus carriers. New York City provides all the funding for the operations of MTA Bus.

As MTA Bus began acquiring the private carriers, it needed to quickly establish required medical services to replace those that had previously been supplied by the private carriers. The existing MACs within Transit could not be scaled up fast enough to handle the increased volume of employees requiring services at the time. In fact, when the decision was eventually made to bring the services in-house, Transit needed time to open a new MAC and hire additional medical staff to handle the additional volume of work required. In order to meet the immediate need for medical services, it was initially both more economical and practical to use a contractor with existing facilities that could more efficiently handle the work and support the scaling up of operations. We therefore elected to amend our relationship with an existing competitively-bid contractor who was providing the services required for the Long Island Rail Road, Metro-North, and MTA HQ to add the necessary services for MTA Bus during its initial period of operations.

While we were unable to provide the OSC with evidence that a cost benefit analysis was done in 2005 to support the Staff Summary, it should be noted that the date of the decision is older than the requirements for record retention of the statute of limitations.

As was noted in the OSC draft report, MTA Bus did begin using Transit's in-house medical unit to perform pre-employment medical examinations in 2006.

In 2010, MTA Audit Services performed an analysis utilizing data from the contractor and the normalized headcount of MTA Bus and came to the conclusion it would be more efficient to provide the medical services in-house. This conclusion, combined with DOB's concerns regarding the quality of the services being provided by the contractor, resulted in MTA Bus exiting the multi-agency medical services RFP and eventually entering into a MOU with Transit to provide medical services. The decision was based on both the potential for cost savings and a desire to have better control over the quality of the services being provided.

Ultimately, this led to Transit constructing an additional MAC to handle the increased volume of employees.

Transit began examining employees from two MTA Bus depots during the last quarter of 2010 and assumed full responsibility for all MTA Bus employees on January 3, 2011, after the completion of the new MAC.

Transit and MTA Bus response to the "Results of Audit" section of the draft report:

The narrative in the report states that the MTA lacks a formal policy concerning the amount of time an employee is allowed to visit a MAC outside of regularly scheduled work hours. However, this statement does not take into consideration that there is sufficient guidance for the amount of time to be paid in the collective bargaining agreements ("CBAs") of the Transit bus employees. Furthermore, because there is no specific language in MTA Bus' CBAs regarding time allowed at the MAC, their Labor Relations department has provided clear guidance to the timekeeping units on how to treat such transactions. Therefore, the Transit CBAs and MTA Bus labor relations department guidance are, collectively, the formal policies supporting how employees are to be paid.

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Comment
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Transit and MTA Bus response to the recommendations:

Recommendation 1:

Formally assess the cost-effectiveness of the overall MAC program and individual MACs.

Transit and MTA Bus response to Recommendation 1:

Transit and MTA Bus disagree with this recommendation. As indicated by the study done by MTA Audit Services in 2010, as well as OSC's own findings, the in-house MACs are less costly to run than those provided by outside contractors. Further, we believe it is beneficial to provide in-house services so that we can better control the quality and consistency of the medical services provided. The only way to accurately assess if there are other less costly alternatives to the in-house MACs would be through a lengthy request for proposal ("RFP") process which is costly to both the MTA and potential bidders. It would not be worthwhile doing an RFP if it is unlikely we would accept a contract from one of the bidders for the services. We believe the use of the in-house MACs has proven to be advantageous to the MTA in many ways. We, therefore, do not believe we should incur the additional cost required to formally re-assess the cost-effectiveness of the in-house MAC program at this time.

Recommendation 2:

Formally review the varying depot policies pertaining to time and attendance related to employees' MAC visits. As warranted, establish policies to ensure that time allotments for MAC visits are reasonable.

Transit and MTA Bus response to Recommendation 2:

Transit and Bus agree with this recommendation. We will review the policies being followed by the depots and investigate the inconsistencies reported. Based on the results of our investigation, we will take corrective action as necessary. In the interim, we will issue a memorandum to the depots re-instructing them on the proper way to handle time and attendance related to employees' MAC visits. We believe, however, that we currently do everything possible within our control to ensure that time allotments for MAC visits are reasonable.

Recommendation 3:

Formally review the varying depot assignments to their designated MACs. Adjust depot assignments as warranted.

Transit and MTA Bus response to Recommendation 3:

Transit and MTA Bus agree with this recommendation. Two of the depots (Jamaica and Queens Village) will be reassigned to MAC#9 once renovations are completed and an analysis of the travel time of the four remaining MTA Bus depots will be performed.

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Comment

2

Recommendation 4:

Ensure that MAC intake units confirm the identities of the employees arriving for examinations.

Transit and MTA Bus response to Recommendation 4:

Transit and MTA Bus agree with this recommendation. An email was sent to all the MACs as a reminder that all employees visiting a MAC must be asked for and are required to present identification. Further, information from the identification is now written on the sign-in sheets and initialed by the administrative staff completing them.

Recommendation 5:

Instruct MAC staff on the importance of entering accurate times of arrival and departure to the MAC database.

Transit and MTA Bus response to Recommendation 5:

Transit and MTA Bus agree with this recommendation. MAC officials have designated an individual to perform internal quality assurance for these administrative tasks and to ensure prescribed procedures are followed.

We thank the OSC for the opportunity to respond to the draft audit report.

State Comptroller's Comments

1. Based on information provided by the MTA in its response, we deleted the reference to a lack of formal written policy from the final report. Nonetheless, as the report indicates, there were widely varying practices in place at the 22 depots we site visited.
2. We acknowledge that the in-house MACs were less costly to run than those operated by private providers. Moreover, we do not suggest or recommend that MTA officials issue an RFP to determine if there are less costly alternatives. As noted in the report, we determined the cost per visit of MAC #9, but were unable to determine such unit costs for other MACs because the costs for the other locations were not discretely segregated. Consequently, we recommend that the MTA develop unit cost data for the overall MAC program and each individual MAC and determine if the respective unit costs are reasonable or if program adjustments are warranted to improve effectiveness and efficiency.