

Office for People With Developmental Disabilities

Controls Over Transportation Services and Transportation-Related Expenses

Report 2019-S-38 | July 2020

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

Our audit objective was to determine whether the Office for People With Developmental Disabilities (OPWDD) has established adequate controls to effectively monitor and ensure accountability over transportation expenses and services. The audit covers OPWDD transportation expenses (outside New York City) for the period April 1, 2016 through March 31, 2019 and subsequent documentation and information obtained through March 13, 2020.

About the Program

OPWDD is responsible for coordinating services for nearly 140,000 New Yorkers with developmental disabilities. OPWDD also regulates, certifies, sponsors, and oversees approximately 650 community-based service providers. Transportation costs and services can represent significant agency expenses, and also affect the safety of persons in the care of the State. Outside New York City, nine Developmental Disabilities Services Offices (DDSOs) are responsible for administering the transportation of clients from OPWDD-run residences to service providers or for other purposes. Between April 1, 2016 and March 31, 2019, OPWDD's transportation expenditures, outside New York City, totaled approximately \$104.2 million.

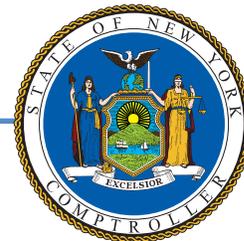
Key Findings

- We found several areas where OPWDD could improve accountability over transportation expenses and services. For example, OPWDD could take additional steps to monitor employee driving records and require training or counseling for employees with poor driving records to ensure the safety of individuals it transports. When notified that an employee's license has been revoked or suspended, OPWDD has processes in place that, if properly followed, reasonably ensure the employee is no longer allowed to drive OPWDD vehicles. However, OPWDD does not have controls in place to educate or improve driving skills for employees with frequent driver license interruptions or serious violations (e.g., speeding, disobeying traffic devices, driving while intoxicated). OPWDD could also improve controls to ensure vehicle recalls are repaired timely. We found that 219 vehicles had 235 unresolved (open) recall notices. Most (201) had been open for over 9 months. Some of the recalls were of a serious nature, and increase the risk of an accident and/or injury (e.g., faulty anti-lock brakes and faulty seatbelts).
- OPWDD has issued limited guidance to DDSOs for monitoring repair and maintenance costs for its fleet and does not monitor these costs centrally. Some DDSOs have individually established their own practices to procure and monitor repairs and maintenance of their vehicles, while others do not actively monitor these costs at all. Due to the varying processes, certain DDSOs have better assurance they are getting the best pricing for services than others do.

Key Recommendations

- Develop and implement procedures to improve employee driving practices, such as offering training or counseling, to ensure safety of clients, passengers, and the public.
- Develop processes to track recalls and vehicle inspections and provide guidance to DDSOs on their responsibilities to maintain vehicles, including ensuring recalls are repaired timely and vehicle inspections are valid.

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- Develop procedures to monitor repair and maintenance costs agency-wide.



Office of the New York State Comptroller Division of State Government Accountability

July 28, 2020

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

Dear Dr. Kastner:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Controls Over Transportation Services and Transportation-Related Expenses*. This audit was performed 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
Contract	Centralized procurement contract used by OPWDD for fleet management and repair services, administered by the Contractor	<i>Key Term</i>
DDSO	Developmental Disabilities Services Office	<i>Office</i>
DMV	Department of Motor Vehicles	<i>State Agency</i>
NHTSA	National Highway Traffic Safety Administration	<i>Federal Agency</i>
OGS	Office of General Services	<i>State Agency</i>
OPWDD	Office for People With Developmental Disabilities	<i>Auditee</i>
Policy	OPWDD's Fleet Management Policy	<i>Policy</i>

Background

The Office for People With Developmental Disabilities (OPWDD) is responsible for coordinating services for nearly 140,000 New Yorkers with developmental disabilities, offering services directly and through a network of approximately 650 community-based service providers. Services provided by OPWDD include long-term care and residential support and services, primarily in community settings.

Outside New York City, nine Developmental Disabilities Services Offices (DDSOs) administer State operations for OPWDD across the State, including the transportation of clients from OPWDD-run residences to service providers, medical appointments, and other places of necessity (e.g., drug or grocery store). Transportation is sometimes provided directly by DDSOs, which, in total, operate a fleet of about 3,000 State-owned vehicles, or through private contractors. There are also occasions where OPWDD reimburses community-based service providers for transportation services, such as those provided to individuals in their care.

OPWDD's regulations and policies have specific requirements addressing the safety and well-being of individuals receiving services from OPWDD or its providers. These policies include the requirement that DDSOs have procedures in place to ensure that individuals are transported safely and that vehicle operators are properly trained and comply with all State licensing and traffic laws.

Additionally, the Statewide Vehicle Use Policy, issued by the Executive, requires OPWDD to implement controls over vehicle use to ensure they are operated cost effectively and efficiently and used expressly for official State business. These controls include maintaining vehicle use logs, conducting audits of vehicle logs, and adopting vehicle use and control procedures. Toward this end, OPWDD's Fleet Management Policy (Policy), issued in November 2017, requires DDSOs to maintain vehicle use logs including fuel and oil purchases for each vehicle to record specific details for every trip, such as date and time of travel, driver and passenger names, and purpose. Supervisors must review each log for completeness and accuracy. The Policy also establishes other general requirements and restrictions to guard against misuse of State assets and resources.

OPWDD has also established other administrative controls. For example, fuel cards are assigned to vehicles, not individuals (except for emergency purposes), and should be used only for fuel and, in emergency situations, vehicle maintenance products (e.g., motor oil, transmission fluid). Further, the Office of General Services (OGS), in January 2018, directed all State agencies to use State-owned fueling facilities whenever practical to maximize savings because they are generally more economical than corporate gas stations.

OPWDD is required to maintain fleet vehicles to ensure they are safe to transport clients – this includes ensuring all vehicle manufacturer recalls are repaired and that vehicles are inspected each year as required by the Department of Motor Vehicles (DMV). Both OPWDD employees and private repair shops maintain and repair vehicles in OPWDD's fleet. OPWDD also uses a centralized procurement contract (Contract) for fleet management and repair services, administered by the Contractor. The Contract, negotiated and entered into on behalf of the State by OGS,

provides a network of repair shops across the State for needed services, including routine maintenance and repairs, roadside assistance, and towing. The Contract's fleet management services are offered on a per occurrence basis or under monthly enrollment pricing, which comes with an attached maintenance fee of \$5.15 per light duty vehicle in addition to the actual charge per service.

For the period April 1, 2016 through March 31, 2019, OPWDD transportation expenditures, outside New York City, totaled approximately \$104.2 million, including \$14.6 million to the Contractor, of which about \$572,000 was for maintenance fees.

Audit Findings and Recommendations

Despite statewide and agency policies intended to promote accountability for transportation services, including the use of State vehicles and related expenses, OPWDD has not always followed through with sufficient controls to ensure compliance among DDSOs. In some instances, the lack of accountability ultimately poses safety risks to OPWDD's staff and vulnerable clients. For example:

- When notified that an employee's license has been revoked or suspended, OPWDD has processes in place that reasonably ensure the employee is no longer allowed to transport clients. However, OPWDD does not monitor employees' driving records to identify those with risky driving behaviors, evidenced by frequent license suspensions or serious violations, and prevent them from transporting clients or using State vehicles. We found 11 drivers who were still employed by OPWDD and permitted to drive clients despite records showing multiple traffic infractions and/or accidents, including one who had eight traffic violations as well as a Driving While Intoxicated violation within a six-year period.
- DDSOs are not responsive to manufacturer recall notices. As of September 20, 2019, 219 vehicles had 235 unresolved (open) recall notices, 201 (86 percent) of which had been outstanding for over nine months. Some of the recalls were of a serious nature, and increase the risk of an accident and/or injury (e.g., faulty anti-lock brakes and faulty seatbelts).

Based on our site visits to four DDSOs (Finger Lakes, Hudson Valley, Taconic, and Long Island), we determined OPWDD has issued limited guidance to DDSOs on procuring and monitoring repair and maintenance costs for its fleet and does not monitor these costs centrally. As a result, some DDSOs have established their own practices for best-price procurement and monitoring of vehicle repairs and maintenance. However, others do not monitor these costs at all and are likely not receiving best pricing for services. Furthermore, OPWDD relies largely on the centralized procurement Contractor to provide competitive vehicle repair and maintenance services, but has done limited to no analysis of pricing to determine whether the Contractor is, in fact, the most cost-effective source for services.

We also identified other areas of operations that lack sufficient oversight to ensure OPWDD is receiving the services and goods it is paying for and is receiving them at the best price.

Transportation Safety

Employee Driving Histories

Employees who are responsible for transporting clients are required to have a valid driver's license. When notified that an employee's license has been revoked or suspended, OPWDD has processes in place that, if properly followed, reasonably ensure the employee is no longer allowed to drive OPWDD vehicles, either through employment termination or suspension, as appropriate. Staff whose suspended license is reinstated are allowed to resume driving responsibilities. OPWDD does

not proactively monitor driving records as long as employees maintain an active license, nor does it require safe driver training or counseling. OPWDD only reviews staff driving records if a license is revoked or suspended. Staff who are allowed to drive despite a history of dangerous driving behaviors may continue to jeopardize the safety of not only their passengers but the public as well.

Using the DMV's COMPASS driving record search application, we reviewed the driving history for 71 OPWDD employees whose duties may include transporting clients. We found 11 drivers with multiple traffic infractions and/or accidents who, despite a poor driving record, were still employed and permitted to drive by OPWDD. OPWDD reviewed the driving history of one of the 11 drivers, whose license was suspended, to assess whether the driver was fit to transport individuals. Although this employee had eight traffic violations, as well as a Driving While Intoxicated violation between December 11, 2013 and March 15, 2019, OPWDD continued the driver's employment, once their license was restored, without additional training or counseling in safe driving practices. OPWDD has not reviewed the driving history for the remaining ten employees, although their records suggest a potential risk to clients and the public. For example, one of the ten drivers was in four accidents and incurred four more traffic violations between January 31, 2017 and October 26, 2018.

In addition, based on information identified during our site visits to four DDSOs, we separately identified two staff responsible for transporting clients whose driver's license had been suspended multiple times within a relatively short period of time but whose employment continued. Between June 24, 2016 and December 3, 2019, one driver had their license suspended 11 times, was convicted of seven traffic violations, and was involved in one accident. The other employee was convicted of six traffic violations and had their license suspended seven times between November 11, 2016 and June 6, 2019.

It is critical that OPWDD actively monitor employee driving records to ensure that those with dangerous driving behaviors receive appropriate training in safe driving practices to minimize the risks to clients and the public. Additionally, OPWDD should consider reassigning employees, when practicable, to duties that do not require transportation of clients. According to OPWDD officials, they are in the process of drafting a policy to address this issue, but weren't prepared to make this draft policy available during our audit.

Vehicle Recalls and Inspections

The National Highway Traffic Safety Administration (NHTSA) issues vehicle safety standards and requires manufacturers to recall vehicles that have safety-related defects or that do not meet federal safety standards. Defects can include steering components that can break suddenly, wiring problems that can result in a fire, and wheels that can crack or break. NHTSA maintains a database of unresolved (open) recalls for specific vehicles. Vehicles are removed from the database after the manufacturers report that they have completed the repairs.

DDSOs are responsible for maintaining vehicles, but OPWDD has not provided them

with guidance on handling open recalls and does not have procedures to verify that defects identified by recalls are repaired in a timely manner.

We searched publicly available NHTSA recall information against 3,073 active vehicles and found that 219 vehicles had 235 open recall notices as of September 20, 2019. Most (201) had been open for over 9 months and some for several years. Some of the recalls were of a serious nature, and pose an increased risk of an accident and/or injury. For example, recalls on these vehicles were for unintended engine shut-off, faulty anti-lock brake systems, and faulty seatbelts.

The four DDSOs we visited (Finger Lakes, Hudson Valley, Taconic, and Long Island) accounted for 162 of the 235 open recalls. We notified DDSO officials of the open recalls and requested support to determine if the recalls had been repaired. DDSO officials provided documentation that one of the open recalls had been corrected; however, this repair had yet to be reflected in the NHTSA database. OPWDD officials also stated that ten vehicles with 13 open recalls were taken out of service and that 53 additional recalls were no longer outstanding. However, they did not provide us with documentation to support when the vehicles were taken out of service or when the repairs were made. Therefore, we couldn't determine if these changes occurred before or after we informed the DDSO of the outstanding recall. However, we verified the 53 recalls were repaired before the issuance of this report. OPWDD did not provide support for the remaining 168 open recalls on 156 vehicles.

We also determined that OPWDD does not centrally track vehicle inspection information and has not provided guidance to DDSOs on their responsibilities to monitor vehicle inspections. Up-to-date inspections provide assurances that vehicles are safe to operate. During visits to the same four DDSOs, we made general observations of the vehicles located on site at the time and found that 9 of 182 vehicles were in use despite expired State safety inspections.

Contract Expenditures

Repair and Maintenance Expenses

OPWDD has issued limited guidance to DDSOs on procuring and monitoring repair and maintenance costs for its fleet. Therefore, some DDSOs have established their own practices to procure and monitor vehicle repair and maintenance for best cost, while others don't actively monitor costs at all, and generally rely on the services available through the Contractor at the rate provided. Due to the varying processes, certain DDSOs have better assurance they are getting the best pricing for services than others do.

At the Finger Lakes and Long Island DDSOs, officials stated they take steps to negotiate best prices for services. At Finger Lakes, for example, officials generally negotiate with vendors for select repairs, such as transmissions, collision/accident repair, and glasswork, at lower prices than they would have paid through the Contract, and then work to get the vendor approved by the Contractor and added to the centralized procurement contract. At the Long Island DDSO, officials stated

they seek out improved pricing for all services over \$500. In addition, officials at both these DDSOs indicated that if they use the Contract, they compare the agreed-upon price to the invoice provided by the Contractor to verify they match. Officials at both of these DDSOs stated they have received improved pricing by negotiating outside the Contract for certain services. The Taconic and Hudson Valley DDSOs generally relied on the Contract for services, did not obtain any other quotes, and did not verify pricing against the Contract terms or monitor the payments made on the Contract for accuracy.

OPWDD performs limited to no central monitoring to determine if the Contract is the most cost-effective source for needed services versus other vendors. Further, the transactional data that OPWDD receives from the Contractor is not sufficient to adequately monitor vehicle repair and maintenance costs. The Contractor's transactional data generally does not identify specific parts or products but rather uses generic category codes for a variety of parts and products that fit the general description but that range widely in cost. For example, the Contract data will show that an oil change was performed, but it often does not specify the number of quarts or type of oil used (e.g., conventional, synthetic, blend), both of which impact the price.

According to OPWDD, the cost of an item or service can vary based on many factors, such as the "grade," or general condition, of a part and whether it's a manufacturer part or aftermarket, new or used. The Contract data does not include this type of granular detail that would be necessary to do a statistical assessment or even an "apples-to-apples" comparison of prices. Also, the data cannot be used to determine if the correct price was paid based on the terms of the Contract. OPWDD can request more detailed information from the Contractor, but does not as a general practice. As such, it was not clear what level of detail the Contractor maintains and what could be provided to monitor repair costs. OPWDD officials stated they rely on the Contractor as an expert to provide the best pricing. However, OPWDD should seek out the best prices for services when it's beneficial to the State. With the current processes in place, there is limited assurance OPWDD is obtaining the best pricing for these services or the pricing required under the Contract agency-wide.

Maintenance Fees for Inactive Vehicles

DDSOs do not consistently track when vehicles in their fleet become inactive, and OPWDD has not provided guidance to DDSOs on how they should track and when to remove vehicles from the Contract. As such, there is a risk that DDSOs may be improperly paying the Contractor monthly maintenance service fees on inactive vehicles – a concern that an official at one DDSO expressed to us.

Because DDSOs do not always track when vehicles become inactive, we were unable to determine how much DDSOs paid in Contract monthly maintenance service fees for all inactive vehicles. However, we analyzed fuel card data for select vehicles at the four DDSOs, along with Contract data, and identified 58 vehicles with Contract monthly maintenance service fees charged to OPWDD after they were likely taken out of service, accounting for a total of approximately \$2,600.

General Control Weaknesses

Missing/Incomplete Fuel and Mileage Logs

Vehicle logs (fuel and mileage) are used as a control to provide assurance that State vehicles are used solely for business purposes and protect State resources from waste and abuse. At the four DDSOs, we found fuel and mileage logs were not always maintained or completed as required. Despite its Policy requiring that a designated supervisor collect, review, and approve the logs for completeness and accuracy on a regular basis, as a basis to assess that fuel purchases are for DDSO vehicles, OPWDD doesn't have procedures in place to adequately monitor compliance.

For 76 of 1,347 active vehicles for the four DDSOs, we requested fuel and mileage vehicle logs, accounting for a total of 2,780 logs, as well as three additional fuel purchase logs for fuel cards that were assigned to individuals (rather than to vehicles).

For the 76 vehicles:

- The DDSOs could not provide fuel logs for 36 vehicles (47 percent). Furthermore, only 2 of the 40 fuel logs provided (5 percent) were completed with all the required information.
- The DDSOs did not provide mileage logs for 10 vehicles (13 percent).

Of the 2,780 fuel and mileage logs requested:

- We did not receive 1,393 logs, including 839 fuel logs and 554 mileage logs.
- Of the 1,387 vehicle logs received, only 474 logs (34 percent) were complete and supported the vehicles' use and fuel transactions.

In addition, for the three fuel cards assigned to individuals, we received only 1 of 14 fuel logs (7 percent).

In response, OPWDD officials stated it was not possible for them to locate all of the requested logs in the time frame we provided. Officials stated they later located 133 of the 1,393 missing logs and that an additional 153 logs did not exist because the vehicles were inactive. However, we were not able to review the logs ourselves to verify this. Officials also asserted that 61 of the logs identified as incomplete were actually complete. For example, for logs that lacked the required supervisory approval and were thus incomplete pursuant to the Statewide Vehicle Use Policy as well as OPWDD's Policy requirements, OPWDD contested our determination on the grounds that the logs themselves did not contain a place for a signature.

Use of Statewide Fueling Stations

OPWDD could better leverage State fueling stations to save on fuel costs for its

fleet. Using fuel card transaction data and Geographic Information System software, we identified certain transactions made at commercial fueling stations that were within a five-mile driving distance of a State-owned fueling station and performed a price comparison based on fuel card transaction data. While price per gallon was sometimes less at commercial fueling stations compared with State-owned fueling stations, overall we determined it would have been less expensive to purchase from State-owned fueling stations. Of 66,893 transactions, totaling \$2,235,184, OPWDD could have saved approximately \$130,000 (about 6 percent) on about 43,000 transactions had the DDSOs used a State-owned fueling station.

In some cases, we found DDSOs were not aware that the State-owned fueling stations accepted fuel cards. OPWDD has not regularly communicated this option to DDSOs and only one of the nine DDSOs (outside New York City) had written policies for the use of State fueling stations.

Questionable Transactions and Expenses

We identified \$2,036 in improper payments for expenses such as sales tax and waste tire fees, which State entities are exempt from paying, and car washes, which are not allowed under statewide guidelines for fuel cards. Due to weak monitoring of expenses by both OPWDD centrally and by the DDSOs themselves, these improper expenses were paid. We also discovered that DDSOs don't always separate out certain expenses by category, but instead pay for them out of a general fund. These improper expenses include traffic violation fines incurred by employees, who, according to OPWDD's Policy, are personally responsible for all parking, moving, and other violations. OPWDD officials provided us with a list of 103 tickets paid by the Long Island DDSO for red light tickets between December 2012 and April 2018. In total, OPWDD paid \$12,540 for these tickets, which should have been paid by the employees who received them. Because DDSOs don't always track traffic violation fines separately, this issue could apply to other traffic violation fines (not just red light tickets) and at all DDSOs (not just the one Long Island DDSO).

We also identified 335 fuel card transactions, totaling \$18,313, where the amount of fuel purchased exceeded the vehicle's fuel tank capacity by one or more gallons. DDSOs were unable to provide support for 310 transactions (93 percent), representing \$2,776 in excess fuel. Documentation provided by DDSOs identified 25 fuel card transactions (\$324) that were for non-vehicle business expenses, such as fuel for generators, lawn mowers, and other vehicles. OPWDD officials said the excess fuel for the remaining 310 transactions was likely purchased for similar reasons, but did not provide documentation to support this.

Recommendations

1. Develop and implement procedures to improve employee driving practices, such as offering training, counseling, or reassignment, to ensure safety of clients, passengers, and the public.
2. Develop processes to track recalls and vehicle inspections and provide

guidance to DDSOs on their responsibilities to maintain vehicles, including ensuring recalls are repaired timely and vehicle inspections are valid.

3. Develop procedures to monitor repair and maintenance costs agency-wide, including, but not limited to:
 - Assessing cost effectiveness of repairs and maintenance (from the Contractor or other sources);
 - Obtaining and analyzing detailed services data from the Contractor; and
 - Monitoring inactive vehicles against the Contract to avoid unnecessary maintenance fees.
4. Communicate and develop processes to periodically verify DDSOs' responsibilities for controls over transportation expenses, including, but not limited to:
 - Fully completing and maintaining fuel and mileage logs;
 - Utilizing the most cost-effective methods for fuel purchases; and
 - Monitoring expenses to ensure they are appropriate and made in accordance with all agency rules and regulations.

Audit Scope, Objective, and Methodology

Our audit objective was to determine whether OPWDD has established adequate controls to effectively monitor and ensure accountability over transportation expenses and services. The audit covers OPWDD transportation expenses (outside New York City) for the period April 1, 2016 through March 31, 2019 and subsequent documentation and information obtained through March 13, 2020.

We became familiar with, and assessed the adequacy of, the Department's internal controls as they related to our audit objective. We reviewed applicable laws, regulations, policies, and procedures. We also conducted interviews with officials in OPWDD's Central Office and DDSOs to become familiar with the internal controls related to transportation expenses and services. We selected various samples of expenses, services, employees, vehicles, procurement cards, and locations. The results of our samples cannot be projected to the population as a whole.

We verified reliability of the data used to select our samples and conduct our audit work, and found each data set was generally reliable for the purposes of our audit. We were unable to test the reliability of DMV's electronic record search application for our review of employees' driving record history. For those data sets where we could not fully test reliability, we relied more heavily on corroborating evidence to support our findings to further limit our reliance on the data.

We conducted site visits and additional testing at four of the nine DDSOs outside of New York City. These four DDSOs were judgmentally selected based on geographic location and transportation costs. To assess OPWDD's controls over transportation services, we used a DMV application to review the driving records for a sample of 71 employees. We identified four groups of OPWDD employees whose driving records we wanted to review to identify those with multiple traffic violations and/or accidents and to determine whether OPWDD officials had taken appropriate action. In total, we selected the sample as follows:

- 38 selected randomly from the 18,050 OPWDD employees in a job title that requires a driver's license;
- 25 selected judgmentally from the 60 drivers who either caused an accident while working or were driving during a no-fault accident with a client in the vehicle, according to information provided by one DDSO we visited;
- All 6 drivers who had two or more accidents while working, according to a list provided by one DDSO we visited; and
- Both drivers who have been through the FELIX process six times at one DDSO we visited, according to information provided by the DDSO.

In addition, we used a vehicle recall search service to identify any open NHTSA recall repairs on active OPWDD vehicles and requested support for all unrepaired recalls on vehicles at the four DDSOs we visited. While we conducted testing to verify that the vehicle recall search service results represent the same data as in NHTSA's database, we could not fully test the NHTSA database for completeness. However, the information we used is publicly available and serves as the industry's

standard for reporting recalls. Car manufacturers, car dealers, and car repair shops, as well as the general public and government officials, all have a vested interest in the accuracy of this data, which provides some control. We also obtained inventory listings of vehicles and conducted vehicle observations for a judgmental sample of 182 of 1,229 active vehicles on four DDSOs' vehicle inventory listings. These 182 vehicles were judgmentally selected based on vehicle usage and the geographic location of the vehicle according to the fleet inventory.

We obtained and analyzed the Contract for our scope. We also reviewed vehicle fuel and mileage logs for a judgmentally selected sample of 76 of 1,347 vehicles on OPWDD's fleet inventory listing for the four DDSOs we visited. This sample was based on various risk factors, such as fuel card activity and fuel economy. We reviewed 1,387 fuel and mileage logs (551 fuel and 836 mileage) each covering a one-month period for these 76 vehicles. We also requested fuel logs for three fuel cards assigned to individuals (rather than to vehicles). These cards were judgmentally selected based on purchase date. To determine whether fuel transactions were in line with the fuel tank capacity of the vehicle they were associated with, we obtained the make, model, and year of fleet vehicles from the NHTSA. Using this information, we reviewed vehicle manuals to determine each vehicle's specified fuel tank capacity.

We also conducted limited testing on transportation-related fuel card, procurement card, and Statewide Financial System transactions. Each of these samples was judgmentally based on dollar amount and/or transaction type. Of the 13,428 payments totaling \$26,755,404 made by the four DDSOs visited from April 1, 2016 through March 31, 2019, we reviewed 10 totaling \$6,040. Of the 4,564 procurement card transactions totaling \$1,478,186 made by the four DDSOs visited from April 1, 2016 through March 31, 2019, we reviewed 56 totaling \$56,879.

We also used Geographic Information System tools to conduct an analysis to determine the driving distance, via car, between commercial fueling stations and the nearest State-owned fueling facility that offered unleaded fuel and was open to all State vehicles. We included only commercial fueling stations with fuel card transactions for unleaded fuel totaling at least \$5,000 during our scope. No analysis of travel time was conducted. This analysis used the NYS Streets data made available by the Office of Information Technology Services Geographic Information Systems Program Office (the streets data used for this analysis is from 2016).

Statutory Requirements

Authority

The audit was performed 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 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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

We provided a draft copy of this report to OPWDD officials for their review and comment. We considered their comments in preparing this final report, and they are attached in their entirety at the end, along with our own Comptroller's Comments. Officials generally agreed with our recommendations, but took exception to the characterization of certain findings.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office for People With Developmental Disabilities 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.

Agency Comments



Office for People With Developmental Disabilities

ANDREW M. CUOMO
Governor

THEODORE KASTNER, MD, MS
Commissioner

June 8, 2020

Mr. Brian Reilly
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

Dear Mr. Reilly:

Attached is the Office for People With Developmental Disabilities' comments on the Office of the State Comptroller's draft audit report 2019-S-38 entitled "Controls Over Transportation Services and Transportation-Related Expenses."

Sincerely,

Anthony J. Dolan
Principal Internal Auditor

Executive Office

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**Office for People With Developmental Disabilities'
Response to the Office of the State Comptroller's Draft Audit
Report (No: 2019-S-38): "Controls Over Transportation Services
and Transportation-Related Expenses."**

The New York State Office for People With Developmental Disabilities ("OPWDD") provides the following response to the Office of the State Comptroller's ("OSC") draft audit report (2019-S-38) entitled "Controls Over Transportation Services and Transportation-Related Expenses." OPWDD provides services and support to over 138,000 individuals with developmental disabilities throughout New York State. OPWDD staff use State-owned vehicles for a variety of purposes, including transporting individuals with developmental disabilities, bringing maintenance crews to OPWDD offices and residences, and assisting managerial staff in providing necessary oversight and supervision.

OSC's audit focused on whether OPWDD had established adequate controls to effectively monitor and ensure accountability over transportation expenses and services. OPWDD provides the following responses to OSC recommendations:

RESPONSE TO OSC'S RECOMMENDATIONS

Recommendation #1: Develop and implement procedures to identify employees with high-risk driving histories and take action, such as requiring training, counseling, or reassignment, to ensure safety of clients, passengers, and the public.

OPWDD Response: OPWDD agrees with this recommendation but objects to the suggestion that such procedures are currently not in place at the agency. As acknowledged in OSC's report, OPWDD has an effective process to monitor and obtain prompt notification when employees' licenses are revoked or suspended. OPWDD receives daily email notifications from the License Event Notification Services (LENS) program – which is connected to the New York State Department of Motor Vehicles (DMV) – to monitor employees' driver's license status and ensure they are qualified to drive a State vehicle. LENS notifies OPWDD if an employee's license status has changed, including suspensions and expirations. OPWDD takes swift action to ensure that any employee who does not have an active or valid license will not be allowed to drive a State vehicle nor transport individuals under the agency's care or supervision. Such an employee may also be terminated if driving is a minimum job qualification for their position. In fact, OSC's review of a sample of OPWDD employee records reflects that several OPWDD employees were terminated for those reasons.¹ OPWDD also disagrees with OSC's recommendation to take additional administrative/disciplinary action against employees, which is unauthorized and contrary to collective bargaining procedures. Section 33 of the Collective Bargaining Agreement between OPWDD and CSEA prevents OPWDD from pursuing administrative action against employees for traffic infractions or accidents that occur outside the workplace. Further, the Classification Standards for OPWDD job titles issued by the Department of Civil Service outline minimum job qualifications. They require that employees in certain job titles maintain a valid driver's license. Maintaining a driving record free of infractions or accidents is not a minimum job qualification, and OPWDD cannot unilaterally modify the Classification Standards.

Comment 1

¹ OSC chose a sample of 71 employees for review. OSC auditors then performed a more detailed review and inquiry on 18 of those employees. Of those 18, OPWDD informed OSC that it had previously terminated four of them and another three had resigned. The OSC report only describes the remaining eleven.

Recommendation #2: Develop processes to track recalls and vehicle inspections and provide guidance to DDSOs on their responsibilities to maintain vehicles, including ensuring recalls are repaired timely and vehicle inspections are valid.

OPWDD Response: OPWDD agrees with this recommendation but again objects to the suggestion that such processes are currently not in place. OPWDD has centralized its monitoring of vehicle recalls and inspections. However, since this audit was conducted, OPWDD hired a Fleet Manager to oversee all the district transportation coordinators. The Fleet Manager now conducts monthly calls with district transportation coordinators to review recalls and inspections, as well as vehicle maintenance requirements. The Fleet Manager will continue to conduct regular check-ins to monitor recalls and inspections and will continue to review data from the regional transportation coordinators to monitor that OPWDD vehicles are routinely inspected and that recalls are remedied timely.

[Comment 2](#)

Recommendation #3: Develop procedures to monitor repair and maintenance costs agency-wide, including, but not limited to:

- Assessing cost effectiveness of repairs and maintenance (from the Contractor or other sources);
- Obtaining and analyzing detailed services data from the Contractor; and
- Monitoring inactive vehicles against the Contract to avoid unnecessary maintenance fees.

OPWDD Response: OPWDD partially disagrees with this recommendation and recognizes the importance of monitoring the repair and maintenance costs of the agency's vehicles. New York State has contracted with an outside vendor to monitor and schedule cost-effective vehicle maintenance and repair services for the fleet of State vehicles, including the more than 3,000 vehicles in OPWDD's fleet. This contract vendor specializes in automotive repair and employs staff with extensive automotive expertise to ensure that repair services are appropriate, necessary and cost-effective. OSC has recommended that the vendor to provide more detailed service data that goes beyond the requirements of the approved contract specifications but will advance such recommendations for inclusion in future contract negotiations. OPWDD will, however, enhance its monitoring of inactive vehicles to ensure that they are promptly removed from the system to save the \$5 monthly fee per vehicle.

[Comment 3](#)

Recommendation #4: Communicate and develop processes to periodically verify DDSOs' responsibilities for controls over transportation expenses, including, but not limited to:

- Fully completing and maintaining fuel and mileage logs;
- Utilizing the most cost-effective methods for fuel purchases; and
- Monitoring expenses to ensure they are appropriate and made in accordance with all agency rules and regulations.

OPWDD Response: OPWDD partially agrees with this recommendation. OPWDD has revised its fuel/mileage log to be more readable and accurate. This log is now being used statewide. Logs will be reviewed on a periodic, sample basis for completeness and accuracy to verify compliance.

OPWDD also encourages its employees to use cost-effective refueling practices, including utilization of State-operated fuel sites when deemed prudent. In many regions, these sites are not within the designated travel route and require the OPWDD employee to drive further to refuel. Many of these sites have limited hours of operation and fuel costs at these sites are not always the least expensive. OPWDD does not agree with OSC conclusions that OPWDD would have obtained significant savings if employees used State-operated stations. OSC's conclusion does not consider the extra costs in staff time and fuel to travel outside of a regular route in order to utilize a State-operated station. OPWDD will reiterate to staff that they should seek the least expensive fuel on their regular routes, including the use of State-operated fuel stations.

[Comment 4](#)

OPWDD partially agrees with OSC's recommendation that various expenditure types warrant additional monitoring to ensure they are appropriate and made in accordance with all agency rules and regulations. OPWDD disagrees with OSC's conclusion that it should have recouped traffic fines that were incurred by OPWDD employees, at least to the degree to which OPWDD lacks legal authority to recoup funds from an employee (e.g., through a payroll deduction) for a fine. Further, while the pursuit of disciplinary action for reimbursement could potentially serve as a deterrent, the use of staff resources would require the agency to incur administrative costs that would be far greater expense than the fine itself.

OPWDD does agree with OSC's finding that, in some instances (totaling \$308), OPWDD was paying sales tax and tire disposal fees for which it should have been exempt. OPWDD will retrain staff on these exemptions in order to avoid those expenditures in the future.

OPWDD disagrees in part with OSC's finding of inappropriate charges for car washes. These car washes were appropriate expenditures but were charged to an incorrect credit card. OPWDD will inform staff they should not use the fuel credit card for car washes.

Finally, OPWDD partially agrees with OSC's finding that, in some instances, the fuel that was purchased for a vehicle exceeded the vehicle's fuel tank capacity. OPWDD analyzed these charges and found in several cases the employee purchased fuel for the vehicle and another piece of equipment, such as a generator or a lawnmower. In most instances, however, the employee used a credit card that had been assigned to a different vehicle with a smaller fuel tank, making the documentation appear as if the assigned vehicle was filled beyond its tank capacity. OPWDD will reiterate to staff that vehicles must only be fueled using the credit card specifically assigned to that vehicle as well as clarifying which card should be used for the purchase of gas for generators or lawnmowers.

[Comment 5](#)

State Comptroller's Comments

1. We acknowledge in the report that OPWDD has controls in place to ensure that employees with revoked or suspended licenses are not allowed to transport clients. We did not recommend that OPWDD use traffic violations incurred by employees on personal time as the basis for employment-related discipline. Rather, based on the weaknesses we identified in the report, we recommend that OPWDD use available information to improve its monitoring of traffic violations and employee driving histories to enhance employee development and improve client safety. We have revised the final report to clarify this point.
2. During the audit, we received conflicting information regarding controls over monitoring recalls and inspections, but officials stated they believed monitoring was the responsibility of the DDSOs, not the Central Office. During the audit, officials stated they would look into the matter and provide additional information. However, despite multiple requests, officials did not provide any additional information. Therefore, we do not have sufficient evidence to support that OPWDD has centralized monitoring of recalls and inspections.
3. While the vendor specializes in automotive repair, OPWDD, as a user of the centralized procurement Contract, has the responsibility to hold the vendor accountable for compliance with Contract terms, conditions, and specifications, including ensuring costs are competitive and reasonable and negotiating with automotive repair shops. The Contract terms also encourage users to seek improved pricing whenever possible.
4. As explained in the report, our fuel cost-savings analysis included only fuel transactions made at a commercial fueling station within a five-mile driving distance of a State-owned fueling station. Therefore, the additional cost of staff time and fuel needed to drive at most, five additional miles, should be nominal.
5. Although OPWDD officials stated that the fuel charges exceeding vehicle tank capacity were sometimes for legitimate reasons – such as purchasing fuel for other equipment or different vehicles – as noted in the report, officials did not provide support for the legitimacy of the majority of the transactions we identified during the audit.

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