



Metropolitan Transportation Authority

State of New York

February 16, 2016

Ms. Carmen Maldonado
Audit Director
The Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st Floor
New York, NY 10038

Re: Final Report #2015-F-15 (Forensic Audit of Payments to On-Board Service Managers)

Dear Ms. Maldonado:

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

I have attached for your information the comments of Joseph Giulietti, President, Metro-North Railroad, which address this report.

Sincerely,

A handwritten signature in black ink, appearing to read "TFP", with a long horizontal line extending to the left and a small flourish at the end.

Thomas F. Prendergast
Chairman and Chief Executive Officer

C: Donna M. Evans
MTA Chief of Staff

Attachments

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



February 9, 2016

Mr. Thomas F. Prendergast
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
2 Broadway, 20th Floor
New York, NY 10004

**Re: Response to the Follow-up Audit (2015-F-15) of MTA Metro-North Railroad
Forensic Audit of Payments to On-Board Services Managers (2011-S-35)**

Dear Chairman Prendergast:

The Office of the State Comptroller (OSC) audit team performed a follow-up audit to the Forensic Audit of Payments to On-Board Services Managers issued on June 14, 2012. Metro-North Railroad (MNR) had taken a series of actions based on the three original audit recommendations. OSC auditors reviewed the status of these actions, and issued follow-up recommendations. MNR's required response for each follow-up recommendation is detailed below.

Original Recommendation 1 (from Report 2011-S-35):

Investigate the time and attendance of the Unit supervisor and staff and, in addition to any appropriate disciplinary action, take steps to recover any funds paid for hours, and in some cases, days not worked and not charged to accruals. Ensure that any salary overpayment information is taken into account for future pension payments.

Recommendation 1 Follow-up Status (from Report 2015-F15):

Status - Partially Implemented

Agency Action - The Unit's time and attendance was investigated by the Office of the MTA Inspector General (MTA-IG). The MTA-IG recommended that three of the Unit staff be disciplined.

Metro-North officials fined the Assistant Vice President, demoted and cut the pay of the Unit Supervisor, and issued letters of warning to the three staff notifying them that there will be serious consequences if they repeat their behavior. The remaining employee resigned. Metro-North officials stated they did not recover funds for hours not worked because there was not sufficient evidence to support the recovery of funds. As a result future pension payments were not impacted. Metro-North does not have disciplinary policies for managerial employees when such employees engage in conduct discussed in our initial report.

MNR Response to Recommendation 1 Follow-up Status:

MNR would like to clarify that the fine of the former Assistant Vice President (who, as the audit report notes, resigned from MNR in 2012) was imposed by the Joint Commission on Public Ethics (JCOPE), and not by MNR, as part of a settlement agreement related to the individual's violation of the State's Public Officers Law. The audit sets forth the discipline that has already been imposed with respect to the other employees, and having conferred with the MTA Office of the Inspector General, MNR does not believe any additional discipline should be imposed based upon this follow-up audit.

Original Recommendation 2 (from Report 2011-S-35):

Evaluate the necessity of the current level of staffing for the On-Board Services Unit, considering its demonstrated productivity and effectiveness to date. If it is concluded that the Unit is necessary, take steps to make it accountable by addressing each of the weaknesses and questionable activities outlined in the report.

Recommendation 2 Follow-up Status (from Report 2015-F15):

Status - Partially Implemented

Agency Action - A Metro-North official stated that meetings were held to evaluate the Unit, but provided no documentation. The Unit was disbanded, and four positions were transferred to different Metro-North units. Two employees were reassigned to the Service Quality Unit and two were reassigned to the Compliance Unit. We selected ten dates for two employees to determine whether their work was reviewed and their time was accounted for. For one employee there was evidence of supervisory review and the time worked was accounted for.

For the second employee, there is no evidence of supervisory review for the seven days the employee worked nor was the employee's time worked accounted for.

MNR Response to Recommendation 2 Follow Up Status:

Going forward, MNR will ensure that all actions taken based on OSC audit recommendations are well documented. At a minimum, MNR will write a Memo to File that describes the relevant actions taken. As to the evidence of supervisory review of two current employees reviewed during the follow-up audit, MNR disagrees with OSC's assertion that there was "no evidence" of supervisory review for one of the employees. MNR's managers supervise their employees in a variety of ways, both formal and informal, depending upon factors like the nature of the work and the employee's location.

Managers are held accountable for discharging their supervisory responsibilities. In this case, MNR provided OSC auditors with emails sent from the employee to her supervisor regarding work assignments, demonstrating oversight and accountability.

Original Recommendation 3 (from Report 2011-S-35):

Re-examine whether the Assistant Vice President's relative should be transferred to a different work unit.

Recommendation 3 Follow-up Status (from Report 2015-F15):

Status – Implemented

Agency Action - Metro-North transferred the Assistant Vice President's relative to the Service Quality Unit effective June 11, 2012. However, the individual resigned effective June 9, 2012.

MNR Response to Recommendation 3 Follow Up Status:

MNR is in agreement that this recommendation is implemented and has no further comments related to this recommendation.

If you have any questions or need additional information, please contact me. Thank you.

Sincerely,



Joseph J. Giulietti

cc: C. Rinaldi
S. Doering
J. Kesich
K. O'Connor
S. Sarch
N. Gilbertson