



Barry L. Kluger
Inspector General

Office of the Inspector General
Metropolitan Transportation Authority
Two Penn Plaza, 5th Floor
New York, New York 10121
212-878-0000

September 12, 2016

Veronique Hakim
President
MTA New York City Transit
2 Broadway, 30th Floor
New York, NY 10004

Re: **Fraud Controls in the Paratransit
Zero-Fare MetroCard Program -
Follow Up
MTA/OIG #2016-07**

Dear Ms. Hakim:

As you know, MTA NYC Transit's Paratransit division (Paratransit) has provided transportation to riders with disabilities through its Access-A-Ride program (AAR) for more than 20 years. Several years ago, in an effort to reduce costs (as detailed in our enclosed 2014 Report on this subject [MTA/OIG #2014-10]), the MTA Board authorized Paratransit to establish a Zero-Fare MetroCard program (Zero-Fare), which offered free travel to AAR-eligible customers on subways and buses. The goal of the program was to encourage customers to use mass transit instead of individualized AAR services whenever feasible.

Notably, though, when Zero-Fare was approved, NYC Transit and the MTA Board expected that strong controls and oversight to limit fraudulent use of the new Zero-Fare cards would be developed, implemented, and enforced. For its part, Paratransit promised the Board that proper controls would be in place.

Paratransit began issuing Zero-Fare MetroCards in April 2013, with an expected roll-out over time to all 161,000 AAR-eligible customers. In June 2014, we issued MTA/OIG report #2014-10, finding that Paratransit had not instituted a comprehensive system of controls to prevent or detect fraud in the Zero-Fare program. We also found that Paratransit had not created policies and procedures for handling suspected cases of fraud once they are identified. To address these weaknesses, our report provided six recommendations for developing and implementing fraud controls. We sent this report to NYC Transit in preliminary form and asked the agency to provide its written response to our recommendations.

In a letter to the Office of the MTA Inspector General (OIG), dated July 24, 2014 (the 2014 Agency Response), NYC Transit accepted five of our recommendations without qualification, specifically citing a plan to create an anti-fraud unit for Zero-Fare that would develop and

implement such controls. The agency also accepted a sixth recommendation “conceptually” but did not agree to implement it, citing a technological limitation. On August 7, 2014 we issued our Zero-Fare report in final form, which reflected the Agency Response. In our report we noted that:

Going forward, we will continue to monitor as appropriate the agency’s implementation of our recommendations and its efforts to develop fraud controls, particularly those efforts to reduce the risks presented by unsolicited but active Zero-Fare MetroCards.

Notably, these preliminary and final reports, as well as the 2014 Agency Response, were written prior to the onset of your administration as president of NYC Transit.

In 2015, we conducted a follow-up audit to monitor the extent to which Paratransit had implemented the five agreed-to recommendations in our August 2014 report. During this follow-up, described more fully below, we found that Paratransit at best had implemented only one of our recommendations (the sixth) and did little to nothing to implement the other four. Because you had assumed the presidency of NYC Transit in the intervening period, we addressed our preliminary findings, dated March 15, 2016 (the OIG Follow-Up Report), to you and asked that your response include “a timetable for full implementation of the remaining recommendations.”

In your letter dated August 8 (the 2016 Agency Response), NYC Transit agreed with the OIG Follow-Up Report’s findings and comments, re-committed the agency to implementing the remaining agreed-to recommendations, and provided a timeline of the newly planned efforts to do so.

CURRENT STATUS OF RECOMMENDATIONS

The numbering below reflects the order and text of our six recommendations as presented in the originating 2014 report. Immediately following each recommendation, we explain how the agency responded first to our original report and then to our OIG Follow-Up in 2016:

- 1. Centralize accountability and responsibility for developing, implementing, and enforcing fraud controls governing the Zero-Fare MetroCard program.**

2014 Agency Response:

In April 2014, Paratransit was authorized to re-invest savings into a fraud prevention/detection unit, which will be comprised of one manager and two analysts. This unit will develop and implement fraud controls. This unit will work

Veronique Hakim
Re: MTA/OIG 2016-07
September 12, 2016
Page 3

closely with MetroCard Operations [a department of NYC Transit, separate from the Paratransit Division] which is critical to the success of this initiative.

In NYC Transit's quarterly updates to MTA Audit Services, which tracks agency implementation of OIG recommendations, the agency reported that it had implemented the recommendation.

2016 OIG Follow-Up Findings:

The Agency Response strongly implies, if it does not actually assert, that Paratransit created a specialized unit dedicated to the prevention and detection of fraud. However, according to our interviews with the manager of the three individuals assigned to this "unit," their various and primary administrative duties actually leave little if any time for fraud prevention and detection.

Indeed, Paratransit's original request to the NYC Transit budget office did not actually seek authorization to create a "unit" at all. Rather, it asked "to add three employees—one (1) manager and two (2) Associate Transit Customer Service Specialists"—to the already-existing Eligibility Determination Unit of the Paratransit Division. Further, clearly showing that the responsibilities of the manager and two specialists are administrative in nature, the budget request lists their responsibilities as follows: The manager acts as a liaison to other divisions to ensure the dissemination of information; provides technical assistance relative to taking applicant photographs; develops and maintains a system of integrity controls to ensure that all cards are accounted for; and supervises assigned staff. The specialists are to deactivate records when notified that cards are lost, stolen, or undeliverable; and handle refunds to replace lost and stolen cards. Nowhere in these responsibilities, which the staff explained largely involve issuing new or replacement Zero-Fare cards as well as responding every day to dozens of e-mails from customers inquiring about their Zero-Fare cards, is there any mention of fraud-related tasks.

Clearly, Paratransit established the three positions primarily to administer the Zero-Fare program generally, rather than specifically to prevent and detect fraud. Additionally, we confirmed that while some incidental fraud detection occurs, it is neither as focused nor at the level that OIG recommended and to which Paratransit agreed, as discussed under the next recommendation.

2016 Agency Response to the OIG Follow-Up:

NYC Transit acknowledged that it had not followed through previously and confirmed that it has now implemented Recommendation 1. In July 2016, Paratransit reassigned the Manager and one Customer Service Specialist to serve as the Zero-Fare MetroCard Fraud Team. These employees' sole responsibility is to monitor the program for fraud. The agency assured us that the NYC Transit Chief Officer, Internal Investigations & System Security (the Chief Security Officer), will "work closely with this team to develop

efficient analytic and investigative techniques and to implement processes to document cases investigated and substantiated, and actions taken.”

2. **Monitor and analyze Zero-Fare MetroCard and Paratransit trip data to detect suspicious patterns of use including but not limited to the following:**
 - **Instances of Zero-Fare MetroCard usage and Paratransit trips being taken simultaneously.**
 - **Usage of PCA [Personal Care Attendant]-allotted trips in addition to those allotted to the customer (meaning a total of five to eight daily trips), at different times during the day, as opposed to the normal PCA pattern of two trips at the same time—one for the customer and one for the PCA.**
 - **Frequent round trips originating in boroughs other than the Paratransit customer’s home borough.**
 - **Customers needing wheelchairs using non-accessible stations, especially when unaccompanied by a PCA (as evidenced by no accompanying PCA-type swipe).**
 - **Much higher usage of Zero-Fare card versus past Paratransit usage.**
 - **Customers with incongruous usage patterns.**

As we demonstrated in our 2014 report, our audit successfully employed each of these six patterns of analysis to detect suspicious use of Zero-Fare cards.

2014 Agency Response:

Paratransit now receives data from MetroCard Operations [the NYC Transit department outside of Paratransit], and has begun to develop MetroCard utilization reports. These reports include MetroCard activity by client, multiple MetroCard swipes, and ‘high end’ client utilization by county. These reports are being compared to Paratransit reports to identify simultaneous utilization of MetroCards and AAR service and to determine if MetroCard utilization is consistent with the client’s AAR eligibility. The attributes referenced in this recommendation will ultimately be incorporated into the fraud detection program.

In its quarterly updates to MTA Audit Services, NYC Transit reported that the recommendation was implemented and that its new “unit” performs the analyses mentioned in the recommendation.

2016 OIG Follow-Up Findings:

The Agency Response implicitly agreed to perform all six analyses, having taken no issue with any of them. Although the agency’s report to the MTA Auditor General affirmatively stated that

it implemented that recommendation, we found that Paratransit staff had only begun to perform one analysis and not the remaining five. And even as to the one analysis reported as performed—identifying use of a Zero-Fare MetroCard on public transit and simultaneous transportation of the card's owner in a Paratransit vehicle—we believe the staff's approach was overly conservative.

Basically, when a Zero-Fare MetroCard is used to board a bus or subway at the same time that the card's rightful owner is taking a trip in a Paratransit vehicle (e.g. van or sedan), use of that Zero-Fare card, even once, is unauthorized (and thus fraudulent) because its owner—the only one authorized to use that card— simply cannot be in two places at once. In short, no “pattern” is needed to prove the abuse. However, Paratransit staff does not even contact the owner about the suspicious activity observed until this simultaneous usage is repeated at least once per month for three months.

To help us understand why Paratransit staff's approach to fraud analysis is so limited, we met with the individuals managing the Zero-Fare program. We learned that they were not directly involved with the 2014 audit, nor were they fully familiar with our 2014 recommendations. After our audit, Paratransit assigned an information technology (IT) manager to automate the analyses we had recommended. However, he left Paratransit before completion, and no additional work was done. Furthermore, the managers admitted that without additional staffing resources they would not have been able to act on the results of these planned analyses. At a later meeting with Zero-Fare managers and a new IT manager, we demonstrated the range of analyses that we had used to detect patterns of fraud and had recommended in our 2014 report. These managers expressed interest in implementing these analyses, subject to their obtaining approval and resources from Paratransit top management.

In March 2016, we met again with the individuals managing the Zero-Fare program to determine the current status of their efforts. We found that Paratransit staff was no longer addressing instances of simultaneous use of Zero-Fare and regular Paratransit trips, and had redirected their resources to identifying the use at non-accessible stations of Zero-Fare MetroCards issued to customers needing wheelchairs. Here again, Paratransit staff approached the review conservatively by only looking for cards that were used in such a manner at least 10 times per month over three months. For the three-month time period they analyzed, Paratransit officials eventually deactivated 80 Zero-Fare MetroCards.

During this meeting, the managers informed us that IT staff had automated the process for performing two additional analyses: identifying cards with frequent round trips originating in boroughs other than the Paratransit customer's home borough, and large numbers of monthly trips made by very elderly customers. However, Paratransit is not actually performing these analyses at this point, explaining that without additional staffing they would not be able to act on the results.

2016 Agency Response to the OIG Follow-Up:

NYC Transit agreed to fully implement Recommendation 2, which means having the new Zero-Fare MetroCard Program Fraud Team perform the analyses recommended in our audit. After developing some experience with each analysis, the Fraud Team and the Chief Security Officer will review the six recommended analyses to determine which provide the most beneficial mechanism(s) to detect fraud and should be continued. The Response also noted that “Paratransit management will monitor the level of potential fraud identified and the team’s productivity to determine if staffing is adequate. In the fourth quarter 2016, Paratransit will reach a determination of whether the Fraud Team is adequately staffed to perform these analyses.”

3. Develop policies and procedures for deactivating, suspending, and terminating cards in connection with investigations and findings of fraudulent use.

2014 Agency Response:

Paratransit will develop policies and procedures for deactivating, suspending, and terminating cards in connection with investigations and findings of fraud use.

In its subsequent quarterly updates to MTA Audit Services, NYC Transit reported that the recommendation was implemented, with Paratransit’s policies updated and put into practice.

2016 OIG Follow-Up Findings:

During our original audit, we found that while Paratransit had procedures to deactivate Zero-Fare MetroCards for customers who are no longer eligible for Paratransit services, the agency had no policy or process to deactivate cards that are being used fraudulently, nor had the agency ever taken any such enforcement action. As we noted in our report, appropriate deactivation, as well as suspension and termination, are essential components of fraud control. Accordingly, meaningful policies and procedures must include criteria that would trigger these actions, as well as due process protections against premature enforcement.

During our follow-up audit, and by way of offering proof of its implementation of this recommendation, Paratransit provided us with a document just over one page in length, captioned “Fraud Controls in the Paratransit Access-A-Ride (AAR) MetroCard Program.” However, without any detailed procedures, that document merely recounted the list of analyses that our report recommended; stated that warning letters will be sent to customers identified by the analyses; and provided brief and generalized responses in anticipation of three possible statements by customers reacting to the warning letter. The document lacked the substance,

specificity, and overall comprehensive plan needed to constitute meaningful policies and procedures.

For example, the document does not even define “misuse,” let alone provide criteria for detecting and addressing it. Further, even when Paratransit burdened the two fraud analyses discussed above with self-imposed requirements that the suspicious behavior be repeated multiple times over a three-month period, these requirements were not incorporated in any written procedure. Also not addressed is how Paratransit enforces its new requirement regarding the waiting period before issuing any replacement card, or what follow-up action Paratransit will take if misuse reoccurs. Similarly, the document does not clearly enunciate customer due process rights, including clear notice of the conduct prohibited, fair warning of the specific procedures to be followed if suspicious activity occurs, and the consequences to the customer absent a reasonable explanation. Remedying these omissions, in short, are the necessary first steps to truly implementing our Recommendation.

2016 Agency Response to the OIG Follow-Up:

NYC Transit agreed that its written “guidelines” for fraud control were “insufficient” and that “appropriate deactivation, as well as suspension and termination, are essential components of fraud control.” Further, NYC Transit noted that “Paratransit will consult with the NYC Transit Law Department to determine the extent that reasonable appropriate penalties can be imposed when fraudulent use of Zero-Fare MetroCards is substantiated and incorporate these into our policies and procedures. In the third quarter 2016, Paratransit will revise policies and procedures for deactivating, suspending, and terminating cards.”

- 4. Give appropriate notice to customers that their Zero-Fare MetroCard usage is being monitored for fraud and that as warranted, after an opportunity to be heard, their card may be deactivated and their AAR privileges suspended or terminated.**

2014 Agency Response:

Customers will be given notice that their Zero-Fare MetroCard usage is being monitored for fraud and that, as warranted, after an opportunity to be heard, their MetroCard may be deactivated and their AAR privileges suspended or terminated.

In its subsequent quarterly updates to MTA Audit Services, NYC Transit reported that the recommendation was implemented and that the methodology to notify customers was incorporated into the policies.

2016 OIG Follow-Up Findings:

During our follow-up audit, we found that Paratransit had not implemented this recommendation, having not changed the letter it sends out with the Zero-Fare MetroCard when it issues the card to a customer. Paratransit officials could not explain why the agency reported the recommendation as implemented when it had not modified the letter.

2016 Agency Response to the OIG Follow-Up:

NYC Transit agreed that this recommendation had not been implemented. “In the third quarter 2016, Paratransit will revise the letter sent to customers along with Zero-Fare MetroCards to clearly indicate that their Zero-Fare MetroCard usage is being monitored for fraud and that, as warranted, after an opportunity to be heard, penalties will be imposed consistent with those referenced in Recommendation #3.”

- 5. Issue non-activated Zero-Fare/Identification MetroCards to all customers, and only activate the free-fare function for those who request it.**

2014 Agency Response:

While we agree conceptually with this recommendation, NYC Transit MetroCard production does not include a mechanism to create MetroCards which can be issued and activated at a later date. Notwithstanding, Paratransit is continuing to evaluate the Zero-Fare MetroCard Program considering the audit findings, and will develop complimentary controls.

2016 OIG Follow-Up Findings:

While we defer to the agency’s assessment that implementation of this Recommendation, involving the issuance and activation of a card post-issuance, was precluded at that time by a technological limitation, we note the agency’s assurance that it would develop complementary controls. In that respect, we have since learned that Paratransit is only now considering sending Zero-Fare MetroCards only to users who are likely to use public transportation. Paratransit claims the details of this potential policy change are still being worked out.

2016 Agency Response to the OIG Follow-Up:

NYC Transit responded that it still does not have a mechanism to create cards that can be issued and activated at a later date but explained what it has done to reduce the number of unwanted Zero-Fare cards in circulation. “Paratransit now only offers Zero-Fare MetroCards to customers who have the ability to utilize public transportation. ... Since the inception of the Zero-Fare

MetroCard Program in 2013, approximately 96,000 cards have been issued. These cards had a two-year expiration. Paratransit canvassed customers whose cards had no activity and found that many declined to participate in the program. The number of active cards subsequently was reduced by approximately 50,000.”

6. Deactivate unused Zero-Fare MetroCards already in circulation, after providing appropriate notice to customers.

2014 Agency Response:

Paratransit will identify customers who have not utilized their Zero-Fare MetroCards for six months. These customers will be notified that their cards will be deactivated unless they provide a satisfactory explanation for their card to remain active.

In its subsequent quarterly updates to MTA Audit Services, NYC Transit reported that it had begun to implement this recommendation.

2016 OIG Follow-Up Findings:

During our follow-up audit, we ascertained that Paratransit deactivates cards that have not been used for 12 months. Specifically, we were informed that Zero-Fare MetroCards have a two-year expiration date at the end of which Paratransit analyzes the customer’s usage. For those customers who have not used the card at all over the previous year, the agency sends a letter informing them of its intention to not send a replacement card. Absent customer objection, no replacement is sent. While this approach is not as comprehensive as the one we recommended, in that only those cards scheduled for renewal are screened, it is reasonable and should remove cards from circulation that might otherwise fall into the wrong hands.

2016 Agency Response to the OIG Follow-Up:

NYC Transit noted that Paratransit recently started to monitor customers’ Zero-Fare MetroCard utilization as cards approached their two-year expiration date. “Based on customers’ desire to participate in the program, the number of cards in circulation was significantly reduced. Paratransit will monitor customers’ annual Zero-Fare MetroCard utilization and notify customers with no card activity that absent their objection, their card will be deactivated.”

* * *

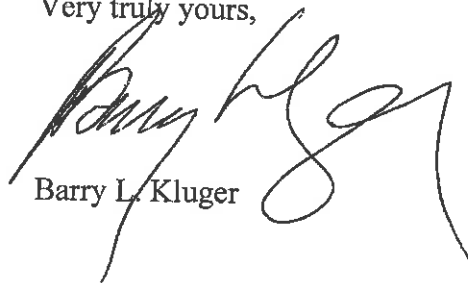
We note that NYC Transit’s Office of Management and Budget recently completed its analysis of the effectiveness of the Zero-Fare program in lowering overall Paratransit costs and has

Veronique Hakim
Re: MTA/OIG 2016-07
September 12, 2016
Page 10

provided its results to senior agency executives to help them determine whether to continue the program. In our view, recognizing that there were over 4 million Zero-Fare trips in 2015, if the agency ultimately decides to continue the program it must put in place robust fraud control processes as outlined in our original report. By its response to the OIG Follow-Up Report, NYC Transit has confirmed its renewed efforts to institute these controls through implementation of our remaining recommendations. We welcome this re-commitment and will continue to monitor as appropriate.

As always, we appreciate the courtesy and cooperation afforded to us by you and your staff. Should you have any questions, or need additional information, please contact me or Executive Deputy Inspector General Elizabeth Keating at (212) 878-0022.

Very truly yours,

A handwritten signature in black ink, appearing to read "Barry L. Kluger". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

Barry L. Kluger

Cc: Darryl Irick
Steven LoPiano