

STATE OF NEW YORK



**OFFICE OF THE INSPECTOR GENERAL
METROPOLITAN TRANSPORTATION
AUTHORITY**

2005 ANNUAL REPORT

**Matthew D. Sansverie
INSPECTOR GENERAL**

February 2006



Matthew D. Sansverie
Inspector General

Office of the Inspector General
Metropolitan Transportation Authority
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Honorable George E. Pataki, Governor
Members of the Legislature
State Capitol
Albany, New York 12224

Dear Governor Pataki and Members of the Legislature:

I hereby respectfully submit the 2005 Annual Report of the independent Metropolitan Transportation Authority Office of the Inspector General (OIG). I begin by commending the OIG staff for their commitment to duty and exemplary work ethic. For the fourth year in a row the OIG staff has produced more written reports and made more referrals than the year before, producing 70 reports and referrals for 2005. To put this achievement in context, the number of reports and referrals produced by this Office over the past four years exceeds the sum total of all reports and referrals issued by the OIG in the preceding nine years. Despite this continued high output, quality has not suffered. I am pleased to report that in 2005 our second regularly scheduled peer review determined that the OIG's work conforms to nationally accepted professional standards. Thus, the MTA and the public can be assured that our findings are reliable and that our recommendations are sound.

Our list of achievements in 2005 begins with national recognition of an OIG audit performed in 2004. The National Association of Local Government Auditors (NALGA) bestowed the Knighton Award, its highest honor, on the OIG for its 2004 audit exposing the poor management of one of MTA Long Island Rail Road's (LIRR) pension plans. In that report we showed that miscalculations, mistakes and neglectful governance set the stage for serious under funding of this pension plan, and we called for far-reaching remedies. The Knighton Award is viewed by auditing professionals as the "Academy Award" of the industry, and is given annually to state and local government auditing groups that exhibit particular excellence. This is the first time any state or local government auditing group within New York State has ever received this prestigious award.

Also in 2005, an OIG audit uncovered a number of current MTA contractors as well as vendors seeking MTA business that owed more than \$4 million dollars in back taxes to New York State. OIG and the NYS Tax Department devised a process to root out more contractors who owe money to the state.

In other work, OIG examined non-revenue based performance indicators at MTA properties. In that regard, OIG investigators conducted 24 productivity surveillances at MTA Metro-North Railroad (Metro-North) rail yards. We caught nine employees idle for a combined 155 hours of time during 185 hours of surveillance. OIG also closely observed employees ostensibly at work outside of the rail yards and documented similar levels of inactivity and lax management, as well as instances of drinking alcoholic beverages during work hours.

The attached report represents a broad overview of our work in 2005, as well as a glimpse of what we will focus on in 2006. It remains my great pleasure to serve the people of the State of New York and I welcome any questions you may have.

Very truly yours,

A handwritten signature in cursive script that reads "Matthew D. Sansverie".

Matthew D. Sansverie

2005 ANNUAL REPORT

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**State of New York
Metropolitan Transportation Authority
Office of the Inspector General**

2005 ANNUAL REPORT

OFFICE OF THE INSPECTOR GENERAL'S AUTHORITY AND MISSION

In 1983, the New York State Legislature, through Section 1279 of the Public Authorities Law, created the Office of the Inspector General (OIG) to independently review the operations of the Metropolitan Transportation Authority (MTA) and its eight constituent agencies: MTA New York City Transit (NYC Transit), MTA Bus (MTAB), MTA Long Island Rail Road (LIRR), MTA Metro-North Railroad (Metro-North), MTA Long Island Bus (LI Bus), MTA Staten Island Railway (SIR), MTA Bridges and Tunnels (Bridges and Tunnels) and MTA Capital Construction (MTACC). The OIG is an independent entity which is not under the direction of the MTA Board, its executive director or chairperson, instead making annual reports of its activities to the Governor and the State Legislature.

Our Mission is to preserve and enhance, on behalf of the public and its representatives, the efficiency, effectiveness, safety and quality of the services provided by the MTA by conducting independent investigations, audits and other studies in a professional, constructive and cost-effective manner; to provide law enforcement officials with information and evidence regarding possible criminal activities; and to assist the MTA with timely recommendations to improve operations and performance.

The Office of the Inspector General will:

- Identify fraud, waste, abuse or mismanagement within the MTA, its constituent agencies, and those who do business with the MTA.
- Review agencies for unsafe or deficient service.
- Communicate our findings and make reasonable recommendations for improvement in an objective, timely and constructive way.
- Provide law enforcement officials with any evidence of criminal activity.

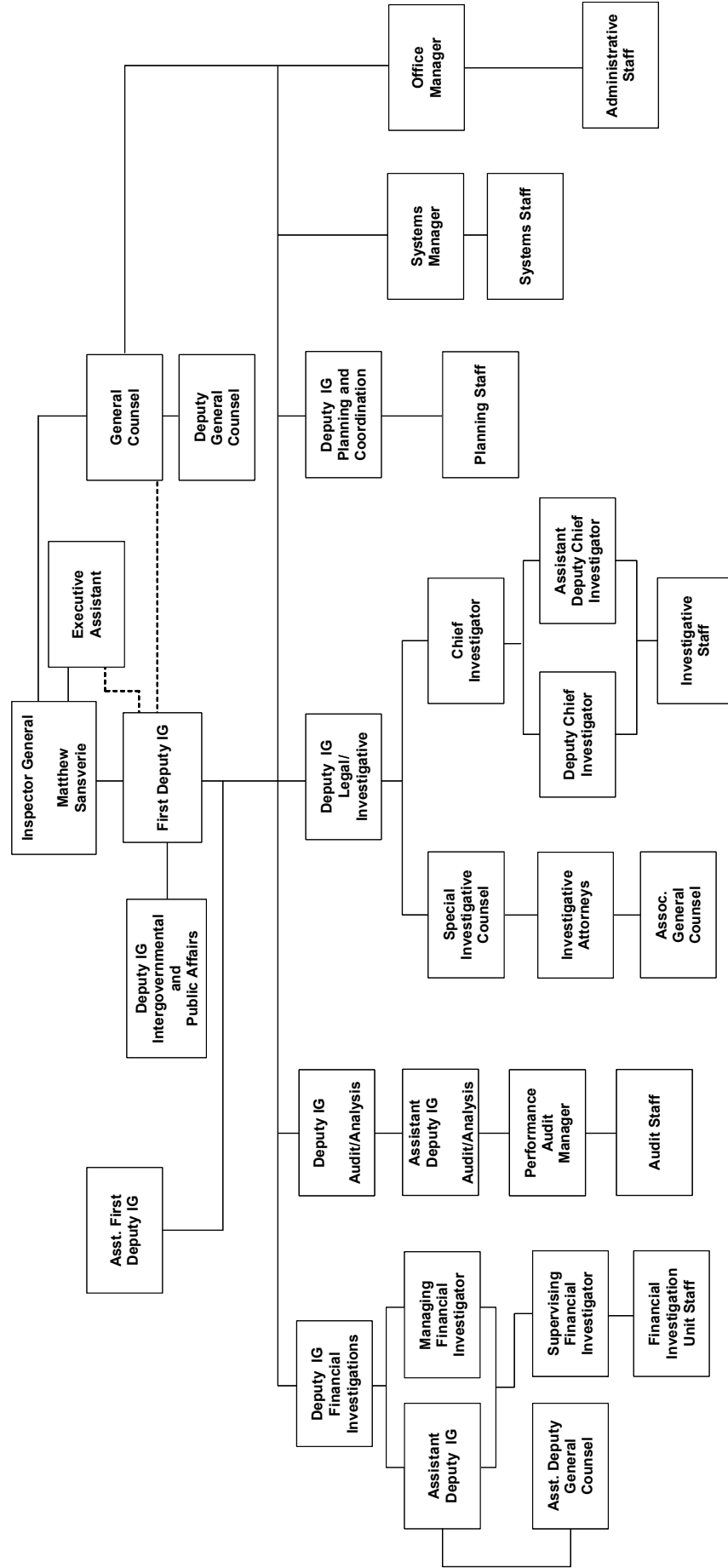
The following principles will be observed in meeting our mission:

- Staff will be professional, ethical, efficient, thorough and proactive in their work.
- Findings and recommendations will be communicated in a clear, prompt and constructive way.
- Annually, our office will report to the Governor and State Legislature on our findings, recommendations and other official activities.
- Good professional relationships will be developed and maintained within the MTA and constituent agencies.
- We will constantly look for ways to improve our own business practices and improve the working environment of our staff.

ORGANIZATION

The OIG is comprised of four primary units: the Investigations Unit, Audit Unit, Financial Investigations Unit and the Planning and Coordination Unit. All are organized using a team model to leverage the diverse skills and training of OIG staff. These units receive technical and administrative support from the Systems and Administrative Services groups.

**MTA OFFICE OF THE INSPECTOR GENERAL
TABLE OF ORGANIZATION
2005**

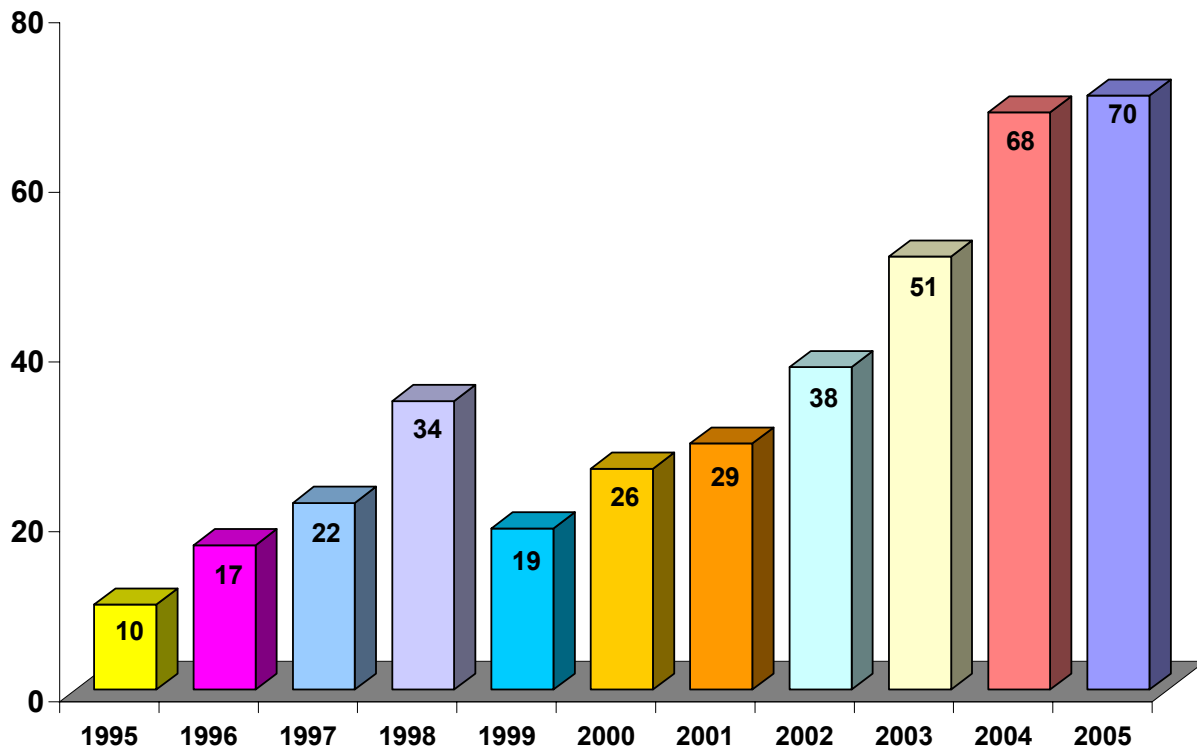


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|---------------------------------------|--|
| Executive Management | Executive direction and oversight is provided by the Inspector General (IG), and the First Deputy Inspector General. Executive direction is funneled through the Deputy IGs for Investigations, Audit, Financial Investigations, Planning and Coordination, Intergovernmental and Public Affairs, as well as a General Counsel. |
| Investigations Unit | The Investigations Unit investigates allegations of criminality, fraud, waste and abuse as well as safety, service and management deficiencies. The unit emphasizes the deterrence of fraud and the protection of MTA assets. When appropriate, matters are referred to law enforcement authorities outside the OIG. The Unit is comprised of experienced investigators and lawyers who work together to conduct the investigations of the Office. Aside from the expertise of the staff, the Unit has a host of investigative tools available to it, including the authority to take sworn testimony from subpoenaed witnesses, and to compel the production of records and other documents relevant to the matter under investigation. The results of investigations are captured in reports to the MTA Chairman and/or one or more of the heads of MTA constituent agencies. The reports provide recommendations that will lead to performance improvements, safety enhancements, cost savings and better protection of assets. |
| Audit Unit | The Audit Unit of the OIG conducts in-depth audits and reviews of a wide variety of the business and service-related activities of NYC Transit, LIRR, Metro-North, LI Bus and Bridges and Tunnels, including audits and reviews of the MTA's contractors and vendors. The Audit Unit's work measures whether MTA operations are safe, timely and cost-effective, and makes recommendations for improvement wherever possible. All audit reports undergo a quality assurance review to ensure findings and conclusions are fully supported. OIG Audit Unit staff is comprised of highly experienced individuals who bring a diverse professional background to their positions. The Audit Unit regularly consults with the MTA Auditor General and other audit and investigations units throughout the federal, state and local government systems to assure the widest area of coverage possible when it comes to the operations of the MTA or its vendors. |
| Planning and Coordination Unit | The Planning and Coordination Unit (Planning) assists in developing investigative and audit work plans, follows up on previous work completed by the Office and conducts proactive risk assessments of agency operations. Planning also conducts intelligence gathering and handles intake and resolution of complaints. When a complaint is received by this Office, Planning evaluates the information and supplements it with additional background information gathered by the Unit. A determination is then made as to whether the complaint will be passed to the Investigations Unit, Audit Unit, Financial Investigations Unit or elsewhere for disposition. Planning also provides background and intelligence support regarding vendors proposed for work on the MTA's East Side Access Project. |

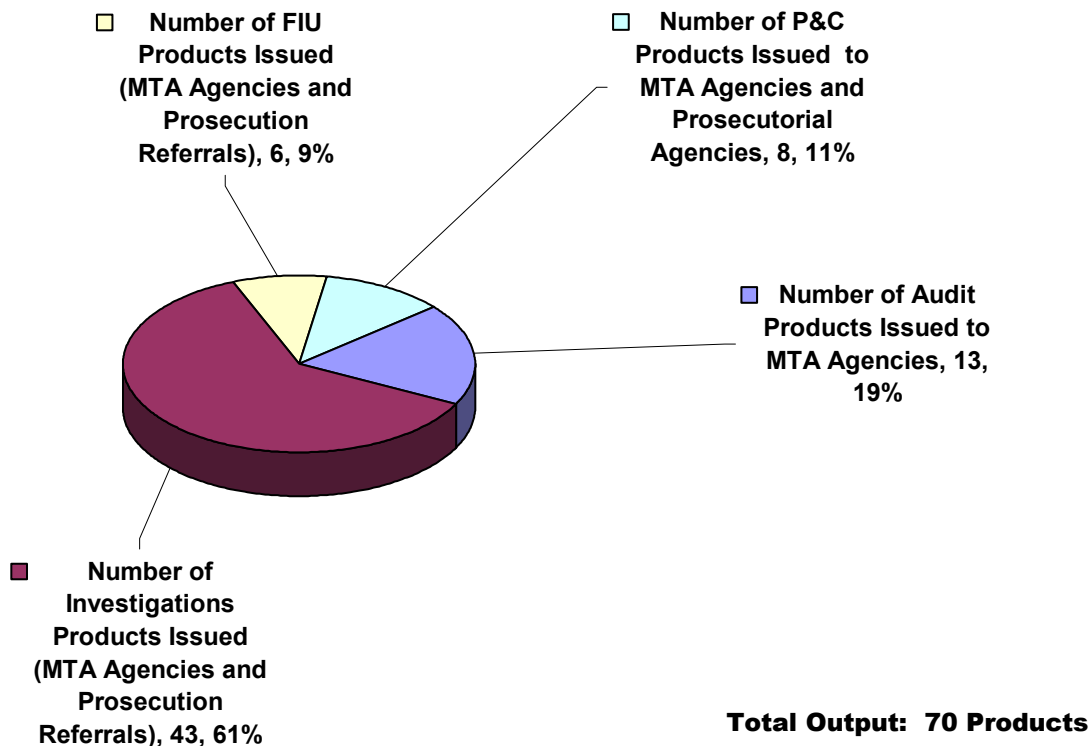
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| Financial Investigations Unit | <p>The Financial Investigations Unit (FIU) investigates allegations, complaints and referrals from any source or upon its own initiative involving potential economic crimes perpetrated against the MTA, including but not limited to, fraudulent billing practices, bribes and/or collusion.</p> <p>The FIU is comprised of an attorney, forensic accountants and investigators, all with experience investigating and/or prosecuting complex economic crimes. The FIU can, among other things, initiate background investigations of suspect entities and individuals, and also has the authority to subpoena witnesses, take sworn testimony and compel the production of records.</p> <p>The results of the FIU investigations are referred to the appropriate law enforcement officials when suspicions of criminal activity have been uncovered. The FIU may also make referrals to other agencies such as NYS Department of Taxation and Finance, and/or may issue letter reports to the MTA or one of its constituent agencies, as deemed appropriate.</p> |
| Intergovernmental and Public Affairs Unit | <p>The Intergovernmental and Public Affairs Unit functions as the point-of-contact for all external communications, and is the liaison to the media and the general public. The Unit also processes all Freedom of Information Law requests made to the OIG and administers the Office's Outreach Program. The Outreach Program is designed to improve communications between the OIG, MTA, its constituent agencies and the local community. It also interacts with other federal, state, and local entities to encourage a healthy exchange of ideas and build a solid foundation of cooperation. The Outreach Program is often part of an overall ethics training for MTA employees. It educates employees about the OIG and alerts them to unscrupulous individuals who may seek to compromise their integrity.</p> |
| Systems Unit | <p>This Unit plans and develops the OIG's computer technology capabilities to further our strategic goals. Systems staff works with the other OIG units and MTA headquarters staff to plan, acquire and implement the computer hardware and software that will enable OIG staff to carry out their activities effectively. Systems staff maintains the OIG's local area network and website, implements systems applications, performs analyses and designs systems and databases for audits, investigations and administrative services.</p> |
| Administrative Services Unit | <p>Administrative staff provide the OIG's day-to-day operating needs, including: budgeting and accounting; purchasing; personnel administration; maintenance of databases and office library; proofreading; as well as production and distribution of reports; in addition to clerical support for audits, investigations and other projects.</p> |

| | | |
|--------------------------|---|-------|
| 2005 PRODUCTIVITY | Complaints Received ----- | 1,348 |
| | Complaints Referred to MTA Agencies for Remediation ----- | 696 |
| | Predicated Investigations/Audits ----- | 116 |
| | Cases Closed ----- | 104 |
| | Reports/Referrals Issued or With Agency for Comment ----- | 70 |
| | Recommendations ----- | 210 |
| | Recommendations rejected by MTA----- | 5 |
| | Defendants Convicted ----- | 9 |

**Overall OIG Production Output Attributable to Each Year
(Reports to Agencies and Referrals for Prosecution)**



Total MTA-OIG Production by Unit in 2005



AWARDS

In June, the National Association of Local Government Auditors (NALGA) bestowed the organization's highest award on the OIG for its report detailing a long list of mistakes involving a Long Island Rail Road's (LIRR) pension plan, made by outside actuary and CPA firms as well as a lack of oversight from the fund's Board of Pension Managers.

Viewed by auditing professionals as the "academy award" of the industry, the Knighton Award is given annually to state and local government auditing bodies for audits that exhibit particular excellence. NALGA's decision to recognize the OIG's Long Island Rail Road pension report marks the first time a government auditing body within New York State has ever received this prestigious award.

The OIG's seven-month audit exposed a series of mistakes by two actuary firms and two CPA firms, compounded by a failure of oversight by the fund's board of pension managers, that lead to hundreds of millions of dollars in under funding.

A panel of independent NALGA judges evaluated the LIRR pension report on the basis of its scope and potential for significant impact and the persuasiveness of its conclusions. The judges also considered the focus of its recommendations on effective and efficient government, its clear and concise communication style as well as the innovation demonstrated in the report's analysis.

INVESTIGATIONS UNIT

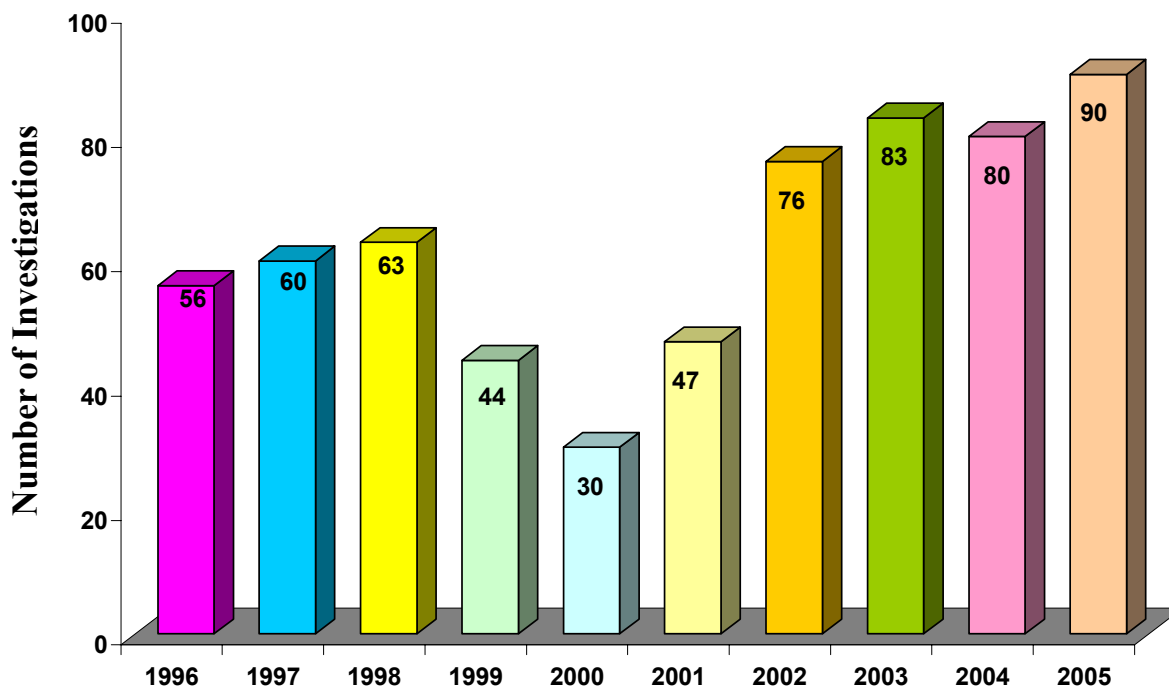
The Investigation Unit completed another very productive year, contributing 43 reports and referrals out of the 70 office-wide products completed in 2005.

Overview

In 2005, the Unit actively conducted 120 separate investigations and closed 96 of them. In addition, the Unit opened 90 new cases, and conducted 43 floor/yard checks.

On January 1, 2006, 32 cases were carried over from 2005. The Unit anticipates completing 24 of those cases by the end of the first quarter 2006.

Number of Investigations Cases Predicated



Staffing

The Investigations Unit began the year with a staff comprised of the Deputy Inspector General, Chief Investigator, Deputy Chief Investigator, Special Investigative Counsel, six attorneys, 11 investigators and two support staff. During the year, several investigators were hired, in large part to fill newly created positions in the Field Surveillance Team.

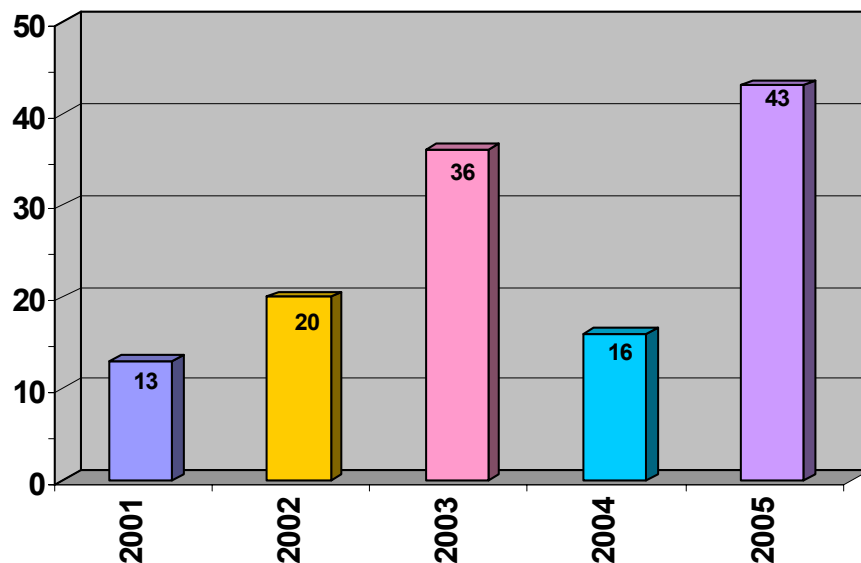
The Investigations staff now consists of the Deputy Inspector General, Chief Investigator, Deputy Chief Investigator, Assistant Deputy Chief Investigator (who supervises the seven member Field Surveillance Team), Special Investigative Counsel, six attorneys, 20 investigators and two support staff.

Floor/Yard Checks

In April of 2001, the OIG Investigations Unit began conducting floor and yard checks at various MTA facilities. The purpose of the floor check, an unannounced inspection by a team of four to ten investigators, is to test a facility's security, to determine whether staff are present and performing their required duties, and to determine whether safety protocol is being followed.

In 2005, the Investigations Unit conducted 43 floor checks. This represents a marked increase over the number performed during 2004, attributable in large part to our ability to channel more resources to the effort with our increased staff of investigators. With the addition of the Field Surveillance Team, the number of floor checks should increase dramatically in 2006, during which the Unit expects to conduct 75 to 100 floor checks.

The graph below illustrates the number of floor/yard checks performed by the Investigations Unit over the previous five years



Floor/Yard checks conducted in 2005:

| | |
|--|----------|
| North White Plains – Operations Svc. Dept. (Metro-North) | 01/21/05 |
| North White Plains – MOE Dept. (Metro-North) | 01/21/05 |
| Sheridan Shop - Richmond Hill (LIRR) | 02/30/05 |
| Corona Yard (NYC Transit) | 04/07/05 |
| Michael J. Quill Bus Depot (NYC Transit) | 04/07/05 |
| Casey Stengel Bus Depot (NYC Transit) | 04/07/05 |
| Manhattanville Depot (NYC Transit) | 04/07/05 |
| Babylon Yard (LIRR) | 05/31/05 |
| Kingsbridge Bus Depot (NYC Transit) | 06/15/05 |
| Queens Village Bus Depot (NYC Transit) | 06/27/05 |
| Jamaica Yard (NYC Transit) | 06/27/05 |
| Mitchell Field Bus Depot (LIB) | 06/27/05 |

| | |
|--|----------|
| Rockville Centre Bus Depot (LIB) | 06/27/05 |
| Hillside Maintenance Facility (LIRR) | 07/05/05 |
| Richmond Hill/Sheridan Shop (LIRR) | 07/27/05 |
| Fresh Pond Bus Depot (NYC Transit) | 08/05/05 |
| Babylon Yard (LIRR) | 08/05/05 |
| Coney Island Yard (NYC Transit) | 08/11/05 |
| Pneumatic Shop, Coney Island Yard (NYC Transit) | 08/11/05 |
| Casey Stengel Bus Depot (NYC Transit) | 08/17/05 |
| Corona Yard (NYC Transit) | 08/17/05 |
| Morris Park Diesel Shop | 09/25/05 |
| Bergen Street Shop (NYC Transit) | 09/28/05 |
| Long Island City Passenger Yard (LIRR) | 10/04/05 |
| Babylon Yard (LIRR) | 10/12/05 |
| Port Jefferson Yard (LIRR) | 10/13/05 |
| Nassau Boulevard Station (LIRR) | 10/20/05 |
| Garden City Station (LIRR) | 10/20/05 |
| Croton Harmon Yard (Metro-North) | 10/21/05 |
| Ronkonkoma Yard (LIRR) | 10/21/05 |
| Port Washington Facility (LIRR) | 10/26/05 |
| Speonk Yard (LIRR) | 10/01/05 |
| Port Jefferson Yard (LIRR) | 11/03/05 |
| Hempstead Terminal Facility (LIRR) | 11/07/05 |
| Long Beach Yard (LIRR) | 11/08/05 |
| Far Rockaway Terminal (LIRR) | 11/18/05 |
| North White Plains Facility (MNCR) | 11/23/05 |
| West 4th St. Infrastructure Office (NYC Transit) | 11/28/05 |
| Kingsbridge Bus Depot (NYC Transit) | 11/30/05 |
| Brewster Shop & Yard (Metro-North) | 12/01/05 |
| Vanderbilt Yard (LIRR) | 12/05/05 |
| Croton-Harmon Yard (MNCR) | 12/13/05 |
| White Plains Facility (MNCR) | 12/13/05 |

Outreach

In conjunction with the Deputy Inspector General for Intergovernmental and Public Affairs, 2005 saw a continued expansion of the OIG Outreach Program, aimed at making agency employees aware of the OIG and its mission.

During the presentations, Investigators describe the various types of OIG investigations and educate MTA staff on ethics rules and integrity issues. The ethics presentations are made in conjunction with representatives from the New York State Ethics Commission (Ethics Commission) and are generally aimed at employees who interact with vendors/contractors and illustrate ways in which vendors/contractors may attempt to compromise their integrity.

In 2005, our goal has been to reach the maximum number of employees within MTA Headquarters, Metro-North, LIRR, NYC Transit, Bridges and Tunnels, LI Bus, MTACC and MTA Police Department. To that end, we have reached more than 1,800 MTA employees through our presentations – approximately 80% more than the previous year.

In addition to our presentations, the OIG distributed more than 65,000 informational brochures to all employees through payroll distribution, placed nearly 1,000 OIG posters in MTA facilities throughout the region and placed small OIG “ads” in all MTA agency newsletters.

Based on both statistical and reliable anecdotal evidence, we have ascertained that this program has a marked deterrent effect. The OIG also believes the record number of complaints received by this Office in 2005 is due in large part to the success of the Outreach Program. Plans to expand the program in 2006 are already underway.

AUDIT UNIT

Overview

The Audit Unit achieved another productive year in 2005. The Unit’s scope of work covered every MTA agency and resulted in multiple reports in each of the major program areas. In addition, we conducted a number of other audits focused on a more narrow area of operation.

During 2005, the Unit conducted 25 separate audits – 11 carried over from 2004 and 14 new audits started in 2005. Audit work was completed on 13 audits; one additional audit was closed following the survey phase. The completed audits resulted in 14 reports issued or sent out for comment in 2005 and 11 ongoing audits will carry over into 2006. A synopsis of some of the issued reports can be found in the “Sampling of Noteworthy Cases” section of this report.

Many of these audits address issues of enormous complexity that required innovative approaches to gathering and analyzing data. The results achieved by the unit this year are remarkable in their incisiveness, originality and usefulness in providing the MTA properties information and recommendations to improve operations.

The following is an example of the topics that were examined by the Audit Unit in 2005:

- (1) causes for the virtual shut down of subways due to flooding on the morning of September 8, 2004;
- (2) causes and impact of overtime and extra pay for LIRR conductors and engineers;
- (3) NYC Transit’s delay in examining hazards reported by customers;
- (4) MTA’s Risk and Insurance Management Department’s lack of information regarding the insured status of third parties leasing MTA-owned properties;
- (5) the failure of LIRR’s Transportation Department to follow the railroad’s long-established disciplinary policies; and
- (6) MTA’s Real Estate Department errors in the evaluation of bids from businesses competing to lease MTA-owned properties.

Staffing

This year the Audit Unit was marked by the absence of seven staff members for various reasons. Despite the staffing handicap, the Audit Unit produced high-impact work in a variety of issue areas. The complexity of the issues addressed was significant. The development of substantive audit questions along with the creativity of the audit approach employed was remarkable.

As a result of these staff vacancies, we mounted a significant recruiting effort that resulted in the addition of four highly qualified new staff members in late 2005. Additional recruiting will be necessary early in 2006 to return the Audit Unit to its full strength of 19 auditors.

Accomplishments

We note that our reports have had very positive consequences. For example, in 2005 we reported on poor compliance monitoring within the MTA's Disadvantaged Business Program. Our report noted numerous issues with compliance monitoring and enforcement of the use of disadvantaged businesses on MTA contracts. Since then, MTA's General Counsel reviewed and reorganized compliance monitoring functions. Responsibility for compliance monitoring was removed from MTA Office of Civil Rights (OCR) and is to be assigned to MTA's Chief Compliance Officer. The transition is expected to take place in early 2006.

Even prior to the issuance of the final report, our review of the September 8, 2004 flooding that severely impacted virtually every subway line in New York City has already resulted in two significant improvements.

One is that NYC Transit learned about valves located in the subway drainage pipes leading to the City sewers. The purpose of the valves is to allow Subway drainage to flow into the sewer while keeping sewer water from flowing, when the system is charged, back up into the Subway. These valves were unknown to NYC Transit and had not been inspected or maintained for many decades. An important valve at 81st Street and Broadway has been repaired and is now preventing the back up of sewer water onto the IRT lines on the upper West Side, a condition that has frequently resulted in flooding and disruption of service. This repair avoided almost certain flooding during the intense October 2005 rains, when numerous other locations flooded. The second improvement was that our active review of this problem led to the discovery of a large water main leak in the same upper West Side location that was the cause of significant, yet undiagnosed, water flow into the subway and buildings in the area. As a result of our team's efforts, the City remedied this chronic problem.

We also reviewed NYC Transit's process for taking customer complaints about subway station hazards. A number of our recommended improvements have already been acted on. NYC Transit's intake units have begun to identify hazard complaints the day they receive them rather than waiting up to 50 days to process them. Staff now also follow standards we recommended to transmit the complaint swiftly to maintenance staff.

OIG's audit of LIRR's discipline process highlighted poor supervision and accountability in this integral management function. As a result of our audit, at least two individuals were reassigned and LIRR's Absence Control Policy is reported to be undergoing revision. In a related report, we recommended that an accurate, computerized disciplinary report be developed based on accurate and reliable documentation from the operating departments. This automated report would replace inaccurate and unreliable ones produced for years by LIRR Human Resources. LIRR concurred with our recommendation and informed the OIG that they had begun developing the new process.

PLANNING AND COORDINATION UNIT

The productivity gains of the Planning and Coordination Unit (Planning) continued to increase in 2005 for ongoing work and new initiatives. This was fostered in part by an increase in Planning staff size during the year.

Overview

Planning's performance indicators are positive and our ongoing, regular workload has increased during the year. The Unit continues to successfully coordinate with the other OIG operating units regarding new initiatives, proactive planning work and special projects.

In 2005, Planning once again generated new initiatives for the OIG, while expanding a program to identify MTA vendors who fail to pay taxes owed to New York State. When a delinquent vendor is identified, a referral is made to the New York State Department of Taxation and Finance (State Tax) so that outstanding state tax obligations can be satisfied. Planning is also working with State Tax Department to ensure that aggressive recovery tactics, including the imposition of levies where necessary, lead to an increase in available funds for New York State programs. State Tax has already begun the laborious process of collecting some of the funds owed. The present process is laborious because it is manual, not electronic. While State Tax has an electronic collection process for funds owed by vendors at New York State *agencies* they do not have an electronic collection process at New York State *authorities*. In 2006, we hope to expand the program to include all MTA constituent agencies.

Planning staff also produced eight investigative and audit reports on subjects including: agency management practices; security of blueprints, prevailing wage fraud, overtime abuse, and high-risk vehicle assignments.

Intelligence Support

Intelligence Analysts in Planning gather information from public records and other sources in order to detect associations, find patterns and trends, develop profiles and provide insights that are incorporated into specific audits, investigations and reviews. In 2005, Planning staff conducted approximately 109 formal intelligence searches for OIG staff.

In 2005, Planning staff continued to assist all four OIG operating units (Audit, Investigations, FIU and Planning). The Planning Unit itself also uses Intelligence Analysts for complaint assessment, proactive case development and throughout the course of any audits or investigations assigned to the Unit.

Planning staff conducted approximately 22 formal intelligence searches in 2005 and reported the results to OIG and MTA agency staff.

Complaint Intake and Assessment

OIG saw a 38% increase in complaint volume in 2005, translating into the largest number of complaints received in the history of the Office. Several factors appear to have contributed to this dramatic increase:

- **Greater Outreach** – As the OIG’s Employee Outreach program matures, we continue to adjust the program to make it more responsive. Numerous complainants identified the Outreach program as their source of familiarity with our office. We expect that trend to continue in 2006.
- **New Technologies** – The number of complaints received via the OIG website has continued to increase greatly in 2005. E-mail has now become the second largest source of complaints received by the OIG, second only to telephone complaints, and e-mail may soon become the primary source of complaints received by this Office.
- **Increased Complaint Capture** – The efficiency of Planning staff has also contributed to the increase in the number of complaints received. Current staff are cognizant of the need to capture OIG related issues and concerns. The ability to identify and assess the data in these complaints is directly attributable to Planning staff’s effective and efficient complaint procedures, investigative capabilities and assessments’ strategies and techniques.

Increased complaint volume has led to an increase in the number of actionable¹ complaints assigned to Planning staff and, subsequently, to OIG staff for further review.

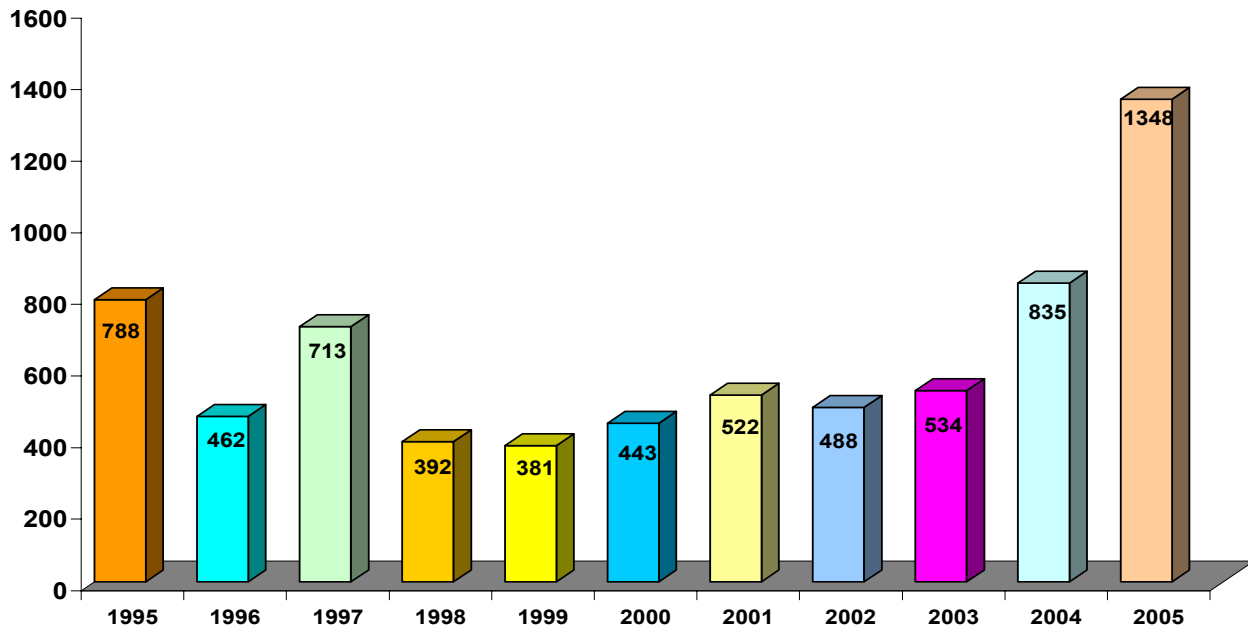
In 2005, all **1,348** complaints received underwent basic background research. From that, **276** complaints were selected for additional work ups by Planning Unit staff in an effort to ensure that only substantial complaints were passed on to OIG operating units.² After the additional review, approximately **116** matters met our criteria for assignment and were referred to one of the four OIG operating units (Audit, Investigations, FIU or Planning) for assignment.

The following graph illustrates the recent increase in the volume of complaints received and processed by OIG staff. Not reflected in the graph is the fact that approximately 696 complaints were referred to MTA constituent agencies for appropriate remedy and response. These referrals continue to be tracked and evaluated so that MTA customers and employees receive adequate responses to their inquiries. This 2005 graph also does not reflect the 198 requests for assistance and employee background verification we received from law enforcement agencies, which were processed and completed by Planning.

¹ An actionable complaint is any complaint or issue which might be audited, investigated or reviewed by OIG staff if found credible by Planning.

² This represents the largest number of complaints assigned to OIG staff for additional review in the last 11 years.

Number of Complaints Received 1995 - 2005



High Risk Drivers

In 2005, Planning staff conducted a proactive review of NYC Transit's assignment of non-revenue vehicles to high-risk drivers.³ Among other things, unlicensed employees and employees with poor driving records were being assigned non-revenue vehicles. We saw that NYC Transit lacks effective procedures for mitigating the risk posed by these employees. A more detailed synopsis of this review can be found in the "Sampling of Noteworthy Cases" section of this report.

Significant Adverse Information Reports

Planning continued to assist the MTA in making informed decisions about whether to hire vendors with unresolved significant adverse information (issues of business ethics or integrity) in their background.

In 2005, Planning reviewed 22 MTA procurement requests and provided additional information to the Executive Director, supplementing information provided by constituent agencies' procurement departments. Planning staff compiled 22 supplemental reports on 43 vendors under consideration for MTA contract awards.

In the vast majority of cases, these supplemental reports supply *additional* adverse information about vendors whom MTA procurement managers have already reviewed. The OIG provides this information to MTA executive management to supplement their due diligence review prior to making final contract recommendations or awards.

³ High-risk drivers were defined as drivers with poor driving records who may pose an increased hazard to the public or unnecessarily expose MTA agencies (e.g., NYC Transit) to increased liability for personal injury and property damage claims.

MTA Agency Reports Released by Planning

Planning staff performed several audits, investigations and reviews. As a result of this effort, Planning released seven numbered reports to MTA constituent agencies and one numbered report to the NYC Comptroller's Office (a total of eight reports) in 2005. Planning will continue to perform audits, reviews and investigations in 2006.

Identification and Investigation of Potential Bid Rigging Targets

In 2002, Planning sought to establish procedures and protocols for consistently identifying agency procurements that might have been subjected to bid rigging by internal or external parties. MTA agencies enter into tens of thousands of procurements each year, spending several billion dollars. In view of the above and mindful of OIG's unofficial motto, "Follow the Money," we began gathering intelligence on bid-rigging schemes and focusing on ways to identify vendors and employees who may be involved in such behavior.

Planning personnel established contacts in the U.S. Department of Justice, Antitrust Division and negotiated access to MTA systems that monitor and record procurement transactions. Planning also created procedures and protocols that we hope to use to encourage reporting and aid our analysis of agency bid solicitation, negotiation and award decisions.

In 2005, Planning staff negotiated access to NYC Transit procurement data and proactively identified several targets so that, in 2006, we can begin to conduct focused analysis of procurement data. We anticipate this will lead to specific investigations in this area in 2006 and we hope to report positive results from this effort in the near future.

Prosecution of Violators of the NYS Prevailing Wage Law

Since 2003, Planning has become more familiar with NYS prevailing wage laws and attained a better understanding of MTA agencies' prevailing wage responsibilities. In 2004, Planning and FIU staff members established relationships with city and state prevailing wage enforcement agencies in anticipation of OIG initiatives in this area.

We believe that the prevailing wage investigations serve a two-fold purpose. First, it is a powerful weapon that OIG can use to rid MTA agencies of unethical and corrupt vendors. Second, these investigations may yield additional uncollected tax revenue as well as restitution to workers from whom proper wages were unlawfully withheld.

In 2005, Planning staff identified targets for OIG prevailing wage investigations, including a construction and an elevator company. We reported our findings to the NYC Comptroller's Office and they continue to seek payment from at least one company.

These efforts proved so successful that the OIG has decided to dedicate a group of employees to the specific task of investigating prevailing wage compliance, disadvantage business enterprise (d/b/e) compliance and other contract compliance issues on MTA contracts. The new group which, for now, will operate out of Planning will be called the Contract and Wage Compliance Group (CWG).

In 2006, CWG will conduct several investigations in an attempt to identify and report other vendors who have failed to pay prevailing wage, have fraudulently stated d/b/e participation or have engaged in some other contract compliance impropriety.

**FINANCIAL
INVESTIGATIONS
UNIT**

The Financial Investigations Unit (FIU) was formalized in 2003 to better focus on the Inspector General's directive to "Follow the Money" and is comprised of attorneys, forensic accountants and investigators with experience in investigating and/or prosecuting complex economic crimes.

As reported in our 2004 annual report, the FIU worked with the New York County District Attorney in support of the prosecution of a former MTA vendor and a number of MTA employees. The scheme involved millions of dollars in overcharges and kickbacks. In September of 2004, the vendor, Figliolia Plumbing, and its three principals pleaded guilty.

In addition, nine individuals and two corporations have pleaded guilty, including former MTA employee, Ron Allan, who was sentenced to 1 to 3 years in prison for his role in this scandal. FIU believes that this is the first time in the 20+ year history of the OIG that someone has gone to jail as a result of an OIG investigation.

In 2005, more individuals connected to this investigation were sentenced for their crimes. Former employee, Howard Weissman, was sentenced to 1 $\frac{1}{3}$ to 4 years in prison for Enterprise Corruption.

A former MTA operating engineer, John Masterakos, was sentenced to probation after pleading guilty to accepting a \$10,000 bribe from the Figliolias for breaking a pipe in the basement of MTA headquarters. This action enabled the Figliolias to charge the MTA several hundred thousand dollars for emergency sewer line repair.

The principals of Figliolia Plumbing, Alex Figliolia Sr.; Alex Figliolia Jr.; and Janet Figliolia were also sentenced in early 2005. Alex Figliolia Sr. received 1 $\frac{3}{4}$ to 5 $\frac{1}{4}$ years in prison and Alex Figliolia Jr. received 2 $\frac{3}{4}$ to 8 $\frac{1}{4}$ years in prison, both for Enterprise Corruption. Janet Figliolia received 5 years probation for Bribery in the Second Degree.

In addition, jewelry seized from the Figliolias was auctioned off for approximately \$200,000, bringing the total restitution in that case to over \$8.5 million.

Also in 2005, a NYC Transit sub-contractor who underpaid 26 laborers by more than \$800,000 pleaded guilty to a felony, and the workers received back wages as a result. Florence XVI Century Marble, Inc., as part of the plea agreement, agreed not to bid on public works projects with New York City or New York State for five years. In addition, during the course of this investigation it became known to OIG that the owner of the company owed the State Tax Department over \$450,000 related to tax liabilities.

Monitorships

FIU has continued to devote significant staff time to three monitorships, one involving the rehabilitation of a NYC Transit power substation in Harlem by Perini Corporation; one involving deck replacement on the Bronx Whitestone Bridge by the Perini Corporation; and a third dealing with RJR Paratransit of Staten Island, which contracts with NYC Transit to provide paratransit services.

**SAMPLING OF
NOTEWORTHY
CASES****Figliolia Plumbing,
et al.
MTA/OIG #2005-18L**

As a direct result of this OIG investigation, the New York County District Attorney's office secured a 116 count indictment charging three MTA employees and a MTA plumbing contractor, Alex Figliolia Contracting Corp. (Figliolia), including its three principles. Pleas of guilty were entered; sentences have been imposed ranging from probation to incarceration with orders of restitution totaling nearly \$9 million. This case was the largest fraud investigation ever launched by the OIG and is the largest fraud prosecution for crimes against the MTA. I-Lite Electric and two of its principles were also named in a separate, earlier indictment.

The investigation was initiated in part because of an OIG review of invoices and other documents related to the cost overruns in its own offices, and based in part on a highly detailed tip from a disgruntled losing bidder. It found that Figliolia employees submitted fraudulent, inflated invoices for work, while the MTA employees named in the indictment either facilitated or directly approved payment for the fraudulent invoices. The OIG found that this fraud was aided and abetted by three MTA employees who either submitted for or approved payment on fraudulent invoices submitted by Figliolia.

The OIG also found that while the disloyal MTA employees were able to mask this fraud for a long period of time, the mere removal of the problem employees without more does not guarantee that the internal procurement environment is sound.

**Blueprint for Terror
MTA/OIG #2005-20L**

The OIG initiated an investigation based on a N.Y. Post article, "Blueprint for Terror," which reported that blueprints for the Atlantic Avenue subway station in Brooklyn were found littering the streets. OIG determined that the blueprints were in the possession of a construction firm that had recently finished renovating the station, and who then threw them in a dumpster on the work site. This investigation then looked at rules and regulations governing the handling of Security Sensitive Information (SSI).

OIG determined that MTA does not adequately govern how the blueprints are secured, handled, and disposed of once they are given to a vendor. MTA was advised to create such a policy basing it on existing federal and state policies governing SSI. MTA agreed in full with the recommendations and has contacted leading security agencies who are collectively in the process of creating such a policy.

**MTA Office of the
Inspector General
Program to Identify
Vendors with
Outstanding New York
State Tax Liens
MTA/OIG #2005-3L**

In the normal course of its work, OIG discovered 57 MTA contractors who owe NYS more than \$4 million in back taxes. This is a subsequent report detailing a joint project with NYC Transit that will identify MTA vendors and contractors who are currently delinquent on their taxes and are not involved in a payment plan. This is crucial information for the MTA since contractors who are late on their taxes as a rule may also be in danger of insolvency. This program will integrate all MTA constituent agencies into the use and maintenance of this list of delinquents. Vendors and contractors who owe significant back taxes and who are not in remediation will be referred to the New York State Department of Taxation and Finance for further action.

**Improving MTA New
York City Transit's
Practices Regarding
Prospective Contractors
and Sub-Contractors
with Unpaid Tax
Obligations
MTA/OIG #2004-16L**

This OIG report outlines the practices of NYC Transit in awarding contracts to vendors with existing state and federal tax debts. NYC Transit looks for tax liens, warrants, etc., on all contractors and sub-contractors for jobs over \$1 million. This threshold was set by a cost-benefit analysis of costs of performing commercial background checks on contractors doing jobs under \$1 million.

OIG discovered contractors were being awarded relatively small contracts, despite having large tax debts. In some instances the tax owed was multiple times the amount of the contract. In some cases, notes in vendor files detailing the existence of tax liens were lost or missing from MTA files.

Recommendations were made for strengthening the MTA's ability to avoid doing business with vendors with outstanding tax debts, including a pilot program to create a database of companies with outstanding tax liens, tax warrants, etc. This program will be a multi-departmental program between the OIG and NYC Transit first, with plans to eventually include all MTA constituent agencies.

In the interim, OIG recommended running electronic tax lien searches along with standard background checks on prospective contractors, as well as setting a lower dollar threshold for this simple search. OIG also recommended a more thorough, commercial database search for contracts valued at \$1 million or greater.

**Non-competitive Award
to Meridian Healthcare
MTA/OIG #2004-35L**

The OIG conducted an audit of Metro-North Railroad's non-competitive award for occupational health services. The audit found that Metro-North did not follow MTA's *All Agency Guidelines for Procurement of Services*. OIG recommended Metro-North develop internal guidelines for outsourcing consistent with MTA's guidelines, at a minimum, demonstrating through accurate internal analysis that outsourcing would be more beneficial than maintaining current services. Further, Metro-North should develop an internal review process for all procurements that provides a clear chain of responsibility, allowing for accountability and accuracy of information as well as compliance with applicable guidelines.

Monitoring and Enforcement Deficiencies at the MTA Office of Civil Rights Disadvantaged Business Program
MTA/OIG #2004-30

The OIG conducted an investigation of the MTA Office of Civil Rights (OCR) and its administration of the Disadvantaged, Minority, or Women-Owned Business Enterprise program (D/M/WBE), which provides opportunities to businesses owned by the aforementioned groups. The investigation found OCR was doing a poor job of ensuring that the companies are qualified for the program.

OIG uncovered many instances of fraud within the system and found that OCR's contract compliance monitoring was a weak deterrent to fraud in the program. Basic monitoring functions were not being performed adequately. OIG also found that while the certification process for firms by OCR overall was satisfactory, some site visits required by federal regulations were not being conducted, and their review of the firms' annual updates was deficient.

OIG made 18 recommendations across a wide range of issues. Some of the recommendations included having OCR compliance managers meet with MTA engineers and prime contractors at set points in the construction process to ensure compliance, address concerns, and give the contractor due time to make good faith efforts to address deficiencies. OIG also recommended enhancing OCR personnel's training, and identifying staff that may be utilized to analyze complex financial statements and tax forms.

Failure to Perform Mandatory Visual Switch Inspections
MTA/OIG #2004-45L

OIG launched an investigation into an anonymous allegation that signal maintainers were not performing daily visual inspections of switches as required by NYC Transit policy. The investigation confirmed these allegations, finding them to be wide-spread. The investigation also discovered that the problem was known but overlooked by superiors who thought it onerous.

OIG recommended that NYC Transit's Signals Division conduct a thorough study to determine the maximum safe interval between visual inspections of the switches. OIG also recommended disciplining the Signals Officer who knowingly allowed this breach of safety policy to continue with his clear consent. Finally, OIG recommended NYC Transit immediately undertake an internal audit of all safety regulations to ensure the safety of the passengers on the lines.

Former Employee Misconduct
MTA/OIG #2004-53L

This OIG investigation is a continuation of an earlier report, MTA/OIG #2003-39L. The prior report cited frequent policy violations by the former LIRR Director, Hazardous Abatement, System Safety, and concluded that the former Director single-handedly defeated internal controls in procurement to increase contract amounts for a vendor. Additionally, the director hired an assistant through this contractor after being repeatedly denied the request for an assistant by the LIRR. The investigation was continued to determine if the Director or his family received compensation from the vendors with which he worked.

OIG found that the former Director purchased several thousand dollars worth of electronic gear through the vendor's contract but withheld the equipment from the LIRR. While the merchandise could not be located, the fact that the items were never submitted to the LIRR for reimbursement suggests that the employee kept the equipment. Based on these improprieties, as well as those discussed in

the earlier report, OIG recommended the LIRR weigh these findings before entering into subsequent contracts with this vendor.

**Metro-North
Employees
Drinking Alcohol
While on Duty
MTA/OIG #2004-46L**

During the course of a separate investigation involving Metro-North work trucks, OIG investigators observed three Metro-North employees consuming alcoholic beverages while on duty. OIG recommended Metro-North initiate disciplinary proceedings against the three employees involved.

**Background
Verification
MTA/OIG #2003-28L**

OIG investigated an anonymous allegation that a NYC Transit Light Maintainer falsified his qualifications when he applied for his job. OIG found no evidence that the Light Maintainer intentionally falsified his qualifications, though there were discrepancies in his start and end dates for previous job experience. OIG did find that while the employee didn't falsify his qualifications, the experience he did have – through no fault of his own and unbeknownst to him – was insufficient for the position for which he was hired.

The requisite experience level listed for the position asked for four years of full-time experience as a journeyman level electrician, or fewer years and the equivalent experience in class work. The term journeyman, however, was not defined in the job listing. OIG found that the employee had never served at a journeyman level in the past, and determined that he was hired in spite of this because of several reasons. First, without a definition of journeyman in the job listing, the employee was left to make assumptions as to whether he possessed the requisite experience. Second, NYC Transit does not verify prior work experience and education unless there is negative information supplied by the candidate for hourly positions, which the job was.

OIG recommended that in cases where journeyman level experience is required for the position, NYC Transit should provide a clear definition of what constitutes such experience in the "Notice of Examination." The OIG also recommended NYC Transit verify any and all background information if such information is significant to the consideration of the applicant.

**Identification Fraud
MTA/OIG #2003-34L**

The OIG conducted an investigation into an allegation from NYC Transit's Human Resources department (HR) regarding a former NYC Transit Conductor. The Conductor, who had a criminal record, used his brother's identity to pass a criminal record check for him. The OIG substantiated these claims, determining that a lack of identity verification done by NYC Transit made this possible. Multiple documents taken during the pre-employment process are not compared to ensure the same person has completed all pre-employment steps. The OIG recommended barring both the Conductor and his brother from any future employment with the MTA. OIG also recommended taking steps to ensure that multiple sets of fingerprints that are already collected be verified from the same person, and recommended taking a digital photo when the pre-employment test is taken as further protection against such fraud.

**New York City Transit
Items on eBay
MTA/OIG #2004-1L**

OIG investigated the circumstances surrounding offers to sell NYC Transit property on eBay. This was referred to OIG by MTA Audit Services after its investigation. Audit Services asked OIG to determine whether there was evidence of a crime relative to the acquisition of the items. The referral led OIG

to examine the approach taken by the various properties of the MTA to monitor eBay and other internet auction sites for MTA related items which may have security implications or may have been stolen.

The OIG investigation found that NYC Transit was satisfactorily monitoring auction websites, as was the MTA Police. However, the other MTA properties did not monitor the sites at all. OIG, therefore, recommended the MTA constituent agencies coordinate with MTA Police in order to establish a regular monitoring program for safety and security sensitive items and that the agencies themselves monitor such websites for potential stolen property. OIG also recommended controlling the disposition of and the destruction of security sensitive printed documents, and reinforcing procedures for the return of identification cards, badges, keys, etc., from employees leaving MTA service.

Capping Report on Examination and Hiring Practices MTA/OIG #2004-2L

This OIG report is an extension of several earlier investigations into the hiring practices of NYC Transit. It recommends several changes be made in the Civil Service hiring systems in order to reduce susceptibility to fraud. While not suggesting that hiring practices are fraudulent, certain circumstances had allowed an opportunity for fraud, and were abused in the past.

One of the main recommendations was to verify fingerprint records from the time a competitive examination is taken with the subsequent set recorded at the time of hire. OIG discovered several instances where said records did not match. Such a system has since been instituted and has already resulted in the termination of several employees whose print records do not correspond and the rejection of several prospective employees for the same reason.

Another recommendation is the need to maintain and draw from a centralized pool of questions for each exam, as opposed to creating a new specific set of questions for each exam which may be more easily and accurately disseminated. This recommendation has already been implemented on a small scale, with plans for broader implementation anticipated in the future.

Alcohol Consumption by Contractor Employees MTA/OIG #2004-6L

OIG launched an investigation based on allegations that a contractor's employees working on an elevated station platform in Brooklyn were consuming large quantities of alcohol during lunch breaks before returning to the worksite. The investigation substantiated this allegation. When confronted with the evidence, the contractor in question promptly identified and questioned the workers, at which time they admitted their guilt and resigned from the project.

Additionally, NYC Transit officials demanded the quality of work by the workers in question be checked and confirmed. The contractor agreed to have the work inspected by a qualified inspector and invited NYC Transit officials to be present.

OIG recommended NYC Transit reword their contracts to include a damages clause if a party is found to be in violation, in addition to prohibiting a contractor's responsible employees from working not only on the particular contracted project, but on any MTA-related project.

**LIRR Bar Cart
Improprieties
MTA/OIG #2004-27L**

OIG investigated an anonymous complaint that a LIRR Bar Cart Attendant (BCA) improperly withheld the majority of his sales receipts submitted from two days of business from the LIRR. The investigation found glaring faults in the system that regulates BCAs, which created the opportunity for fraud. OIG concluded that the BCAs' supervisor made repeated attempts to mislead and deceive the LIRR, in part by falsifying official forms falsely suggesting that lesser sales receipts were correct. Given the state of the record keeping, OIG could not determine who may have taken the money. OIG did find, however, that the supervisor is responsible for the accuracy of the reports. OIG recommended LIRR seek full restitution from the supervisor.

OIG also recommended several measures to shore up the internal protections against such fraud, including: instituting a training program for BCAs, assigning oversight and auditing responsibilities to a group external to the BCA program, and clarifying policies and procedures for the handling and transferring of cash and receipts from BCAs.

**New York City Transit
Contract with FAAC,
Inc.
MTA/OIG #2004-41L**

OIG investigated a complaint from a losing bidder on a joint venture contract with NYC Transit for the design and production of bus driving simulators. The complainant alleged improprieties with the contract, and questioned the practice of NYC Transit employees being directly reimbursed for travel, lodging, and meal expenses by FAAC, Inc. (FAAC).

The OIG, after conferring with the New York State Ethics Commission, found that entering into a joint venture contract was within NYC Transit's discretion. OIG did, however, criticize the FAAC practice of directly reimbursing NYC Transit employees for meals, travel, and lodging. OIG and the Ethics Commission recommended ceasing direct reimbursement, instead having FAAC reimburse NYC Transit, which in turn, would reimburse its employees.

**Review of NYC
Transit's Assignment of
Non-Revenue Vehicles
to High Risk Drivers
MTA/OIG #2005-43L**

Concerned that allowing employees with poor driving records to use NYC Transit vehicles might pose an increased hazard to the public and increase Transit's potential liability, OIG conducted a review of the process by which non-revenue vehicles are assigned to employees.

The review found that NYC Transit allowed unlicensed employees and those with poor driving records to continue to drive NYC Transit's non-revenue vehicles without status reviews. The review further found that NYC Transit lacks effective and proactive procedures for mitigating the risks posed by drivers with poor driving records.

OIG found that NYC Transit utilizes the DMV's License Event Notification System (LENS) to review employees' driving records, but does so for only about a third of its non-revenue employees who are required to possess a driver's license to perform their duties.

OIG recommended NYC Transit institute a policy prohibiting drivers with suspended or revoked licenses from driving NYC Transit vehicles. The policy should set a standard for the determination of whether an employee's driving record is "safe" or "unsafe." NYC Transit should not let "unsafe" drivers operate non-revenue vehicles until such time as they are recertified "safe."

OIG also recommended NYC Transit periodically updates its LENS program list to ensure that new employees are noted and employees no longer in service are taken off the list. NYC Transit should consider creating a more proactive monitoring system.

**Theft of Time at 207th
Street Overhaul Shop
MTA/OIG #2004-52L**

OIG conducted an investigation into an anonymous allegation that a NYC Transit employee was selling bootleg items from the trunk of his car during his shift. OIG found that the employee did distribute merchandise to other workers in the shop during working hours in violation of NYC Transit's rules.

The investigation found that this behavior was facilitated by special permission granted to several employees to alter their shift time by one hour. As a result, the employees on this "flex shift" lacked oversight by a shift supervisor during their first hour of work, enabling one employee to distribute merchandise from the trunk of his car.

OIG concluded that the employees were left unsupervised as a result of "inexcusable neglect" by the supervisor who permitted the shift change without arranging for proper supervision. OIG also found fault with the supervisor for the shift during which these employees began their work day, who was aware of the problem, but knowingly allowed it to continue. OIG recommended appropriate disciplinary action be taken against the two supervisors responsible as well as the employees. OIG furthermore recommended NYC Transit review management at the shop in question.

**Theft of Time
NYC Transit
MTA/OIG #2005-5L**

OIG launched an investigation based on an anonymous allegation that a NYC Transit Train Service Supervisor (TSS) did not always report for his assigned Saturday shift or work his full tour during his weekday shifts. The investigation found that the TSS violated NYC Transit's rules and regulations in two ways. First, he failed to report for work two of the ten Saturdays and one weekday during the period for which his MetroCard swipe history was examined. Second, he reported late for work 32 of the 40 weekdays he was scheduled to work. The investigation also found that his immediate supervisor failed to adequately supervise the TSS thereby facilitating his misconduct.

When OIG apprised the Chief Transportation Officer of this situation, he immediately instituted a new system to track the whereabouts of the TSSs. OIG recommended NYC Transit take disciplinary action against the TSS for falsely claiming he was at his post, and his supervisor for failing to supervise.

**Inefficient Inventory
Control and
Supervision in Human
Resources Move from
1250 Broadway and 370
Jay Street to 180
Livingston Street
MTA/OIG #2005-7L**

This OIG report was initiated following a complaint that two NYC Transit Human Resources Department (HR) employees stole electronic equipment including two televisions and videotape recorders during a large scale move of two offices. OIG was unable to fully refute or confirm these allegations because NYC Transit's Inventory Control Policies were completely disregarded during the relocations and proper documents and reports were not prepared.

The HR staff responsible for tracking inventory during the relocation did not document or track inventory remaining at the vacated offices after the move. In failing to do so, the employees responsible unreasonably exposed NYC Transit to the risk of theft. OIG recommended seeking disciplinary action against the

HR staff responsible for overseeing the moves. The office further recommended digitizing the inventory process to enhance control and centralize the records.

During future large scale moves, OIG recommended training Property Protection Bureau personnel to act as custodians of the property, and to maintain the aforementioned digitized inventory control setup.

**Coney Island Yard Fire
Suppression
MTA/OIG 2005-12L**

Following a devastating fire in a 34th Street-Herald Square station escalator, NYC Transit inspected all of its escalator fire suppression systems. These inspections turned up a substantial number of defects. Based on allegations that the repairs were being performed insufficiently, OIG launched an investigation.

The OIG investigation found that approximately half of the fire suppression systems under the escalators were either inoperable or lacking parts required for on-site repair. The investigation also determined that a number of perimeter fire hydrants in NYC Transit yards are out of service. Additionally, OIG found that two escalators in service have no fire suppression systems.

OIG recommended accelerating repairs to faulty fire suppression systems and fire hydrants, as well as assessing the need for a fire suppression system under the two escalators lacking such systems.

**MTA Risk and
Insurance
Management: Tenants
without Confirmed
Insurance
MTA/OIG #2005-13L**

During the course of an audit into the leasing practices of the MTA Real Estate Department (RED), OIG discovered several instances where the Risk and Insurance Management Department (RIM) did not have proper insurance certificates for the leased out properties. OIG subsequently investigated a sample group of leased property insurance certificates.

This investigation found that RIM was not maintaining current insurance certificates for many of the leases. OIG found the cause for this to be a lack of effective communication between RED and RIM. OIG recommended a number of changes to RIM, namely, to determine the insurance status of all tenants and immediately obtain updated certificates in cases where status is not current. OIG also recommended designating an individual who would be responsible for communications between RIM and RED and developing a procedure to ensure that RIM is aware of all new lease agreements.

**Temporary Technical
and Professional
Consultant Contract
MTA/OIG #2005-17L**

OIG investigated anti-nepotism policy violations within the NYC Transit Capital Program Management Department (CPM). MTA Audit Services had already determined that the process used to hire outside temporary technical and professional consultants was compromised, and referred the nepotism issue to the OIG for resolution.

OIG found that outside firms tasked with furnishing the temporary consultants to be utilized by CPM were taking resumes from family members of CPM and other NYC Transit employees. One CPM administrator was furnishing a list of firms actively seeking temporary CPM consultants to all MTA employees who requested it. This created the possibility for nepotism and favoritism on part of the firms wishing to gain favor with CPM staff.

Ultimately, OIG concluded that despite the appearance of impropriety, there were no actual violations of NYC Transit’s anti-nepotism policy. However, NYC Transit has since removed some oversight responsibilities for this contract from CPM and given it to Vendor Relations.

**Overtime Abuse by
LIRR Crew Dispatcher
MTA/OIG 2005-21L**

This investigation was based on an anonymous allegation that a LIRR Crew Dispatcher was paid overtime for hours not worked and his supervisor was covering it up. The investigation found these allegations to be unsubstantiated. The complainant, who was a fellow employee, confessed to submitting false allegations and agreed to discipline in lieu of a trial.

**Labor Law Violation
MTA/OIG #2005-24L**

OIG investigated allegations that an MTA contractor violated State Labor Law, Section 220 by failing to pay the prevailing wage. We substantiated the allegations and discovered numerous other violations of the State Labor Law, such as preventing workers from taking required breaks, falsifying work logs, and requiring employees to work beyond their qualifications. OIG sent our evidence to the NYC Office of the Comptroller.

**Solicitation of
Contributions for
Northside Center
MTA/OIG #2005-27L**

This OIG investigation stems from an anonymous complaint that an NYC Transit lawyer “takes money for a charity from (vendors).” OIG found that while the lawyer did not directly benefit from the vendors, he did submit the names of NYC Transit vendors to the Northside Center for Child Development. In so doing he violated the Public Officers Law. OIG recommended that the lawyer be directed to discontinue this practice.

**NYC Transit
Contractor Dispute
MTA/OIG #2005-29L**

A contractor alleged that NYC Transit owed his company money for products it had supplied, and was withholding the money based on an issue with an unrelated contract.

OIG found that NYC Transit did withhold money from the vendor, but did not act unlawfully. The contract was for 300 refuse inserts, to be delivered 50 at a time every two months. Over a six-month period, the contractor should have delivered the first 200 units, but delivered only 61. NYC Transit notified the contractor by certified letter that it had failed to meet its contractual obligations and that its performance was unacceptable. The letter directed them to provide a written plan demonstrating that they could and would deliver all material within seven days, in accordance with the contract. The letter was not answered.

OIG found that while there appeared to be a dispute about money owed under a contract between the contractor and NYC Transit, under the terms of the contract NYC Transit did not act unlawfully.

**FTA-Mandated Post-
Accident Alcohol
Testing:
A Follow-Up
Assessment of NYC
Transit’s Program
MTA/OIG #2005-30L**

OIG conducted a follow-up audit of NYC Transit’s program to conduct post-accident alcohol testing per Federal Transit Authority (FTA) regulations. The testing is supposed to be conducted after an “accident” – as defined by FTA guidelines – within two hours if practicable. If it is not practicable to administer the test within that period, the reasons are to be recorded. OIG found that while NYC Transit had made a major improvement since the prior audit, its practices still need updating to fully comply with FTA regulations. Transit also should ensure that supervisors are more diligent in correctly filling out existing forms and in not accepting incomplete or incorrect forms.

OIG issued 16 recommendations mainly to increase the timeliness of alcohol testing and to more closely follow the FTA guidelines. For instance, OIG recommended that FTC testing guidelines be used only when the accident in question meets the FTA definition of an accident. NYC Transit agreed with OIG's recommendations took issue with the need to test within the two-hour guideline, arguing that the driver is often required to assist emergency personnel in determining the cause of the accident and delivering them from the scene of the accident may impede such investigations. NYC Transit agreed to be diligent in documenting the reasons for the delay in cases where testing can not be completed within the specified time.

**NYC Transit Theft of Time
MTA/OIG #2005-31L**

OIG investigated an allegation referred by MTA Audit Services that between 2003 and 2004, an NYC Transit employee stole as much as 290 hours of time, worth approximately \$13,000. MTA Audit Services confronted this employee after it had discovered inconsistencies totaling 130 hours from 2004 in a routine audit of the timekeeping system. The employee retired a short time later, forfeiting 100 hours of accumulated sick time for which he would otherwise have received half pay upon retirement.

Subsequent to the employee's retirement, 160 additional hours during 2003 were called into question. OIG recommended NYC Transit evaluate whether to pursue civil remedies.

**Alleged Misconduct by Signal Division Employees
MTA/OIG #2005-32L**

OIG received a complaint through the NYC Department of Transportation Inspector General's Office, alleging an NYC Transit Signals Division Superintendent regularly leaves his workplace when he is scheduled to be on duty and operates a construction business without NYC Transit's required permission. The complaint further alleges that another employee fails to report to his assigned job site, reporting instead to the Construction Office, and that the two employees' supervisor condones these practices.

The first allegation was partly substantiated; the rest of the complaint was unfounded. The superintendent in fact operated a small construction company on his own time without the requisite permission, and his supervisor was aware. OIG recommended appropriate disciplinary action for both the superintendent and his supervisor for engaging in dual employment without permission and for knowingly allowing him to do so, respectively.

**Scrap Metal Programs
MTA/OIG #2005-35L**

OIG initiated a proactive investigation into MTA's management of the sale of scrap metal. The investigation found NYC Transit to have the best organized system within the MTA with defined tasks and meaningful oversight, as well as contracts that ensure the best price for its scrap. OIG reached the conclusion that the best policy for the disposal of scrap would be a consolidated, uniform scrap policy for all its agencies. Failing that, OIG recommended that the other properties of the MTA model their programs on that of the NYC Transit to avoid fraud and ensure the best possible price.

**NYC Transit
Telecommunications
and Information
Services
MTA/OIG #2005-48L**

At a vendor responsibility hearing the president of a vendor company revealed that his company obtained information about a NYC Transit Telecommunications and Information Services Division (TIS) procurement in advance of the public notification. Based on that testimony, NYC Transit's Vendor Relations unit asked OIG to investigate.

OIG concluded that a NYC Transit employee provided the vendor with a Universal Requisition, a supply list, and an internal NYC Transit memorandum via e-mail, without prompting by the vendor. OIG found that although the dissemination of internal documents may have created the appearance of impropriety, the vendor gained no unfair advantage.

OIG found that while despite existing policies defining what information may be shared with vendors and when, TIS staff was unfamiliar with those policies. OIG recommended that NYC Transit reissue its written policy on what information may be shared with vendors and under what circumstances. NYC Transit was asked to reinforce this policy with appropriate training.

**Battery Parking Garage
Fire Suppression
MTA/OIG #2005-57L**

OIG investigated allegations by a former MTA employee that the fire suppression systems and emergency backup generators at Bridges and Tunnels' (B&T) Battery Parking Garage have not worked since 2001. The former employee further alleged that the New York City Fire Department (FDNY) issued summonses to the MTA that were subsequently "quashed" by high-level MTA officials. OIG determined that these allegations are unfounded.

The MTA is exempt from the New York City Building Code. Therefore, FDNY cannot and did not issue summonses against it.

OIG investigators determined that prior to a two year rehabilitation ending in July 2003, the fire suppression systems were in poor working order, and backup generators were inoperable. A July 2005 FDNY inspection indicated, however, that the garage had no major violations. OIG strongly recommended that B&T correct any remaining minor violations noted in the report of the July 2005 FDNY inspection.

**Grand Central Ticket
Office Lost Property
Protocol
MTA/OIG #2005-36L**

OIG investigated an allegation that Metro-North employees mishandled a customer's wallet which he inadvertently left behind at the Grand Central Ticket Office (GCTO). OIG determined that the wallet was secured by a GCTO cashier and given to a supervisor. The supervisor placed the wallet in an unsecured desk drawer from which it subsequently "disappeared."

At the time of the incident, Metro-North had no clear policy or procedure for the recovery and inventory of lost property. Likewise there was no policy or procedure for documenting and investigating unusual occurrences. OIG also found that two GCTO supervisors failed to notify MTA Police of the disappearance of the wallet from inside GCTO. OIG recommended Metro-North take disciplinary action against one of the two supervisors, with whom Metro-North had experienced prior problems concerning missing money within GCTO. OIG also recommended creating and instituting clear and concise policy governing the documentation and security of property recovered by Metro-North

personnel. Metro-North should include in that policy a requirement that whenever theft or other criminal activity is suspected, supervisory personnel must contact MTA Police and retain a copy of any and all police reports.

**Accounts Payable
Duplicate Review at
Long Island Rail Road
MTA/OIG #2005-52L**

OIG conducted an audit to assess the ability of LIRR Accounts Payable (AP) system to detect and avoid duplicate payments. Out of nearly 140,000 payments totaling over \$2.3 billion during the course of two years, the audit found only two duplicate payments. A review of the AP system to determine the cause of the duplicate payments disclosed, however, that the AP system allows certain employees to create new vendors within the system and enter and pay invoices, a very poor internal control condition, with serious financial risk to the MTA.

Additionally, OIG found that AP has no complete procedures manual. AP has instead a series of standard operating procedures for each of the various stages in the AP process. OIG recommended AP acquire and utilize software to analyze payments and vendor listings for duplicate payments and clean up the current vendor databases to eliminate duplicates. AP should immediately restrict or remove the ability to both enter non-contract vendors and enter invoices to reduce the risk of employee fraud. OIG further recommended AP produce an AP manual and adhere to its policies.

**Kiska Construction,
Inc.
MTA/OIG #2005-38L**

OIG investigated discrepancies in a NYC Transit contract with primary contractor Kiska Construction Corporation – USA (Kiska) and Kiska’s payments to disadvantaged, minority and/or women owned business enterprise (D/M/WBE) subcontractors. The contract investigation was referred to the OIG by MTA Audit Services, which uncovered the discrepancies during a routine, random contract audit.

OIG investigators determined that the misreporting of D/M/WBE participation resulted not from any intentional or deceptive reporting by Kiska. They found that the misreporting was a result of internal reporting problems at the second-tier electrical contractor, D&E Contractors, Inc. (D&E), who passed on the misinterpreted information to Kiska, who unknowingly provided the incorrect numbers to NYC Transit. This misreporting was also an indirect result of the inability of the third-tier D/M/WBE subcontractors to perform their contracted duties. The President of D&E, upon realizing the internal reporting problems, took “full responsibility” for the error and acted to correct the problem.

OIG found that the misreporting of the D/M/WBE figures went undiscovered for as long as it did due to inadequate monitoring of D/M/WBE projects. This lack of oversight was found to be inconsistent with the provisions of D/M/WBE policies and procedures. OIG has expounded in detail on D/M/WBE fraud in several past reports, most notably MTA/OIG #2004-30L.

**Removal of NYC
Transit Property and
Inventory of Computer
Equipment in the
Division of Technology
& Information Services
MTA/OIG #2005-37L**

OIG substantiated an allegation that an NYC Transit Division of Technology and Information Services (TIS) manager removed a desktop computer from NYC Transit and, contrary to NYC Transit policy, kept it at her home for “a long period of time.”

The manager claimed she received open-ended verbal authorization from her supervisor to remove the computer. The NYC Transit policy that controls and

safeguards NYC Transit equipment requires *written* authorization specifying a time period not to exceed three months if property is to be removed from the premises. Additionally, that policy requires that if an employee wishes to remove equipment, he or she must carry sufficient homeowners insurance against theft or fire to protect the NYC Transit from loss of equipment.

During interviews with OIG investigators, the manager repeatedly made false and/or self-serving statements which sought to minimize her culpability. She refused to cooperate fully with OIG investigators, forcing them to verify facts and statements that should have been within the employee's knowledge.

During the course of this investigation, OIG noted poor internal control compliance within TIS. The same policy that governs the control of NYC Transit property requires all NYC Transit departments to track inventory and to maintain a Property Control Registrar (PCR) of all items valued over \$500 and of any computer and peripheral equipment regardless of cost. The policy dictates that each division appoints a Property Control Officer (PCO) and inventory coordinators to maintain the required records and to ensure they reflect accurately the inventory on a timely basis. The inventory coordinator at TIS worked for the TIS manager who removed the computer.

OIG found that the inventory coordinator at TIS failed to fulfill the inventory requirements of the relevant NYC Transit policies. The failure was such that when a proper inventory was completed a year after his last inventory, five computers remained unaccounted for.

Based on her violation of Transit policies and her repeated attempts to minimize her involvement and mislead OIG into believing she unwittingly violated the policies, OIG recommended NYC Transit pursue disciplinary action against the manager. OIG also recommended that the PCO and inventory coordinators receive training on how to perform their jobs and adhere to all the rules of record keeping, inventory, etc. Finally, OIG recommended that TIS perform a reconciliation of all equipment within TIS and update the PCR to reflect what equipment was transferred out of TIS after reorganization in 2004.

**Improprieties at
Buildings and Bridges
MTA/OIG #2005-55L**

OIG investigated an allegation by a LIRR plumber that his manager exhibits "nepotism, favoritism, and racism" in the Building and Bridges Department (B&B). The complainant, after attending the Puerto Rican Day parade, was allegedly told by his manager that he "must be tired from all the raping and pillaging." The plumber further alleged that the manager hires subordinates to perform work on his private residence while withholding promotions from employees who decline to perform such work.

OIG found that the manager did in fact hire subordinates to perform work on his house, though it found no evidence of favoritism towards employees who performed work for him. The use of his subordinates for outside work did, however, create an appearance of impropriety that unfairly placed employees who declined such work in a difficult position. Interviews with all parties revealed that the manager did make the alleged statements, for which he issued a formal, written apology.

OIG recommended LIRR adopt policies that require supervisors to disclose offers of employment to fellow LIRR employees, as well as requiring LIRR employees to declare outside employment if performed for a supervisor or other LIRR employee.

**Accounts Payable
Duplicate Review at
MTA Headquarters
MTA/OIG #2005-51L**

OIG conducted an audit of MTA Headquarters Accounts Payable Department (A/P) to assess its ability to detect and prevent duplicate payments. OIG auditors reviewed 73,903 payments totaling over \$7.7 billion during a two-year period and found only 12 duplicate payments totaling approximately \$13,000. In these 12 instances, different contract numbers, or the word “voucher” was entered the second time. OIG also found several instances where the same vendor was listed multiple times and several vendors with missing tax information associated with their entries. This was attributable to data “corruption” that occurred when two independent vendor databases were combined.

OIG recommended training A/P and Procurement staff to use PeopleSoft to run monthly reports that could assist in detecting duplicate payments and duplicate vendors. It also recommended they finalize procedures for processes with PeopleSoft. OIG finally recommended A/P continue the cleanup of the vendor database to eliminate all duplicate vendor entries and separate mailing list vendors.

**Theft of Time by MTA
Metro-North
Railroad Employees
MTA/OIG #2005-6L**

OIG investigated time theft by Metro-North employees working at and in the vicinity of the Brewster North Shop. OIG investigators conducted 24 surveillances at five separate Metro-North yards and observed nine employees who appeared to be stealing time. The nine employees were observed stealing approximately 155 hours of time during 185 hours of surveillance.

Each of the employees stole a different amount of time from Metro-North, with the amounts ranging from an hour and ten minutes to nineteen and one-half hours. In addition to this theft of time, OIG investigators discovered much of the work these employees did perform was significantly sub par and noted such in MTA/OIG #2005-23L.

OIG recommended disciplining the employees observed stealing time from Metro-North and requiring they make restitution for the time stolen. OIG also recommended reinstructing the employees’ supervisors in verifying timekeeping records and ensuring that the records submitted are accurate.

**Productivity of Metro-
North Work
Truck Crews
MTA/OIG #2005-23L**

In a prior report, OIG expounded on the many improprieties and policy violations uncovered during a surveillance of Metro-North employees ranging from extreme theft of time to consumption of alcohol during work hours. This report details the lack of productivity and substandard work quality observed during that surveillance.

OIG observed workers in Metro-North trucks who did nothing during an entire shift but purchase food at a deli and consume it in their truck. Another crew was observed outside the Brewster North station. While three crewmembers stood around inactive, one worker painted a round handrail with a paint roller; the only other work by this crew was when one worker cleaned the rim of a paint can with a twig.

OIG investigators attempted to ascertain from Metro-North whether the employees were being properly made aware of their duties and responsibilities during a shift. The investigators reviewed various Metro-North work orders and discovered that workers were provided with only vague details as to the location of the job, often with no time frames or specific duties at the job site.

OIG recommended Metro-North review the surveillance videos of the Metro-North trucks and crews and initiate disciplinary charges for any and all applicable charges. That review resulted in discipline for eighteen Metro-North employees. OIG further recommended Metro-North supervisors issue work orders with much greater detail, eliminating a cause of employee inactivity.

**INTER-
GOVERNMENTAL
RELATIONS**

During 2005, OIG worked with other investigative and transportation agencies, state and local audit agencies, as well as governmental and representative entities. The following is a list of those with whom we worked with during the year:

Association of Inspectors General
Bureau of Alcohol Tobacco and Fire Arms
Federal Bureau of Investigation
Georgia State Office of the Inspector General
Hunts Point Department of Public Safety
Kings County District Attorney
Los Angeles County MTA Office of the Inspector General
Lower Manhattan Development Corporation
Lower Manhattan Construction Command Center
Manhattan District Attorney
Nassau County District Attorney
National Oceanic and Atmospheric Administration
National Weather Service
New York City Comptroller
New York City Department of Environmental Protection
New York City Department of Sanitation
New York City HHC Office of the Inspector General
New York City Housing Authority Office of the Inspector General
New York City Police Department
New York City School Construction Authority
New York State Senate
New York State Attorney General
New York State Department of Environmental Conservation
New York State Department of Labor
New York State Department of Taxation and Finance
New York State Department of Transportation
New York State Dormitory Authority Office of the Inspector General
New York State Ethics Commission
New York State Department of Insurance
New York State Office of the Inspector General
New York State Office of the Welfare Inspector General
New York State Police
New York State Public Transportation Safety Board
New York State Workers' Compensation Board

Northeast Regional Climatic Center
Metropolitan Transportation Authority Police Department
Suffolk County District Attorney
Suffolk County Police Department
Texas State Dept. of Criminal Justice Office of the Inspector General
US Attorney for the Eastern District of New York
US Department of Labor
US Department of the Interior
US Geological Survey
US Social Security Administration Office of the Inspector General
Verizon Corporate Security

FUTURE ACTIVITY Every year since 2001, the OIG has incorporated changes to its structure and approach in order to more efficiently and effectively carry out the oversight role bestowed on it through Section 1279 of the Public Authorities law. This section of the annual report will offer the reader a glimpse of some of the structural fine-tuning and focus for the OIG in the coming year.

Field Surveillance Team In 2005, the OIG began to expand the Investigations Unit to include a Field Surveillance Team. This covert team of seven investigators enhances our ability to detect fraud, waste and abuse and gather intelligence for future projects by conducting observations of MTA and MTA vendor employees. The team also conducts surprise inspections of both MTA and vendor employees at various job sites and MTA locations. In 2006, the team will work under a plan based on the intelligence gathered by OIG during the later part of 2005.

Identification and Reporting of Warrants for State Tax Owed by MTA Vendors In 2003, the OIG, with the cooperation of the MTA and NYC Transit, began a pilot program aimed at identifying vendors employed by the MTA who have significant outstanding New York State tax warrants. Once such firms were identified, the OIG reported to the State Tax Department that these firms have assets (their MTA contracts) which the State Tax Department could pursue for payment.

OIG staff has identified **\$4 million** in tax revenue owed to New York State by vendors currently employed by MTA constituent agencies. The State Tax Department has begun the laborious process of collecting some of these funds. While the State Tax Department has an electronic process for the collection of funds owed by vendors working for New York State *agencies*, they do not have a similar automated process to collect funds owed by vendors working for New York State *authorities*.

In 2006, OIG intends to expand the program to include all MTA constituent agencies and report on such vendors on an ongoing basis throughout the year. In addition, we plan to work with the State Tax Department to institute an electronic process to collect delinquent funds from vendors currently employed by the MTA and its constituent agencies.

Association of Inspectors General Many staff members took active roles in the Association of Inspectors General (AIG). AIG is a national organization of local, state, and federal Inspectors General whose mission is to promote accountability and integrity in government through the prevention and detection of fraud, waste and abuse. AIG also

encourages professional development by providing educational programs and establishing professional qualifications and certifications.

The OIG's participation in 2005 was wide and diverse. Four members of the Office are active members of the AIG Peer Review Committee. One member of the staff is an AIG board member as well as a member of the executive committee. The Inspector General (IG) has also made three presentations to association members concerning the finer points of a peer review and achieving efficiency within an IG's office.

In 2006, the OIG is poised to continue supporting the Association of Inspectors General and looks forward to presenting two new presentations in May involving how to manage IG's independence and media relations for IG's.

PROFESSIONAL DEVELOPMENT

As part of the OIG's commitment to continuing professional education and training, and meet or exceed professional certification requirements, a vast majority of the staff members have participated in some aspect of professional development. In 2005, the training took on many forms including in-house, on-line, organized conference training, symposiums and accredited courses. OIG attorneys took part in continuing legal education opportunities as prescribed by law.

Most of the office participated in track training certification classes to assure OIG staff are safely able to conduct audits and investigations on or around subway and commuter train tracks.

Virtually the entire auditing staff received additional training in pension concepts and audit techniques; advanced Excel functions; the use of Lexis/Nexis; auditing fraud, waste and abuse; the use of Audit Command Language to evaluate large amounts of data; report writing skills; problem solving tools and techniques; and an update on changes to Government Auditing Standards.

Audit managers also received training in such managerial skills as conflict resolution and negotiation time management communications and learning styles and current issues in auditing.

The Inspector General and seven staff members completed an extensive five-day training course in national professional standards, audit and investigative techniques, relevant law and emerging trends, thus earning the professional designation "CIG" (Certified Inspector General), under the auspices of the Association of Inspectors General. Three other staff members completed a five-day course sponsored by AIG and became certified investigators.