STATE OF NEW YORK

Office of the Inspector General
Metropolitan Transportation Authority

2008 ANNUAL REPORT

Barry L. Kluger
Inspector General
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ABOUT THE INSPECTOR GENERAL

MESSAGE

Some 8½ million individuals ride MTA subways, buses and commuter railroads every day. Nearly one million vehicles each day travel over MTA bridges or through MTA tunnels. The MTA has a capital budget alone of more than $25 billion, making it one of the largest employers of construction contractors in the nation. Not surprisingly, the MTA transportation system is one of the largest in the world.

The Office of the MTA Inspector General serves to help the MTA watch its money carefully and serve its customers well.

To accomplish these goals, this office performs three fundamental functions. We investigate fraud or other abuse. We look for ways to help improve performance and make operations safer and more efficient. And we look to identify ways to help the MTA spend its money more effectively.

In the pages that follow, we describe the findings and recommendations we reported in 2008, as well as some of the other significant work we performed in furtherance of our mission. As I explained in my first Annual Report, last year, I believe strongly that forging partnerships and cooperative working relationships inside and out of the MTA, while at all times preserving our independence, is the best way to help the MTA and support its customers. We continued to build on that approach again this year.

Thus, in our investigations we again worked closely with state and federal prosecutors, as well as other governmental agencies. For example, we worked with the New York County District Attorney, the New York City Department of Investigation, the Inspector General of the Port Authority of New York and New Jersey and others, in an investigation that resulted in the indictment of a construction-material testing company and some of its employees on charges including racketeering and schemes to defraud involving at least five MTA projects. We also worked with the New York County District Attorney on a different investigation resulting in the indictment of a moving company and its owners on charges involving grand larceny and false filing. The indictment charges that in a 1½ year period the defendants stole more than one-quarter of a million dollars from New York City Transit.
Further, I am certainly pleased to report the creation of our new Construction Fraud Unit. I have staffed the Unit with highly talented and experienced forensic specialists, who work cooperatively with law enforcement, other governmental agencies and MTA staff to detect, deter and prosecute fraud against the MTA.

As to helping the MTA improve performance, many of you will recall that in the first quarter of 2007, LIRR experienced five serious service disruptions caused by accidents (pedestrian fatalities and downed electrical wires) on the railroad’s right of way. Two of these incidents delayed train service for approximately four hours and impeded the travel of more than 100,000 commuters. In our “Response to LIRR Service Disruptions, Winter 2007,” we report how our collaborative efforts with the railroad yielded improvements in the areas of technology enhancements, staffing changes and procedural revisions.

In terms of helping the MTA identify areas in which available funds might be used more effectively, please see our report entitled “Value Engineering at MTA New York City Transit.” In the last five years, New York City Transit’s Value Engineering Program lowered estimated capital construction expenditures by $78 million by identifying cost-saving alternatives to the agency’s planned building methods, material specifications and labor allocations. We worked cooperatively with the agency to identify opportunities for even greater savings.

Similarly, to help make vendor integrity screening more effective, I wrote to all MTA agency presidents, inviting them to participate in an ongoing cooperative effort to strengthen that process across all MTA agencies. This initiative is moving forward and I am encouraged by the response thus far.

While there is certainly value in the report process, sometimes we encounter a situation during an inquiry that demands immediate attention. Therefore, where we determine that a particular condition requires an immediate agency alert, and that it does not seem prudent to await completion of a report or other final action, we address our concerns with appropriate agency staff, and alert the appropriate agency president to the issue(s) by means of a “flash letter.” We have described several in these pages, including one regarding lockable security gates at subway stations.

At the end of my first full year as Inspector General, my staff and I, mindful of the current pervasive and unprecedented economic crisis and need for even greater vigilance, are now even more energized by our increased opportunities and challenges.
On February 14, 2007, Barry L. Kluger was appointed by the Governor to serve as Inspector General of the Metropolitan Transportation Authority. This appointment was confirmed by the New York State Senate on May 30, 2007. Mr. Kluger served in the Office of the Bronx County District Attorney from 1975 until his appointment as MTA Inspector General. In 1989, the Bronx County District Attorney appointed Mr. Kluger to be his Chief Assistant District Attorney. Previously, Mr. Kluger served as Executive Assistant District Attorney, Chief of the Investigations Division and Chief of the Arson and Economic Crime Bureau. Mr. Kluger received his B.A. from City College of the City University of New York and his Juris Doctorate from Brooklyn Law School. Mr. Kluger is a lifelong resident of New York City.
STATUTORY AUTHORITY

In 1983, the New York State Legislature added section 1279 to the state Public Authorities Law (PAL), which created in the Metropolitan Transportation Authority (MTA) the Office of the MTA Inspector General (OIG). Generally speaking, the OIG is authorized and directed to independently review the operations of the MTA and its constituent agencies: MTA New York City Transit (NYC Transit), MTA Long Island Rail Road (LIRR), MTA Metro-North Railroad (Metro-North), MTA Long Island Bus (LI Bus), MTA Bridges and Tunnels (Bridges and Tunnels), MTA Bus Company (MTA Bus), and MTA Capital Construction Company (Capital Construction).¹

In terms of the scope of its statutory authority to perform this review, the Inspector General has “full and unrestricted access” to all “records, information, data, reports, plans, projections, contracts, memoranda, correspondence and any others materials” of the MTA (PAL 1279[3]).

The Inspector General also has the following statutory functions, powers and duties (1279[4]):

- Receive and investigate complaints from any source or upon his own initiative concerning alleged abuses, frauds and service deficiencies, relating to the MTA.

- Initiate such reviews as he deems appropriate of the operations of the MTA to identify areas in which performance might be improved and available funds used more effectively.

- Recommend remedial action to be taken by the MTA to overcome or correct operating or maintenance deficiencies or inefficiencies that he determines to exist.

- Make available to appropriate law enforcement officials information and evidence relating to criminal acts that he obtains in the course of his duties.

- Subpoena witnesses, administer oaths and affirmations, take testimony and compel production of books, papers, records and documents as he deems relevant to any inquiry or investigation pursuant to PAL 1279.

¹ As used in this report, unless the context indicates otherwise, the term “MTA” includes the constituent agencies.
• Monitor implementation by the MTA of recommendations made by the Inspector General or other audit agencies.

• Do “all things necessary” to carry out the above functions, powers and duties.

The Inspector General is authorized and directed to cooperate, consult and coordinate with the New York State Public Transportation Safety Board (PTSB) regarding any activity concerning the operation of the MTA. With respect to any accident on the facilities of the MTA, the primary responsibility for investigation belongs to PTSB, which is required to share its findings with the Inspector General (PAL 1279[5]).

The OIG is required to make annual public reports to the governor and members of the legislature (PAL 1279[6]).

The Inspector General may request from any office or agency of the State of New York or any of its political subdivisions, such cooperation, assistance, services and data as will enable him to carry out his functions, powers and duties, and they are authorized and directed to comply (PAL 1279[7]).

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2 PTSB has a reciprocal obligation, imposed by statute (Transportation Law 219[2]), to cooperate, consult and coordinate with the MTA Inspector General, who is designated an ex officio member of that Board with authority to vote on matters involving the operations of the MTA (Transportation Law 216[1]).
Pursuant to law (see “Statutory Authority”), the Inspector General and the PTSB share a mutual obligation to cooperate, consult and coordinate with each other regarding any activity concerning the operations of the MTA. Further, by law the Inspector General is designated an ex officio member of the PTSB, with authority to vote on matters involving MTA operations.

In a PTSB Special Study, dated December 8, 2008, entitled “Bus Fire Analysis – PTSB Investigations 2002 thru 2006,” the Passenger Carrier Safety Bureau reviewed 120 fire investigations conducted by PTSB staff. The report addressed significant trends and provided recommendations to prevent similar bus fires in the future.

The Study asserted that these recommendations resulted from “the cooperation of an industry based committee,” which included the MTA Inspector General.
PARTNERSHIPS

The Office of the MTA Inspector General, while preserving its independence, takes a hands-on and personal approach to problem-solving and systemic improvements by working cooperatively with prosecutorial and investigative entities, the MTA, its constituent agencies and others.

THE CONSTRUCTION FRAUD UNIT

The MTA has a capital budget of nearly $28 billion, making it one of the largest employers of construction contractors in the nation.

In 2008, the OIG established a new unit dedicated to the detection and prevention of construction fraud. The Construction Fraud Unit (CFU) consists of attorneys, forensic and financial investigators and forensic accountants.

The CFU is headed on the legal side by a former Nassau County Assistant District Attorney, who had also served as an IRS Special Agent, while the forensic side is under the leadership of the former chief of the Financial Crimes Bureau at the Office of the New York County District Attorney.

These individuals report to the Deputy Inspector General for Investigations, who spent nearly 15 years as a New York County Assistant District Attorney, and the last six years as the Deputy Attorney General in Charge of the New York State Organized Crime Task Force.

As part of the initiative, CFU personnel met with managerial staff responsible for capital construction in a number of the MTA agencies, including the President and Vice President of MTA Capital Construction, as well as the Vice President of NYC Transit Capital Program Management (CPM). Each of these agencies assigned a liaison to interact with CFU. In addition, the Vice President, CPM invited the heads of CFU to speak at professional meetings with CPM program officers, program managers and construction managers. During those meetings, the heads of CFU gave an introduction to CFU and invited contacts from the CPM managers in attendance. The CFU heads also met individually with program officers from the following program areas: Stations, Bus Depots, Infrastructure, Signals and On Call Projects. CFU staff also met with the Chief Engineer of MTA Bridges and Tunnels and his senior staff, the construction management staff at LIRR and the Chief Engineer of Metro-North Railroad. Finally, CFU personnel have conducted numerous visits to MTA construction sites.
During this first year, CFU conducted a number of investigations, some independently and some by partnering on cases with the New York County District Attorney Labor Racketeering Bureau and with the United States Attorneys’ Offices for both the Southern and Eastern Districts of New York. In 2008 ongoing investigations have thus far produced one arrest, two guilty pleas, and the execution of three search warrants. One of these pleas, entered by an electrical subcontractor in connection with prevailing wage fraud, is discussed below under the Investigations section at page 27.

In addition, CFU investigators found $386,220 in unpaid prevailing wages due workers of three companies, of which $94,862 has been collected and paid to the workers. Finally, an additional $1.8 million in underpayments have been identified in two ongoing criminal investigations.

CFU staff members are active participants in the Eastern District of New York Federal Construction Fraud Task Force. In addition, CFU staff attended the American Association of State Highway and Transportation Officials National Fraud Awareness Conference on Transportation Infrastructure Programs, sponsored by the United States Department of Transportation Office of the Inspector General.3

**VENDOR INTEGRITY SCREENING INITIATIVE**

For some years the MTA General Counsel has requested that OIG staff conduct limited checks of criminal backgrounds and certain performance ratings regarding vendors under consideration for MTA contract awards that required the approval of the MTA Executive Director/CEO. The OIG provided this information, albeit on as-requested basis, to MTA executive management to assist their due diligence review as to a vendor’s “responsibility” prior to final contract award decisions.

A determination of “responsibility” depends on several factors: a vendor’s integrity, financial capacity and ability to perform the contract and complete it in timely fashion. Traditionally, the evidence to support the integrity component of this determination was gleaned during the procurement process through the use of questionnaires and the background check.

3 As to federal, state and local agencies and others with whom the OIG has worked during 2008 toward building cases, conducting investigations and sharing information, see, for example, pages 25, 37-38.
Since his appointment in 2007, the Inspector General has focused on the way in which the MTA and its constituent agencies conduct background checks and make responsibility determinations. Indeed, in that year OIG issued a report on this issue entitled “Identifying and Managing Significant Adverse Information During Vendor Selection at MTA Bridges and Tunnels.”

In October 2008, the Inspector General invited the presidents to attend a meeting, which he would host, as part of an ongoing cooperative effort to strengthen responsibility determinations across all MTA agencies. Among the articulated goals was reaching agreement on the background information needed, sharing that information and using it in a comprehensive and consistent fashion.

The initial meeting, held at OIG on November 7, was attended by the President of the MTA Business Service Center and the MTA Auditor General, as well as by directors and deputy directors of procurement and top representatives of agency general counsels. The discussion centered on the need to:

- Survey the procedures employed by each agency to perform background checks, determine the ways in which information gathered during that process is used and agree on ways to improve the process;
- Standardize interpretation of the terms used within the MTA All-Agency Responsibility Guidelines and Questionnaires;
- Analyze the factors used to determine Responsibility and the weight given to each of those factors;
- Create a comprehensive and centralized data base regarding contractors seeking to do business with the MTA; and
- Define and formalize a role for the Inspector General in the vetting and selection of vendors.

Meanwhile, OIG expanded the content of background checks it performed for the agencies to include civil judgments, non-criminal violations (e.g. OSHA) and various other problems relevant to deciding the suitability of the vendor. OIG now also shares its views regarding the appropriate employment of a monitor (often called an “IPSIG” – Independent Private Sector Inspector General) to balance the competing interests involved when a particular vendor, though perhaps uniquely capable of performing certain work for the MTA, is under investigation regarding integrity-related issues.
By working cooperatively to help improve the procurement process, the OIG is able to better assist and inform the MTA, its Executive Director and the Board regarding the entities with which the MTA does business.

**OTHER 2008 PARTNERSHIP EFFORTS**

- Reinforced and strengthened positive working relationships with MTA agency presidents, their executives and headquarters staff.

- Continued participation in the MTA’s capital security program.

- Continued representation on the Lower Manhattan Construction Integrity Team (LMCIT), participating in LMCIT’s vendor screening and hiring process.

- Continued participation on the MTA Flooding Task Force.
INTAKE, REPORTS AND REFERRALS

INTAKE AND INTELLIGENCE

The OIG encourages all interested persons, whether MTA employees or members of the public at large, to report concerns they may have about the functioning of the MTA and its agencies. Complaints or comments can be communicated by email, postal mail, personally or by telephone. A Hotline number is publicized (1-800-682-4448 {MTA-IG4U}), staffed during business hours and available to take messages at any other time.

OIG specialists handle complaint intake and assessment. They also provide intelligence analysis and vendor research to assist internal investigations, as well as in response to requests made by MTA agencies or outside law enforcement entities.

In 2008, staff provided initial review and research on over 850 complaints in order to determine how best to pursue the complainant’s issues. Approximately 10% were forwarded to either the OIG Audit or Investigations Units to pursue as formal cases/projects. Referrals to and from state and federal prosecutors are especially suitable for joint projects, particularly since the creation of our Construction Fraud Unit (see “Partnerships). Other complaints, considered best handled by MTA agencies, were referred as warranted and then tracked to ensure that MTA customers and employees received appropriate responses to their concerns.

Among their duties, OIG Intelligence Analysts gather information from public records and other sources to detect associations, find patterns and trends, and provide insights that are incorporated into specific audits, investigations and reviews. In 2008, staff conducted numerous formal intelligence searches for these purposes.

HOW TO CONTACT THE OFFICE OF THE MTA INSPECTOR GENERAL

Telephone: (212) 878-0000
24-Hour Complaint Hotline: 1-800-MTA-IG4U (1-800-682-4448)
Walk-In or Mail: Office of the MTA Inspector General
Two Penn Plaza, 5th Floor
New York, NY 10121
Website: www.mtaig.state.ny.us
Additionally, in 2008 OIG staff responded to approximately 175 requests for information from the Lower Manhattan Construction Integrity Team, of which OIG is a member.

At the request of MTA General Counsel, staff also compiled integrity reports on vendors under consideration for MTA contract awards that required the approval of the MTA Executive Director/CEO. The OIG provided this information to MTA executive management to assist its due diligence review prior to making final contract award decisions.
AUDIT

The Audit Unit of the OIG conducts in-depth audits and reviews of a wide variety of business and service-related activities of NYC Transit, LIRR, Metro-North, LI Bus, MTA Bus, Bridges and Tunnels, and Capital Construction, including audits and reviews of the MTA’s contractors and vendors. The Audit Unit’s work assesses whether MTA operations are efficient, safe and cost-effective, and makes recommendations for improvement wherever possible. All audit reports undergo a quality assurance review to ensure findings and conclusions are appropriately supported. The OIG Audit Unit is comprised of highly experienced individuals, most of whom have a graduate degree in a related field. The Audit Unit regularly consults with the MTA Auditor General and other audit and investigative units throughout federal, state and local government.

In 2008, the Audit Unit completed a number of significant reports, reflecting analyses and evaluations designed to improve the quality, cost effectiveness and efficiency of operations and customer service. Further, where we determine that a particular condition requires an immediate agency alert, and that it does not seem prudent to await completion of a report or other final action, we address our concerns with appropriate agency staff, and alert the appropriate agency president to the issue(s) by means of a “flash letter.” Along with certain ongoing work, these reports and flash letters are described below.

REPORTS

Response to LIRR Service Disruptions, Winter 2007
(MTA/OIG #2008-03)

During the first quarter of 2007, LIRR experienced five serious service disruptions caused by accidents (pedestrian fatalities and downed electrical wires) on the railroad’s right of way. Two of these incidents delayed train service for approximately four hours and impeded the travel of more than 100,000 commuters. At the request of the MTA Executive Director, the OIG performed a critical analysis of the agency’s responses to each of the five events. Our review found that LIRR’s ability to address such problems and promptly restore service had been impeded by operational weaknesses in four areas:

- **Customer Communication** – LIRR was unable to provide accurate, timely and consistent information to customers regarding the nature, scope, and estimated duration of the events, thus impeding the commuters’ ability to make alternate travel plans.
• **Command Center Operations** – LIRR’s Movement Bureau Command Center staff was overwhelmed by the demands of the two most serious incidents and thus unable to manage an efficient response. A lack of formal incident protocols and ambiguity in personnel responsibilities created a chaotic environment at the Movement Bureau where disjointed, ad-hoc decisions delayed the resumption of service.

• **Coordination with Long Island Power Authority (LIPA)** – Major deficiencies in LIPA protocols impeded its coordination with the LIRR and unnecessarily prolonged service delays during three incidents involving downed electrical wires. In one incident, LIRR efforts to restore power were severely hampered by LIPA’s slow deployment of repair technicians and a restricted flow of information from LIPA to LIRR.

• **Coordination with the MTA Police Department (MTAPD)** – In one incident involving a pedestrian fatality, resumption of service was delayed because MTAPD responders were slow to arrive at the accident site. Furthermore, MTAPD communication protocols prohibited direct contact with the LIRR site responders and Movement Bureau staff, thus hampering effective management of the incident by LIRR officials.

While LIRR had begun to address these operational issues prior to OIG involvement, our combined efforts yielded a number of improvements in the areas of technology enhancements, staffing changes and procedural revisions. To address command center deficiencies, the LIRR redistributed staff, created a formal response structure for the Movement Bureau and revised its emergency response procedures. In response to communication challenges, a Public Information Office was created within the Bureau to disseminate accurate and timely information to the public. In addition, the customer email notification system was upgraded, new message boards were installed in Penn Station and cellular phones were deployed to train crews.

Both LIPA and the MTAPD have also implemented measures to enhance their ability to respond efficiently to unplanned disruptions. LIPA commenced aerial inspections of its entire system, which identified deficiencies of varying priority. LIPA anticipates that all identified repairs will be completed by the end of 2009. For its part, the MTAPD instituted annual roll-call training for its officers to improve their response to future service disruptions.
By way of response to this Report, the President of LIRR stated:

The review conducted by the Inspector General has served as the catalyst for the LIRR to dramatically improve it response to service disruptions. Encompassing both public communication and emergency response procedures, these improvements will help us to keep our customers and employees safe, restore service as rapidly as possible, while at the same time providing riders with more accurate and timely information on the nature and anticipated duration of incidents. In addition, we have strengthened our relationship with LIPA to make sure our two companies work closely during a crisis to resolve any issues that negatively impact our customers.

OIG will continue to monitor each agency’s progress in implementing remaining measures proposed in the report.

**Value Engineering at MTA New York City Transit**  
(MTA/OIG #2008-16)

In the last five years, NYC Transit’s Value Engineering (VE) Program lowered estimated capital construction expenditures by $78 million by identifying cost-saving alternatives to the agency’s planned building methods, material specifications and labor allocations. While acknowledging these past accomplishments, our audit found that the agency missed several opportunities for even greater savings.

NYC Transit mandates that capital projects estimated to cost $10 million or more undergo a Value Engineering review prior to contract award. Our audit found, however, that between 2005 and 2007 NYC Transit’s in-house design managers had inappropriately excluded from the VE Program 15 of 40 projects that met this threshold. After examining the projects, NYC Transit’s Value Engineering Officer determined that six of them, collectively worth $187.3 million, involved the type of complex construction designs that could have benefited from VE reviews. Using the average savings rate obtained by the VE Program, NYC Transit might have achieved as much as $6.5 million in capital cost reductions if Value Engineering had been performed on these six projects.
NYC Transit has accepted all of our recommendations, and has since adopted several procedural changes to ensure that all appropriate construction projects are referred to the VE Officer for possible inclusion in the VE Program.

Our audit also offered several suggestions for expanding the effectiveness of the current VE Program. Specifically, we noted that additional construction savings could be identified if NYC Transit expanded VE Reviews to more projects based on the complexity of their scope of work rather than on a specific dollar threshold. We further suggested that the agency consider re-evaluating its operational and construction standards that in the past have resulted in high rates of rejection of VE cost-saving proposals.

MTA Bus Company Report
(MTA/OIG #2008-7)

In response to a June 2007 request from the President of MTA Bus and the MTA Auditor General (MTA Audit), the OIG began reviewing certain aspects of MTA Bus operations. Those requests were prompted by MTA Audit’s identification of overall control weaknesses, unusual transactions, and numerous management personnel vacancies that could create potential vulnerabilities.

OIG conducted numerous tests to determine whether the various control weaknesses cited by MTA Audit were being exploited and found certain weaknesses in the areas of payroll, procurement/inventory and accounts payable.

- **Payroll** – MTA Audit found, and the OIG verified, that certain employees were not complying with a management directive that they electronically swipe in and out each day. While MTA Bus management made efforts to resolve the problem, the OIG’s study revealed that management had never issued clear directives to the employee assigned to administer the program, and never verified that applicable sanctions were being imposed. This break between policy and implementation resulted in the payment during a four-month period at one depot of at least $26,000 in wages that should not have been authorized. Once notified, MTA Bus management took steps to rectify the situation.
• **Procurement/Inventory** – Included in their prices for remanufactured bus parts, suppliers billed MTA Bus for core charges (*i.e.*, refundable deposits for recyclable pieces of equipment) that increased the initial cost of the parts by more than 60 percent. Once OIG advised MTA Bus that its failure to track the return of these used pieces imperiled its recovery of at least $143,000 (and possibly significantly more than that) in deposits, MTA Bus took positive steps to recover the money and implement procedures to track the equipment.

• **Accounts Payable** – MTA Audit determined that a lack of coordination between two Accounts Payable computer systems resulted in some vendors being paid twice for the same services or products. MTA Audit methodology revealed more than $33,000 in duplicate payments. OIG expanded the review and uncovered an additional $25,862 in duplicate payments. Here again, MTA Bus took steps to improve the efficiency of its operation and recoup associated funds.

Indeed, MTA Bus management reported that after being alerted to our findings of duplicate payments, it conducted further reviews and identified an additional $47,000 in duplicate payments which have been recovered through offsets or payments. It also reports that the conversion to a new computer system has been completed and that this system has specific controls to identify duplicate payments.4

MTA Bus notified us that it had initiated the recommended corrective actions to improve the efficiency of operations and recoup associated funds.

Candid disclosures made by MTA Bus officials during the OIG’s investigation lead to the following report on the use of procurement cards.

**MTA Bus Company Use of Procurement Cards**  
(MTA/OIG #2008-11)

“Procurement cards” are credit cards issued to an agency’s employees by a bank to enable the holder to make certain types of small purchases, usually those

4 During the review of the MTA Bus payroll system, OIG discovered that a payroll check issued to one bus driver was cashed by another. OIG reported this discovery to MTA Bus, which issued a replacement check to the intended payee. OIG recommended that MTA Bus obtain restitution and impose appropriate discipline. MTA Bus obtained restitution from the second driver and disciplined the employee.
under a specified dollar limit, and usually for non-routine operating needs. The OIG audit found that MTA Bus exercised inadequate control over the procurement cards used by managers to purchase goods and equipment outside the agency’s normal requisition process. Specifically, OIG identified several internal control weaknesses that increased the risk of procurement card abuse:

- MTA Bus had not established written procedures, including spending limits, governing procurement card purchases;
- Managers were permitted to make procurement card purchases even when the agency’s normal requisition process would have yielded a lower price for the purchased items;
- Procurement cards were used to pay for routine items such as bus parts used in everyday operations even after the MTA Board had signaled that the company should end such procurement practices; and
- Items purchased by procurement cards were not being entered into the MTA Bus inventory system, leaving these items particularly vulnerable to loss or theft.

Our audit also found that purchases for seven MTA Bus card holders were incorrectly charged as a cost to an MTA Headquarters account rather than to an MTA Bus account, resulting in a potential under-reimbursement of $63,200 to MTA Bus from the City of New York.

MTA Bus reported that it accepted all nine recommendations contained in the report and has already implemented most; we intend to monitor the remainder.

**Status and Return to Duty Requirements for Metro-North Personnel on Extended Health-Related Absences (MTA/OIG #2008-06)**

This OIG audit examined the effectiveness of Metro-North (MNR) procedures for monitoring employees with extended health-related absences (i.e., medical leaves lasting more than four consecutive weeks) during 2006. Although the majority of cases we reviewed met MNR extended medical leave requirements, we found some lapses in the agency’s procedures for tracking and documenting the
health status of its employees. For example, a number of employees remained on
the active status roster even while on extended health-related absences.

The audit determined that the employee monitoring problems resulted from
breakdowns in departmental procedures to review extended leave cases,
permissive treatment of absent employees who failed to comply with
documentation requests, and MNR Occupational Health Services’ acceptance of
perfunctory doctors’ notes from returning employees.

To address these concerns, MNR issued a new Employee Information
Processing Operating Procedure that centralized extended leave monitoring
responsibilities within its Department of Human Resources (HR). While
recognizing MNR efforts in this area, the OIG’s report recommended that HR
strictly oversee the performance of departmental managers and supervisors who
remain directly responsible for initiating status changes and requesting medical
documentation. The OIG also recommended that MNR clarify and strengthen
existing documentation requirements for employees returning from lengthy
absences. MNR accepted the report’s recommendations, and the OIG will continue
to monitor their progress as appropriate.

FLASH LETTERS

Lack of Code Compliance Certificates for
NYC Transit Properties
(June 2008)

To ensure public safety, New York State requires public authorities to self-
certify that their newly constructed and/or rehabilitated facilities comply with the
State’s Uniform Fire Prevention and Building Code (Uniform Code) before such
premises are approved for occupancy. However, during OIG research into a
different matter, we found that NYC Transit permitted occupancy of 28 new and
renovated facilities without first obtaining certification from NYC Transit’s Office
of Code Compliance (OCC).

The NYC Transit President responded to this letter. He noted that five of
the projects were being completed as contract work and that OCC officials
inspected the remaining 23 facilities and would address the certification issues
either through additional work or by variance. He also noted that OCC had revised
its project procedures and guidelines to require at least one pre-final inspection
and one final inspection. He advised that if at pre-final there are no safety related
items cited by OCC, it will issue a temporary certificate, permitting occupancy. At
final inspection, all OCC issues must be resolved prior to certification. The President emphasized that there were “no outstanding life-safety items” among the 23 projects. As of January 2009, 14 projects have temporary certificates and at least 13 of them are making substantive progress in resolving punch list items.

**Operations of the Contractor Safety Compliance Unit**  
**(July 2008)**

The OIG is conducting an ongoing audit of the effectiveness of safety oversight on NYC Transit construction sites covered by the MTA Owner-Controlled Insurance Program (OCIP). During the course of this work, audit staff examined some of the operations of NYC Transit’s Capital Program Management’s Contractor Safety Compliance Unit (Compliance Unit), which conducts quarterly safety assessments at all active NYC Transit construction sites. While the audit progressed, the flash letter apprised NYC Transit of problems which, if rectified, could make the operation of the Compliance Unit more effective and efficient:

- Safety activities and enforcement actions were not regularly documented by the Compliance Unit staff;
- The Compliance Unit lacked a master list of projects to guide the quarterly safety assessment process; and
- The Compliance Unit lacked written procedures for conducting quarterly safety assessments.

Our review also noted that two-thirds of the construction sites scheduled for the Compliance Unit’s quarterly assessments already received weekly site safety inspections by outside safety consultants retained by the OCIP administrator. The OIG recommended that the Compliance Unit re-focus its inspection resources on the remaining one-third of NYC Transit construction sites that are not enrolled in OCIP.

NYC Transit agreed with the OIG recommendation to prioritize non-OCIP projects. The agency also agreed to improve staff compliance with procedures for documenting critical safety and enforcement activities. However, NYC Transit did not concur with our observations that they lacked a master list of projects and that
the unit lacked written procedures for conducting quarterly safety assessments. The OIG will revisit these issues with NYC Transit during a follow-up review.

**ONGOING WORK**

**Monitoring MTA Implementation of OIG Recommendations**

**Two-Year Review Project**

As noted previously (under “Statutory Authority”), pursuant to PAL section 1279(4) the OIG monitors MTA implementation of recommendations from our past audits and investigations. Additionally, PAL section 1279(6) requires that the MTA give quarterly reports to the Inspector General (with copies to the Governor and Legislature) outlining the status of each of the recommendations made by the Inspector General in his final reports. In this regard, the OIG regularly examines these quarterly updates on the status of the OIG recommendations. In cases where implementation appears overdue, the OIG initiates a dialogue with agency officials to expedite the implementation process.

Shortly after his appointment in 2007, the Inspector General noted that although MTA agencies had agreed to implement a number of recommendations made in previous reports, some now many years old, the agencies had not yet actually implemented them. As a result, the Inspector General directed his staff to perform an intensive review of the Quarterly Status Reports issued by the MTA Auditor General. He further directed the staff to focus on outstanding recommendations with safety implications or potential cost savings (especially where the agency had not yet made evident substantial progress), in an effort to finalize implementation.

When the project began, OIG examined 37 reports with 91 such pending recommendations. Overall, we determined that 17 of the 37 reports, with a total of 36 pending recommendations, had all recommendations resolved by the close of 2007. Further, we found that substantial progress toward full implementation had been made with respect to an additional 10 reports containing a total of 35 recommendations. At year’s end, we reported that “Questions remain about the final 10 reports, including several with recommendations that did not appear to be on a solid path to implementation.”
In 2008, OIG monitoring efforts focused on the recommendations from these ten prior reports, as well as others on which progress had subsequently stalled. As a result of this follow-up, OIG determined that nine additional recommendations had been implemented by the end of the year. Specifically, progress was made regarding the following four reports, all but one of which (MTA/OIG #2004-30) now appear to be resolved:

- **Perini Corporation’s Implementation of MTA New York City NYC Transit Contract P-36223**
  (MTA/OIG #2006-45L)

  NYC Transit obtained a reimbursement from Perini Corporation to settle a construction contract dispute as per the report’s only open recommendation.

- **An Investigation into the MTA LIRR Company Pension Plan and Plan for Additional Pensions**
  (MTA/OIG #2004-48L)

  OIG worked with MTA Headquarters to implement the report’s only open recommendation, which called for clarification of the administrative duties and responsibilities of both the Pension Board and LIRR management.

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

  While this report had nine open recommendations at the start of 2008, OIG subsequently accepted five of them as implemented (leaving four for continued follow-up) after obtaining MTA agreement on the required actions.

- **Review of TA Relocation Policy and Procedure**
  (MTA/OIG #1994-20L)

  In noting its implementation of the report’s two open recommendations to clarify and reissue the All-Agency Interview and Relocation Policy, MTA Headquarters reported starting “a process to review and revise all of its policies and procedures, including relocation policies.”
By the end of 2008, 22 recommendations were still not implemented. In a number of these cases, corrective action had been delayed because the recommendations required complex technical and/or administrative solutions.

For example, OIG made four recommendations related to the implementation of an electronic payroll system to address problems found in our 2006 report on *Penalties and Overtime Payments in LIRR’s Transportation Department*. In the MTA Quarterly Status Report, LIRR cited its planned Corporate Time and Attendance Project – a multi-year information technology (IT) project that began in September 2007 – as the means for implementing these recommendations. LIRR estimates that the IT component affecting the Transportation Department will not be implemented until the end of 2009. Meanwhile, in 2008, OIG performed a review of LIRR’s progress in this area. We confirmed that LIRR had taken some interim measures to monitor overtime and penalty payments while making progress on its longer-term IT solution.

Agency officials reported that other recommendations have proved difficult to implement because the required corrective actions involve more than one department or agency. For example, two recommendations from a 2005 OIG report called for new policies for managing insurance problems involving MTA tenants. The development of such policies would require collaboration among the MTA Real Estate Department, the MTA Risk and Insurance Management Department and the MTA General Counsel. However, our review of the MTA Quarterly Status Reports together with discussions with agency officials indicated that implementation of new policies has stalled. In another case, we found that our recommended update of the All Agency Procurement Guidelines (in response to our 2006 report on *Staff Summaries for Procurement Approvals*) had not been implemented because the agencies had not yet agreed on all issues involved. In 2009, the OIG will continue to seek resolution of these pending recommendations and other issues noted throughout this section.

### 2008 Review of NYC Transit Response to Flooding

On August 8, 2007, the Transit subway system as well as other MTA transportation systems experienced severe system-wide service disruptions due to flooding. In the aftermath of this event, the MTA formed a task force comprised of numerous transportation officials, including the Inspector General, to assess both the authority’s performance in dealing with the 2007 flooding condition as well as the transportation system’s preparedness to handle future storms.
A key aspect of the Inspector General’s participation in the task force was to determine whether NYC Transit had implemented past recommendations from two prior OIG audit reports (MTA/OIG #'s 2005-64 and 2006-21), which examined a similar flooding condition that disrupted subway service in 2004.

The OIG review found that NYC Transit had completed an official Flood Plan, as OIG previously recommended, that formalized the responsibilities of each NYC Transit division in preparing for, responding to and mitigating water conditions in the field, and that required the agency to alert the public to avoid those train lines most affected by service disruptions until conditions improved.

Other OIG recommendations regarding improvements in subway station public address systems and increasing management’s capacity to communicate with station customer agents are still in progress. NYC Transit has recently awarded a contract to upgrade the communication system for station agents. NYC Transit also plans to install e-mail capability for certain station personnel so they can receive and transmit real-time updates to customers through public service announcements. However, the completion of a NYC Transit project that would outfit 39 of the 126 stations that currently do not have public address systems has been delayed from October 2009 to December 2010.5

The OIG will continue to review NYC Transit’s progress in 2009.

5 NYC Transit plans to outfit the remaining 87 stations during the next capital plan.
INVESTIGATIONS

The Investigations Unit examines allegations of criminality, fraud, waste and abuse as well as safety, service and management deficiencies. The Unit’s priorities are the detection and deterrence of fraud and the protection of MTA assets. When appropriate, matters are referred to law enforcement authorities or other governmental agencies for further investigation and/or criminal or civil enforcement.

The Unit is comprised of experienced investigators and attorneys who work together to conduct the investigations of the Office. Aside from the expertise of the staff and the Inspector General’s statutorily authorized “full and unrestricted access” to all information and materials of the MTA, the Unit has a host of additional investigative tools available to it, including the statutory authority to subpoena witnesses, administer oaths, take testimony and compel the production of records and other documents relevant to any inquiry or investigation.

INVESTIGATIONS REFERRED TO PROSECUTORS

OIG is engaged in ongoing investigations in various areas, including suspect construction practices, procurement-related fraud, labor law violations and disadvantaged business enterprise fraud. Our partners in these investigations include representatives of the United States Attorney for the Eastern District of New York; the United States Attorney for the Southern District of New York; the Federal Bureau of Investigation; the Office of the New York County District Attorney; the Office of the Queens County District Attorney; the Port Authority of New York and New Jersey Inspector General; the New York City School Construction Authority Inspector General; the US Department of Transportation Office of Inspector General; the US Department of Labor Office of Labor Racketeering and Fraud Investigations; the New York State Police; the Internal Revenue Service Criminal Investigation Division; the New York City Department of Investigation; the Business Integrity Commission; and the MTA Police Department.

During the course of these investigations, OIG investigators have been involved in the execution of five search warrants. In addition, information obtained during these investigations has lead to the imposition of an Independent Private Sector Inspector General (IPSIG)(explained at page 9) to monitor the performance of one current MTA contractor. Further, the following investigations with prosecutors in 2008 have resulted in the commencement of criminal actions.
Construction/Material Testing Company

The OIG worked with the New York County District Attorney, the New York City Department of Investigation, the Inspector General of the Port Authority of New York and New Jersey and others, which resulted in the indictment of a construction-material testing company and seven of its employees alleging that defendants victimized state agencies and private clients.

The charges, involving racketeering, grand larceny, scheme to defraud, offering false instruments for filing and falsification of business records, relate to allegations that the company engaged in criminal schemes related to the testing of building materials including: the falsification of concrete mix design reports, concrete field test inspection reports and steel inspection reports; the wholesale alteration of concrete compressive strength results; billing for work done by uncertified inspectors; and filing false certification documents relating to field inspectors.

The indictment contained counts alleging that defendants made false submissions on numerous public works, of which at least five involved MTA projects, including the Second Avenue Subway and the Grand Avenue Bus Depot. The joint investigation is continuing.

In addition to working with prosecutors and other investigators, the OIG spearheaded an effort by the MTA Office of Construction Oversight, New York City Transit, Capital Construction and Bridges and Tunnels, to identify the projects for which the testing company was engaged in order to promptly examine critical areas with potential safety implications and to conduct appropriate retesting.

Moving Company

The OIG worked with the Office of the New York County District Attorney on an investigation that resulted in the indictment of a moving company and its owners on charges of grand larceny and of offering a false instrument for filing. It is alleged that between January 2006 and June 2008 the company stole $258,000 from NYC Transit by submitting 11 invoices for work the defendants never performed.

This investigation brought to light certain systemic inconsistencies among MTA agencies involving the depth of their due diligence reviews. This, in turn, contributed to the Vendor Integrity Screening Initiative (see “Partnerships”).
Piping and Welding Company Prevailing Wage Fraud

The OIG, together with the Port Authority of New York and New Jersey Office of Inspector General and the New York County District Attorney, investigated a NYC Transit piping and welding subcontractor that performed work on two NYC Transit subway projects. The investigation determined that four workers were not paid the appropriate prevailing wage and that the total underpayment was $193,392.15.

As a result of this investigation, a New York County Grand Jury indicted both the company and its president on nine counts of grand larceny.

The owner of the company pled guilty to Grand Larceny in the Second Degree, a class C felony, and is scheduled to be sentenced in February 2009. The OIG is continuing efforts to obtain restitution for the underpaid workers. This information was communicated to the MTA agencies so that it will be considered in any future responsibility determination of this firm.

Electrical Subcontractor Prevailing Wage Fraud

The OIG and the Port Authority of New York and New Jersey Office of Inspector General, together with the New York County District Attorney, determined that an electrical subcontractor and its president failed to pay the appropriate prevailing wage to some of its employees.

As a result of this investigation, the subcontractor’s president pleaded guilty to Offering a False Instrument for Filing in the First Degree, a class E felony. The Court sentenced defendant to a conditional discharge. In accordance with one of the conditions of this sentence, defendant signed and swore to an “Affidavit in Support of Confession of Judgment” in which he acknowledged that he underpaid workers in the amount of $79,705.98 and that he owed this debt to the MTA on behalf of those workers. If the defendant violates the condition, the Court could revoke the sentence of conditional discharge and impose a new sentence involving a fine and/or imprisonment. The MTA was alerted to this plea so that it could take it into account during any future responsibility determinations related to this company.
OTHER INVESTIGATIONS

Safety Issue at the New Haven Line
(MTA/OIG #2008-18)

The OIG received a complaint from a Metro-North customer that train 6561 out of New Haven overshot the bridge plates at South Norwalk and the next three stations on October 14, 2007. The complainant stated that when the train doors opened, only one leaf of the door was aligned with the bridge plate and the other opened over the track bed.

While OIG could not substantiate the particular complaint, during our investigation train crew members told us that: when stopping at a station where a contractor has installed temporary bridge plates it is not uncommon for the train doors to overshoot the bridge plate by as much as one foot; a one foot gap does not present a safety hazard, so even with such a gap the train doors would be opened; and at night it is difficult to tell whether the train doors are properly aligned with the bridge plate, given the lack of illumination other than the light from the train.

OIG reported these safety issues to the President of Metro-North, who responded to the OIG’s concerns. In his letter he detailed the “very specific procedures in place governing the use of bridge plates.” He noted that “if the doors are not properly aligned, the crew is to keep the doors closed until the train is repositioned with the doors properly aligned.” He also noted that because Metro-North operates three types of electric multiple unit cars, trains involving a combination of the cars may not line up because of design variations. “In these cases,” he wrote, “the doors may be off by several inches, but not enough to compromise customer safety. We expect train crews to be especially vigilant to ensure proper alignment under such circumstances.” Regarding the lighting conditions, he advised that while the bridge plates are not specifically lighted, management believes that the ambient light from the station platform combined with the train vestibule lighting “provides adequate illumination.” The President concluded by noting that “Our Operations Services Department will continue to monitor crew performance and compliance with its procedures to ensure proper and safe use of the bridge plates.”

The OIG will continue to monitor this situation.
Plumbing Contractor Prevailing Wage Willful Violations
(MTA/OIG #2008-24)

OIG investigated a complaint by Plumbers Union Local 1 that a mechanical contractor was not paying the appropriate prevailing wages to its union members.6 The investigation substantiated the allegation and determined that 13 employees had not been paid the appropriate wage. OIG referred the matter to the New York City Comptroller’s Office. Thereafter, the contractor consented to a finding of a willful violation of the New York State Labor Law and agreed to make full restitution to the workers and to pay a total of $94,862, including interest and penalties. The OIG communicated these findings to NYC Transit and recommended that it consider them in any future responsibility determination.

The Office of the New York City Comptroller reported this enforcement in its Summer 2008 edition of the Prevailing Wage Newsletter as an example of the renewed cooperation between the OIG and the Comptroller’s office.

Supervisor’s Use of NYC Transit Employees and Materials for Personal Business
(MTA/OIG #2008-13)

The OIG received an anonymous complaint regarding a superintendent in the Electronics Maintenance Division of NYC Transit. Our investigation substantiated that the superintendent used NYC Transit employees and property at the shop where he worked for personal business.

Based upon our investigation, NYC Transit brought disciplinary charges against the superintendent, who accepted a 30 day suspension and a final warning.

NYC Transit Elevator and Escalator Maintenance Supervisor Unauthorized Dual Employment
(MTA/OIG #2008-17)

The OIG was contacted by the New York City Department of Investigation (DOI) regarding a NYC Transit Elevator and Escalator Maintenance Supervisor who worked simultaneously for the Department of Buildings as an Elevator Inspector. OIG determined that the employee did not have dual employment

6 As noted under Education below, OIG made a presentation to the union about prevailing wage laws and urged its members to alert OIG to violations.
authorization from NYC Transit and that he often received pay from both agencies for the same hours worked.

As a result of this joint investigation this individual was arrested by the New York City Department of Investigations, prosecuted by the Office of the New York County District Attorney, pleaded guilty to an offense, paid a fine, resigned from the Buildings Department and returned over $3,500 representing unearned overtime to the City of New York. The OIG submitted the preceding information to NYC Transit for appropriate action. NYC Transit informed OIG that disciplinary proceedings are in progress.

**NYC Transit Electro-Mechanical Maintainers Unauthorized Dual Employments (MTA/OIG #2008-22; 2008-25)**

The OIG received allegations that two NYC Transit Electro-Mechanical Maintainers were also employed by private firms as elevator inspectors without agency permission to engage in dual employment, and might be doing work for the private firms on NYC Transit time.

Our investigations determined that the employees worked full time for both the private firm and NYC Transit without the required Dual Employment / Outside Activity Authorization in violation of agency policy. However, we determined that neither employee worked for the private firm on NYC Transit time.

OIG reported these determinations to NYC Transit for appropriate action. NYC Transit has initiated disciplinary proceedings, which are currently pending.

**Work Rule and Supervision Issues at College Point Depot (MTA/OIG #2008-8)**

As a by-product of the MTA Bus Company Report (MTA/OIG #2008-7, discussed previously, the OIG discovered that there is no shared understanding between management and the workforce regarding the rules governing paid breaks for mechanics on overtime shifts of less than eight hours. We also learned that the Collective Bargaining Agreement is silent as to the handling of meals during such shifts.
In response to OIG recommendations, MTA Bus agreed to:

- Seek to codify rules concerning maintainers on overtime assignments during the upcoming contract negotiations. In the interim, it will attempt to negotiate local agreements concerning meals for maintainers during such assignments.
- Stagger lunch breaks of line supervisors to ensure mechanics on overtime are supervised during their entire shift.
- Consider instituting a requirement that mechanics on overtime be required to swipe in and out of the system if they leave the premises and be docked pay for those time periods, depending on the effectiveness of implementing the above recommendation regarding staggered lunch breaks for supervisors.

NYC Transit Construction Contract
Running Tunnels and Station Structures No. 7 Extension Project
(MTA/OIG #2008-23)

In response to a complaint concerning workplace safety on a Capital Construction Project at 34th Street and 11th Avenue, OIG investigated allegations of pedestrians inappropriately accessing the area and alcohol on the work site. Although pedestrians were not seen by OIG personnel, we were told that pedestrians do occasionally enter the construction site. Further, OIG did find unopened bottles of beer on the premises contrary to a strict MTA policy.

OIG recommended that the MTA establish security posts to prevent pedestrians from entering the area, and that all appropriate personnel be retrained in the no-alcohol policy. The President of Capital Construction advised that the contractor performed re-training of all staff employees to reinforce the Zero Tolerance policy against alcohol and drugs. He also advised that the contractor submitted and enforces a Site Security Plan, including requirements for flagging, perimeter fencing, ample signage and appropriate barriers. Further, the contractor’s supervisor must check for proper identification and limit access accordingly. The supervisor must also ensure that each work zone is properly secured.

The OIG will monitor implementation as appropriate.
Ultrasonic Testing at the Bronx-Whitestone Bridge

During an OIG investigation of a materials-testing and inspection company, issues arose regarding certification of inspectors and quality assurance programs. As a result we commenced a review to determine how other city, state and federal agencies structure their quality-assurance programs. Our review also considered the standards for certification of inspectors on state and federal projects.

The OIG is currently in preliminary discussions with MTA Bridges and Tunnels, as well as the MTA Office of Construction Oversight, regarding the results of our review and whether and to what extent all-agency policies governing quality assurance and certification should be adopted.

Lockable Subway Security Gates
Security Alert
(Flash Letter7-November 2008)

During the course of a related investigation, OIG learned that there are more than 100 lockable subway security gates located within Manhattan, Brooklyn, the Bronx and Queens. The primary purpose of these gates is to keep people from entering the station when it is closed. To protect people properly in the station, a mandate was issued in October 2007 directing that the gates be locked in the open position when the station is open.

However, subsequent OIG surveillance determined that some gates were open – but not locked open – in violation of the mandate. In discussions with NYC Transit officials in June 2008, OIG noted the concern that the open gates could be drawn and locked closed with an unauthorized lock when the station itself was open (e.g. by an arsonist or other person with criminal intent) thereby trapping people in the station and obstructing rescue workers responding to the emergency.

NYC Transit responded, noting that it had previously issued a bulletin directive to all division personnel reiterating the established policy that gates must be locked open while the station was open. Further, NYC Transit noted that while new chains still had not been received, it would take appropriate interim measures to ensure that gates were properly secured.

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7 As explained in the Audit section, a “flash letter” is sent to the relevant MTA agency where OIG staff determines that a particular condition requires an immediate alert, and that it does not seem prudent to await completion of a report or other final action.
Thereafter, OIG revisited the stations it had examined in June and found demonstrable improvement. Where OIG had found 12 security egress gates unsecured, it now found that all but two gates were properly secured.

OIG will continue to monitor this security condition.

**MTA Insurance Recovery**

In 2002, OIG began an investigation focused on several contractors performing services for the MTA under “requirements contracts.” These contracts, one each for electrical, plumbing, and general construction services, were awarded through sealed bids, and were intended to allow the MTA to use the selected contractors for routine repair and maintenance projects at MTA headquarters without having to bid out each individual repair. Over a period of several years these contractors were also used for other major construction and renovation work that should have been put out to bid. Additional funds were transferred to the requirements contracts from the MTA capital budget to pay for the additional expenditures.

During the course of the investigation, the OIG determined that two of the contractors had submitted inflated bills to the MTA. The investigation was referred to the New York County District Attorney (DANY). OIG staff members were sworn in as DANY special investigators and the OIG and DANY worked together presenting the case to a special Grand Jury that ultimately issued a 116 count indictment in December, 2003 charging the defendants, including three MTA employees, with Enterprise Corruption. In September 2004 the defendants pleaded guilty to various crimes.

The MTA subsequently filed an insurance claim with its fidelity insurance carrier, seeking additional recoveries (beyond millions of dollars in restitution MTA obtained) based on the participation in the scam of the convicted MTA employees. The OIG assisted the Office of the MTA General Counsel in pursuing that claim, which stemmed from the OIG investigation. In March 2008, the insurance company paid the MTA $2.3 million on its claim.

**Metro-North Oil Spill**

On Saturday, March 29, 2008, approximately 17,000 gallons of diesel fuel oil escaped into the ground at the Metro-North Railroad Croton Harmon Yard. The Railroad and an employee were charged with environmental misdemeanors by the Westchester County Police. The OIG conferred with prosecutors concerning their
investigation and reviewed the transcript of the court proceedings. The matter resulted in an adjournment in contemplation of dismissal of the charges against the employee, and Metro-North’s plea of guilty to a non-criminal offense and sentence to a $1500 fine.

OIG’s review of the results of the remediation at the Croton Harmon Yard, and interviews with the railroad’s Director of Environmental Compliance and Services and the Croton Harmon Yard Manager of Environmental Compliance and Services, reveal the following:

- The spill resulted from the failure of a coupling in the fuel delivery system.
- Metro-North recovered most of the diesel fuel from the ground and processed it for re-use.
- Metro-North has taken measures to prevent a recurrence, including, instituting new fueling procedures; installing new, stronger couplings to replace all those similar to the one that failed; the construction of a complex system of test pits and alarms to detect even a minor release of oil; and suspending fuel transfer lines above ground where a leak would immediately be apparent.

**FLOOR CHECKS**

OIG investigators have uncovered incidents involving service deficiencies and inadequate security through the spot checks they perform at MTA facilities. Additionally, because these checks are conducted unannounced and at any hour of the day or night, we believe they have a deterrent effect on improper employee conduct. OIG always notifies the respective agencies of any improprieties its checks reveal, and makes recommendations for disciplinary action as appropriate.
In 2008, OIG continued its emphasis on collaborative outreach and education with MTA subsidiaries and affiliates, as well as with law enforcement, prosecutorial and other watchdog agencies. We also reached out to labor representatives.

The educational programs included:

Construction Fraud Symposium coordinated and hosted by OIG.

Presentations were made by members of the Construction Fraud Task Force of the United States Attorney’s Office, Eastern District of New York.

The Task Force is comprised of Assistant United States Attorneys; members of the FBI; the United States Department of Transportation Office of Inspector General; Internal Revenue Service Criminal Investigation; United States Department of Labor Office of Inspector General; the New York City Department of Investigation; Office of Inspector General for the Port Authority of New York and New Jersey; and the Office of the Inspector General, Metropolitan Transportation Authority. In addition, presentations were made by members of the Money Laundering and Tax Crimes Unit and the Labor Racketeering Unit of the Office of the New York County District Attorney; the Office of Taxation Enforcement, New York State Department of Taxation and Finance; Criminal Investigations Bureau, New York State Banking Department; and the Economic Crime Bureau of the Office of the Suffolk County District Attorney.

The subject matters covered included emerging methods used to finance fraud in the construction industry; the role of commercial check cashers in construction fraud cases; current investigations and evidentiary issues in construction fraud cases; and analysis of recent changes to prevailing wage laws.

From the private sector, a presentation was made by an investigative and consulting firm specializing in litigation support, risk management, fact gathering, corporate compliance and integrity programs and monitorships mandated and approved by the government. The presentation discussed the role of “IPSIGs” (explained under “Partnerships”), and emphasized the importance of coordinating agency expertise and investigative staffing in construction fraud investigations.
More than fifty people, representing eighteen prosecutorial, law enforcement, investigative and regulatory agencies, attended the symposium. A contact list of all attendees was distributed to foster communication and cooperation among the agencies.

Presentations by OIG staff, MTA Office of Corporate Compliance and New York State Commission on Public Integrity.

The OIG and its partners made these presentations to MTA employees to familiarize them with the work of the OIG and its role in investigating ethics violations as well as its role in the detection, investigation and deterrence of fraud or other corruption, waste and abuse. Among other subjects, the presentations educated employees on how to recognize and respond to “red flags” relating to fraud. The OIG made 19 such presentations to approximately 725 MTA employees including some experienced MTA Police officers. We also made two special presentations regarding our statutory function to 31 newly sworn-in MTA Police officers.

Presentation by OIG staff to business agents and other officials of Plumbers Local Union 1.

This presentation informed the union of the OIG’s role in investigating substantial violations of the prevailing wage laws and urged its members to alert the OIG to such violations. The presentation, which was conducted at the union hall, began with an overview of the OIG and the type of work it performs. The presentation explained evidentiary requirements, and described the types of recommendations the OIG makes, including referrals to the Office of the New York City Comptroller, to the New York State Labor Department, and to a state or federal prosecutor.
INTERGOVERNMENTAL COOPERATION

During 2008, OIG worked actively with federal, state and local agencies and task forces, as well as associations and advisory groups, including:

**Federal:**

- US Attorney for the Eastern District of New York
- US Attorney for the Southern District of New York
- US Department of Justice Antitrust Division
- US Department of Homeland Security, Federal Law Enforcement Training Center (FLETC)\(^8\)
- Federal Bureau of Investigation
- US Bureau of Immigration and Customs Enforcement
- Internal Revenue Service, Criminal Investigation Division
- US Department of Labor, Office of Labor Racketeering and Fraud Investigations
- US Department of Transportation Office of Inspector General
- US Financial Crimes Information Center
- US Railroad Retirement Board Office of Inspector General
- US Postal Inspection Service
- US Postal Office of the Inspector General
- Eastern District of New York Federal Construction Fraud Task Force
- High Incidence Financial Crime Area (HIFCA)
- Amtrak Office of Inspector General

**New York State:**

- Office of the Attorney General
- Office of the State Comptroller
- Department of Insurance
- Department of Labor
- Department of Taxation and Finance
- Department of Transportation
- New York State Police
- Commission on Public Integrity

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\(^8\) Two OIG investigators were accepted into the Digital Evidence Acquisition Specialist Training Program (DEASTP) scheduled for early 2009. The primary purpose of the DEASTP course is to equip criminal investigators with the knowledge, skills, and abilities to properly identify and seize digital evidence.
New York State, Continued

Long Island Power Authority
Port Authority of New York and New Jersey Office of Inspector General
New York State Dormitory Authority
Public Transportation Safety Board
Workers Compensation Board
Lower Manhattan Construction Integrity Team

Local:

Office of the New York City Comptroller
Kings County District Attorney
Nassau County District Attorney
New York County District Attorney
Queens County District Attorney
Suffolk County District Attorney
New York City Department of Investigations
New York City Fire Department
New York City Police Department
Business Integrity Commission
New York City School Construction Authority Office of Inspector General
New York City Department of Environmental Protection Inspector General
New York City Department of Investigations Housing Inspector General
MTA Police Department

Associations and Advisory Groups:

Association of Local Government Auditors
Association of Inspectors General
Intergovernmental Audit Forum
Labor Law Advisory Counsel
Long Island Labor Advisory Committee
Prevailing Wage Council
VISIBILITY CAMPAIGN

Beginning in June 2008, the Office of the MTA Inspector General launched a campaign to increase public awareness about the Office and its statutory role in providing independent oversight of the MTA and its constituent agencies. The campaign is being rolled out in phases and will continue throughout 2009.

Phase One. In August 2008 we thoroughly revamped our website (see following screen image). The new website is more informative and easier to navigate. To begin, we make clear that the Office of the MTA Inspector General investigates complaints of wrongdoing both by the MTA and its agencies, as well as by those doing or trying to do business with them. We also give the following examples of the many and different types of complaints we handle:

- Construction fraud
- Purchasing irregularities
- Theft of property and/or materials
- Vendor wrongdoing
- Worker compensation fraud
- Time and attendance abuse
- Poor performance
- Waste of money

Perhaps most important, we feature key information, such as our 24-hour Hotline number, more prominently throughout the site, and make it easier to file a complaint.

Phase Two. In January 2009 we rolled out another aspect of our public awareness campaign, beginning with SubTalk advertising posters and train cards. (See SubTalk poster image attached.) The posters and train cards are now visible throughout the New York City subways and station platforms, and during the year we plan to build on this campaign. The SubTalk display mirrors the theme of the website, continuing to increase public awareness of the OIG’s role. It also introduces our new slogan, “It’s a Big System, Help Us Keep an Eye on It.”
WELCOME TO THE OFFICE OF THE INSPECTOR GENERAL - MTA

Welcome to the home page of the Office of the Inspector General (OIG) of the Metropolitan Transportation Authority (MTA). The OIG was created in 1983 as an independent oversight agency to review the operations of the MTA and its constituent agencies.

Appointed by the Governor, State of New York, with the advice and consent of the State Senate, the Inspector General reports to the Governor, the legislature, and the public, and serves as an ex-officio member of the NYS Public Transportation Safety Board. The Inspector General assists in his work by a Management Advisory Board.

OIG monitors the activities of the MTA in providing a safe, reliable, clean, and affordable public transportation system in the metropolitan New York City area, and works to reduce fraud, abuse, and waste throughout that system. Through its investigations, audits, and other studies, OIG focuses on the MTA’s performance and seeks to enhance the efficiency, effectiveness, safety, and quality of its agencies’ operations.
David A. Paterson, Governor, State of New York
Barry L. Krieger, Inspector General, MTA

Report FRAUD, WASTE, and ABUSE
to the MTA Inspector General
- Construction Fraud
- Wage or other Labor Violations
- Unsafe Practices and Conditions
- Employee Misconduct
- False Disability and Injury Claims
- Contractor and Vendor Fraud
- Theft of MTA Property
- Inefficiencies and Waste of Money

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