



Hamilton

Office of the City Auditor

Accessible Transit Services: DARTS Fleet Management and Vehicle Safety Audit (Report #50695)



September 8, 2022

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Executive Summary

As a result of a confidential Fraud and Waste report, expressing safety concerns with respect to the management of fleet, the Office of the City Auditor (OCA) initiated an audit of DARTS’ vehicle maintenance and fleet inspection practices. DARTS is an external organization that provides accessible transit services in Hamilton under contract with the City.

The overall objective of the audit was to assess the maintenance and inspection activities employed by DARTS and its sub-contractors, with a view to concluding on the effectiveness of these processes in ensuring the safety of vehicles placed into service.

To help meet that objective, the OCA sourced an external firm (Fleet Challenge Canada, “FCC”) to complete a thorough review of the inspection, maintenance and fleet management activities performed on DARTS operated vehicles in order to identify weaknesses or compliance issues that may impact public safety.

In addition to this work, OCA reviewed the particulars of the oversight of contractors generally, augmenting the findings contained in the report of FCC, which is attached as Appendix “B” to Report AUD22007.

Main Findings

The primary tool used to evaluate the current state of inspection and maintenance practices of DARTS was a planned sample of 40 (39 actual) vehicles during the first week of the review.

In this regard the results were unequivocally poor. FCC found that 46% of the vehicles failed the independently conducted inspections. While some of those failures were technical in nature, many were critical failures that could impact safe operations.

As FCC noted in their report, this level of failure is “exceptionally high” and a decision was made to continue with further inspections of the entire fleet. Also, upon learning of these initial results, Council directed that no vehicles be placed into service until they had passed an independent inspection arranged by the audit team and FCC.

The final overall results over the coming weeks were marginally better, which was expected as re-inspections were included, and DARTS had the opportunity and time to augment their efforts to fix up their vehicles - and did so. However, the overall rate of failure was still disappointing, and included multiple failures on re-inspection as well.

As can be seen in the table below the fail rates showed some improvement over time, mainly during the last part of the inspection process. The overall fail rate for inspections, including re-inspections, averaged 30%.

Weekly Inspection Statistics for DARTS and Subcontractors

| | Week 1 | Week 2 | Week 3 | Week 4 | Week 5 | Week 6 | Weeks 7-10 |
|--|--------|--------|--------|--------|--------|--------|------------|
| Total Passes | 21 | 17 | 63 | 19 | 10 | 6 | 6 |
| Total Fails | 18 | 7 | 24 | 8 | 2 | 1 | 0 |
| Total | 39 | 24 | 87 | 27 | 12 | 7 | 6 |
| Percentage Fails (average weekly) | 46% | 29% | 28% | 30% | 17% | 14% | 0% |
| Overall 30% | | | | | | | |

We also analyzed the results (weeks 1 to 10 inclusive), by fleet manager, to see if there were differences in fail rates amongst each of the parties responsible for maintaining their vehicles. We used first inspection rates of failure since the desired goal would be to reduce fail rates on first inspection to low or negligible numbers in order to have the utmost confidence in vehicle safety.

| First Inspection Fail Rate - DARTS vs Subcontractors | | | |
|--|----------|----------|-------------|
| DARTS | H-Rising | VanKleef | City Marvel |
| 26% | 34% | 35% | 47% |
| Overall 32% | | | |

The overall result for first inspections was 32% - slightly higher than the all-inspections failure rate.

For a commercial operation that serves a vulnerable population, we found this to be unacceptable, indicating an inadequate level of inspection and maintenance rigour that is systemic.

In their report (Appendix “B” to Report AUD22007), FCC cites numerous issues relating to safety, and many opportunities for improvement. They found issues with brakes, tires, exhaust systems, steering and suspension systems, including what they describe as a “singular matter of urgency” – that being defective and/or seized emergency brakes which bear “rollaway” risk.

In terms of processes, FCC points to various weaknesses related to inspection processes, quality assurance, safety awareness and training, contract oversight, qualifications, data management, and minimum standards requirements.

Perhaps most concerning to OCA is that FCC concluded that the subcontractors were seemingly incapable of maintaining their fleets to the standards of safety required. These concerns are only magnified with their observation that some vehicles were taken out of service and retired permanently, shortly after the start of FCC’s vehicle inspection campaign.

In addition to FCC’s findings OCA did further work related to contract management and oversight.

We found that with one of the subcontractors (VanKleef), there was a related party relationship between the subcontractor and the automotive garage being used to certify their fleet. In our view, this is an apparent conflict of interest that creates a higher level of risk that vehicles not in an acceptable state of repair will be placed into service to meet operational exigencies. The other two subcontractors had related party relationships with their garages, however for certification purposes they used independent garages.

We found evidence that one of the auto repair businesses, and its owner, who is a principal of City Marvel, faced fraud charges in 2017 related to a police investigation into fraudulent insurance and vehicle safety certificates. Police charges against Naseem Jamil, of T & R Auto, alleged that fraudulent documents were being issued from T & R Auto Service. He was later convicted via a guilty plea of document forgery in October 2018. City Marvel was brought on as a DARTS subcontractor in 2019.

After Council direction on May 18, 2022 that all vehicles must pass inspection before being used in passenger operations, we found 42 instances where that direction was not complied with, and DARTS had placed vehicles into service

that were not yet passed. We also found a number of passenger runs that were performed by vehicles without an identifying vehicle number, particularly on May 21 where 23 of 467 (4.9%) of the runs were performed by unidentified vehicles.

OCA found that there was limited involvement and oversight by Transit in the procurement by DARTS of its subcontractor City Marvel in 2019, and the required General Manager approval and corresponding support for such approval could not be located (also noted by FCC).

Consistent with FCC, we found that Transit did not avail itself of any regular, independent, unannounced site visits or inspections to validate the ongoing status of vehicles, as reported by DARTS, and the safety and roadworthiness requirements generally.

OCA concluded that Transit needs more functional access to Trapeze, the application used to manage clients and trips, as well as more real time data of DARTS vehicles and their status in order to properly oversee contractual compliance.

OCA confirmed that Transit has no formal contingency plans to deal with situations where they may choose to cancel a contract with a non-performing contractor or subcontractor.

Introduction and Background

Disabled and Aged Regional Transportation System (“DARTS”) is an external organization that provides accessible transit services in Hamilton under contract with the City.

The Office of the City Auditor Work Plan 2019 to 2022 (AUD19007) included the completion of a DARTS Audit, noting that the audit was pending the completion of a revised Master Operating Agreement (MOA) between the City and DARTS. A revised MOA has not been completed, therefore plans to audit have up to now, been paused. The MOA that is in effect is the original 2012 MOA which expired in 2017. It is being utilized on a month-to-month basis. Under its current terms, DARTS is permitted to utilize sub-contractors to deliver services under certain circumstances, subject to approval by the General Manager of Public Works.

In the course of its work in managing the City of Hamilton’s Fraud and Waste Hotline, OCA received a confidential Fraud and Waste report in September

2021 that was originally received by the Transit Division via a Councillor's Office. The Transit Division notified the Office of the City Auditor (OCA) of the report promptly. An allegation was made that a DARTS subcontractor performing maintenance on part of their fleet, did not have professional mechanics servicing the vehicles used in providing DARTS services, and that vehicles were being put on the road that were unsafe due to inadequate inspection and maintenance.

The OCA requested that the Transit Division investigate this matter further and to report back what it found to OCA. Transit began to investigate and while doing this, worked with Legal and Risk Management Services to enforce the City's contractual rights with DARTS per the existing Master Operating Agreement (MOA).

The Transit Division requested information from DARTS to allow them to demonstrate their compliance with the MOA in late September 2021, with ongoing communications between Transit and DARTS occurring in October 2021 to March 2022. It is the OCA's understanding that it was challenging for the Transit Division to receive the necessary information from DARTS, sufficient to allay concerns, including information such as vehicle inspection records and other support that should have been readily available. DARTS is responsible, overall, for the maintenance of vehicles although some of these activities are performed by their sub-contractors.

Since October 2021 the Transit Division has stepped up their oversight of DARTS' compliance with their contractual obligations to the City of Hamilton. Additionally, Transit began performing oversight work of DARTS' sub-contractors (a DARTS responsibility) due to concerns about all three of DARTS's sub-contractors (Hamilton Rising, VanKleef and City Marvel) that arose as a result of this increased oversight. Areas of concern remained, however, including incomplete vehicle inspection tracking, certificates of insurance (COI) not being readily available, and issues with COIs when they were provided. During this period of increased vigilance, the Transit Division's concerns became so significant that on February 15, 2022, they directed that one of DARTS' subcontractors (City Marvel) pull vehicles off the road for a short period of time.

As a result of the above information the OCA made the decision to independently investigate this matter further by undertaking a full audit of DARTS' vehicle maintenance and fleet management. With the ongoing issues encountered by the Transit Division in obtaining vehicle inspection information, insurance documentation and further concerns about DARTS oversight of their sub-contractors, the OCA was concerned about whether the compliance of DARTS with respect to inspection and maintenance activities had any impact on public safety.

The OCA sourced an external firm (Fleet Challenge Canada, “FCC”) that specializes in fleet compliance to complete a thorough review of the inspection, maintenance and fleet management activities performed on DARTS operated vehicles with a view to identifying any control weaknesses or compliance issues that may impact public safety. This work included vehicle inspections completed by licensed Automotive Service Technicians and/or Truck and Coach Technicians.

On March 24, 2022 this issue was reported by the City Auditor as a “Serious Matter” to Council, per the “City Auditor Reporting of Serious Matters to Council” policy. The two criteria being applied were that there was a situation that could threaten public safety and could have a significant adverse impact on the City’s vulnerable populations.

Audit Objective

The overall objective of the audit was to assess the maintenance and inspection activities employed by DARTs and its sub-contractors, with a view to concluding on the effectiveness of these processes in ensuring the safety of vehicles placed into service. Also in scope were the mechanisms used by Transit to oversee DARTS contract compliance and to monitor and gain assurance as to the safety of operations overall.

Audit Scope

Initially the audit scope was a fleet management audit which was to include a sample of about 40 vehicles having vehicle inspections completed by an independent third-party garage contracted and overseen by FCC. However, after receiving the initial inspection results, with 39 vehicles inspected and a failure rate of 46%, the OCA, in consultation with Transit, and consistent with direction of Council, decided that all vehicles in the fleet would be inspected as part of the audit.

What We Did

- Gained an understanding of fleet management processes as it related to municipal transit fleet management.

- Gained an understanding of operational processes and standards regarding fleet management safety inspections, maintenance best practices and common issues.
- Assessed vehicle safety inspection results to determine if they were consistent with industry best practices.
- Analyzed information indicative of whether the City is getting good value on its current contract for accessible transit services with DARTS.
- Obtained insights from experts in the field.

How We Did It

1. Analyzed vehicle maintenance records.
2. Performed site visits and walkthroughs.
3. Reviewed database records related to route scheduling and trips performed to ensure vehicles that were to be pulled from service pending inspection were actually out of service.
4. Reviewed relevant contractual documentation (e.g. Memorandum of Agreement, subcontractor agreements).
5. Physical observation of vehicles on the road at high volume pick-up/drop-off locations with subsequent validation to database records to ensure vehicles that were to be pulled from service pending inspection were actually out of service.
6. Engaged an external fleet management expert with municipal fleet experience to review key processes and oversee vehicle safety inspections and interpret inspection results.
7. Attended vehicle safety inspections to physically observe inspection results.
8. Reviewed other relevant documentation (e.g. court records, summons, orders to comply, corporate directorship reports).

Detailed Findings

External Subject Matter Expert

The audit itself was one that necessarily relied on the expertise of experienced professionals in fleet management from a safety perspective. Accordingly, Fleet Challenge Canada (FCC) was hired to be the primary technical consultant and to conduct the major portion of the work that needed to be done to objectively evaluate the current state of maintenance and inspection activities within DARTS’s area of responsibility. Guided by OCA’s overall objectives, FCC used their own experience and methodologies to design and conduct the necessary procedures to evaluate DARTS.

FCC was engaged to conduct substantive testing of the state of repair of DARTS operated and overseen vehicles, based on a reasonable sample, and to review the processes used by DARTS and its subcontractors to ensure vehicles placed in service meet the City’s requirements and are safe to operate. They looked at the processes for inspection, the qualifications and training of personnel, the documentation maintained for management of the fleet, the oversight mechanisms of Transit, and they evaluated all manner of risks related to safe fleet operations.

The final report from Fleet Challenge Canada is attached as Appendix “B” to Report AUD22007 and contains 64 recommendations. (An additional 9 recommendations were made by OCA pursuant to observations made in the following sections).

Further Work by OCA

Based on the preliminary findings that were shared with us by FCC, OCA decided to undertake further work, in addition to what FCC performed. OCA’s findings are as follows.

Related Parties for Subcontractors’ Auto Garages

As of July 2022, there were three subcontractors being utilized by DARTS: City-Marvel Enterprises Inc. (City Marvel), Hamilton Rising Transportation Inc. (H-Rising), Van Kleef Group Inc. (VanKleef). In bringing vehicles to the minimum standards required by Transit, we were expecting that the subcontractors would be using independent garages for their fleet inspections and certifications. However, we found that with one of the subcontractors (VanKleef), there was a related party relationship between the subcontractor and the automotive garage

being used to certify their fleet. This is a situation that was not known to Transit management. In our view, this relationship creates an apparent conflict of interest that creates a higher level of risk that vehicles not in an acceptable state of repair will be placed into service to meet operational exigencies. In the business model used to pay the subcontractors, payment is based on a monetary amount per trip. So, under this type of arrangement there would be an inherent risk of experiencing operational and financial pressures that could impact the objective evaluation and assessment of the state of repair and roadworthiness of vehicles. We also found related party relationships that existed between the other two subcontractors, however we determined that for certification purposes the subcontractors were using independent garages.

Specifically, we found that:

City Marvel Enterprises Inc. and their main auto garage, T & R Auto Service Centre (T & R) are very likely related parties due to a common address and family name between directors of the two corporations. The same director in question (Naseem Jamil) for T & R is also a previous director of City Marvel who also represented himself as a current principal of City Marvel to Fleet Challenge Canada during their audit meeting. It is also DARTS’ understanding that this individual is a principal of City Marvel (based on information they provided to the OCA).

H-Rising (Hamilton Rising Transportation Inc.) and their main auto garage, Ustad Kar Kare are likely related parties. This is because it is the OCA’s opinion that the H-Rising mechanic (described as an H-Rising employee during FCC’s audit meeting with H-Rising) is also the only corporate director of Ustad Kar Kare. FCC also found that H-Rising implied that the garage they utilized was “their” maintenance facility, not a 3rd party garage.

VanKleef (Van Kleef Group Inc.) and their main auto garage, Cosimo’s Garage Limited are likely related parties as each have one corporate Director that is common to both.

Prior Criminal Convictions

In the course of reviewing information on the backgrounds and relationships of persons involved in each of the subcontractors and garages, we found evidence that one of the auto repair businesses, and its owner, faced fraud charges in 2017 related to a police investigation into fraudulent insurance and vehicle safety certificates. Police charges against Naseem Jamil, of T & R Auto, who is also a principal of City Marvel, alleged that fraudulent documents were being issued from T & R Auto Service. He was later convicted via a guilty plea of document forgery in October 2018.

There were also other convictions we found for driving while disqualified, and two older ones (one for Naseem Jamil and one for T & R Auto Service Centre) pursuant to *Building Code Act* offences.

T & R is the repair garage that we concluded is a related party to the owner of City Marvel. City Marvel became a DARTS sub-contractor in May 2019, after these charges and convictions were a matter of public record, some of which were reported in the Hamilton Spectator. In our view, this indicates an ineffective level of due diligence being performed by DARTS and Transit on prospective subcontractors prior to contracting with them.

Vehicles Remained on Road Uninspected Even After Council Directive

Given the unequivocally poor initial inspection results from the initial vehicle sample (46% fail rate), at the GIC meeting on May 18, 2022 Council Direction was received that DARTS (and their subcontractors’) vehicles were to be kept out of service until they passed a safety inspection conducted by an independent garage of the City’s choosing. The Transit Division provided this direction to DARTS. Given the high-risk nature of the audit due to public safety concerns, the OCA performed detailed analysis of operational data (Trapeze computer application records) to verify that DARTS, in fact, complied with this Directive and pulled the vehicles from service until they had passed a safety inspection.

Vehicles Not Pulled From Service Before Passing the Safety Inspection

An analysis of Trapeze data showed that contrary to the May 18th Council direction, some of the vehicles that had not yet passed the safety inspection were in service after this date. We found that:

- On May 19th, 23 of the 102 vehicles on the road had not passed inspection.
- On May 20th, 7 of 96 vehicles on the road had not passed inspection;
- On May 21st, 3 of 44 vehicles on the road had not passed inspection;
- On May 23rd 1 of 28 vehicles on the road had not passed inspection;
- On May 24th, 6 of 93 vehicles on the road had not passed inspection; and
- On May 25th, 2 of 95 vehicles on the road had not passed inspection.

Some Trips Could Not be Verified

In addition to the above, the Trapeze database showed that on 12 of the 43 days between May 19th and June 30th some passenger runs were performed by vehicles without an identifying vehicle number. While the number of such runs was generally quite small (usually less than 1% of the runs), 23 of 467 runs on May 21st were performed by vehicles without an identifying number. This represented 4.9% of the runs that day. The OCA has brought this matter to the Transit Division’s attention, but the OCA was ultimately unable to determine the rationale for there being runs without vehicle numbers. This could have financial/billing implications, we note this as an item for management to consider performing analysis and review of.

Contract Oversight and Management

We found that until recently (2020 onwards), there was limited oversight and management of the DARTS contract (MOA) by the Transit Division. For example, when DARTS added City Marvel as a subcontractor in May 2019, DARTS procured the vendor on their own. Transit was not involved in the process of selection. They were merely informed by DARTS that a vendor had been selected and they (DARTS) requested approval and sign off by the General Manager of Public Works as is required under the contract. In following up on the required approval, however, we were unable to find evidence of the General Manager’s official written approval, from neither the Transit Division nor DARTS, for all three of DARTS’ current subcontractors (City Marvel, VanKleef, H-Rising). It is the OCA’s understanding that this approval was confirmed via email communication. For such a critical decision, the OCA finds that email communication is not an appropriate form of documentation due to the record retention issues that can and have actually transpired.

For effective contract oversight we would have expected regular contractor and subcontractor site visits. However, it is our understanding that regular site visits to DARTS and subcontractor locations were not occurring, as of the date of our audit fieldwork. Having both a regularly scheduled and unannounced physical presence is a way to gain insight into the vendor’s operations and provide further assurance that contractual requirements are being complied with.

Also, there was limited ability on the part of Transit to independently validate the roadworthiness of vehicles other than to rely on DARTS reports. We concluded that regularly conducted vehicle safety inspections that are unannounced are also needed. While the City is entitled to have vehicle inspections performed annually per the existing MOA, the City has not availed itself of this contractual provision in any meaningful or robust way. In order for this to be implemented

most effectively, the City should design, execute and maintain control of the sample of vehicles selected for inspection (i.e. not permit the vendor and their subcontractors to substitute vehicles) and there should be a mix of regularly scheduled inspections and unannounced inspections for the safety inspections to be effective.

Overall more robust contract management (including document management) processes are needed to effectively manage the contract for accessible transit services.

Access to OPS/Trapeze Database

Trapeze is the computer software application designed to register accessible transit clients, as well as to book trips, schedule, and dispatch DARTS and DARTS' Subcontractors vehicles. It is also used for trip planning and real time vehicle location. The OCA was provided access to this software to complete our audit testing by DARTS. When using the software, the OCA found that Transit Division staff did not have access to all the Trapeze functionalities and captured data that OCA had, and were unaware of these additional Trapeze features. In order to access some of the information needed, Transit Division staff had been creating work-arounds for the needed functionality, including manual tracking process which was ineffective.

Furthermore, it became apparent that DARTS had more fulsome access to data and greater functionality in its use than Transit. The contractor had been effectively “owning, managing, and controlling” City service data, albeit for operational purposes. The contractor (DARTS) provides accessible transit services on behalf of the City of Hamilton, and as such, the City should maintain control of the Trapeze application and the service data, and this should be a critical requirement for any future contract terms with a vendor.

Effective Vendor Reporting is Needed

The current MOA is silent on the requirement for a real time master list of DARTS and Subcontractor vehicles. Currently, DARTS will provide such a list when asked, but the details provided were found by the OCA to be inconsistent and unreliable. To facilitate oversight, an updated, real time list of DARTS and Subcontractor vehicles should be maintained, provided and/or made available to Transit Division in a timely manner. In order to properly identify each unique vehicle, this list should include the vehicle number, the license plate number, the VIN number and proof of insurance. It should also reflect whether the vehicle is active or inactive. If the vehicle is inactive it should indicate whether it is retired or in in repairs. Further, an additional “spares” category should be used for the Subcontractors' vehicles as they have vehicles that are inactive but have not been retired. The accuracy and completeness of this list should be verified

periodically. Ideally all of these reports should be automated, and the Transit Division should be able to run them from the Trapeze software on a self-service basis.

Contingency Plans

In the course of our work we confirmed that Transit has no formal contingency plans to deal with situations where they may choose to cancel a contract with a non-performing contractor or subcontractor. This puts undue pressure on Transit to accept sub-par performance and carries greater risks and likelihood of disruption when deciding to assert their contractual rights to correct a systemic failure on the part of one of the parties.

Recommendations

All recommendations (those from both the OCA and FCC) are listed in Appendix “C” to Report AUD22007, along with a high-level management response. A more detailed management response will be developed in the coming months to ensure that the identified issues will be thoroughly addressed and will be presented to the Audit, Finance, and Administration Committee when they have been received by the OCA from the Transit Division.

Conclusion

The OCA and FCC have brought forward several observations and recommendations to strengthen controls, raise vehicle safety up to an adequate standard, and enhance the value for money achieved in the delivery of accessible transit services. The Transit Division has an opportunity to undertake transformative change in this area.

The OCA would like to thank Fleet Challenge Canada, Transit Division, Legal and Risk Management Division, and other participants for their contributions throughout this project. We look forward to following up with management in the future to see the progress of their action plans and their impact on achieving value for money in service delivery.

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