

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

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TAKEN FOR A RIDE:

AN EXAMINATION OF THE DOE'S OFFICE OF PUPIL TRANSPORTATION CONTRACT
FOR MEDICAID REIMBURSEMENT FOR TRANSPORTATION

INTRODUCTION

The Office of the Special Commissioner of Investigation (“SCI”) conducted a self-initiated investigation into the New York City Department of Education (“DOE”)’s Office of Pupil Transportation (“OPT”) contract for Medicaid Reimbursement for Transportation.¹ Over 50,000 special education students utilize DOE transportation daily.² SCI’s investigation revealed significant issues with the project from inception to implementation, including:

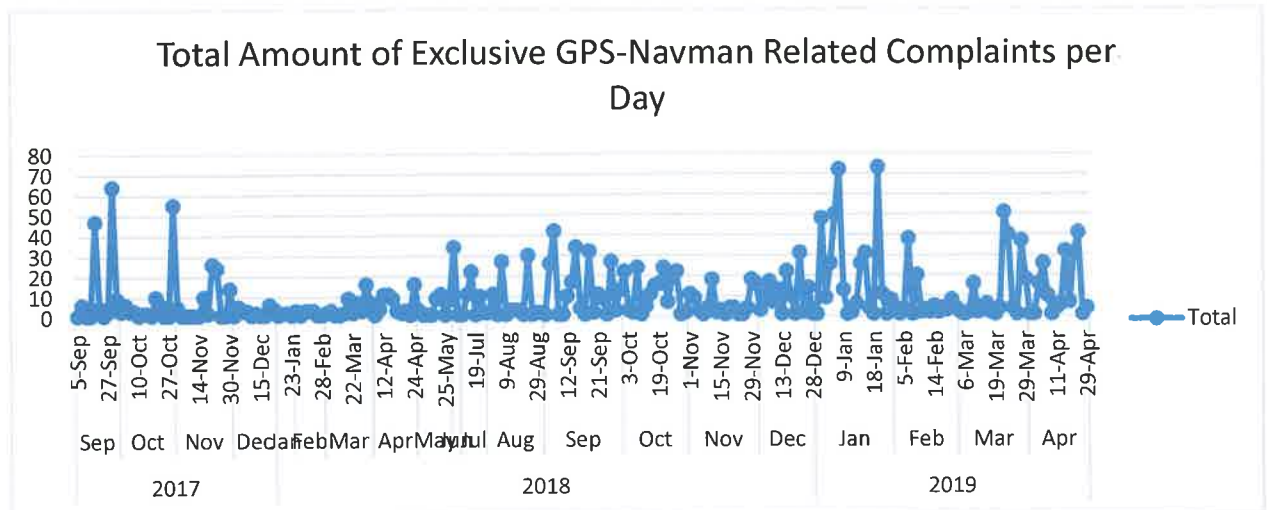
- From April 27, 2015 to September 11, 2019, the DOE paid \$8,660,146.00 to contracted vendor Navman Wireless (d/b/a Teletrac Navman, hereafter “Navman”) for electronically providing student tracking information, in part to assist the DOE in claiming Medicaid reimbursement for transportation. The contract term expires on December 31, 2019, with a total payment estimated at nearly \$10 million. The investigation found that to date no money – none – was ever reimbursed to the DOE for Medicaid reimbursement for transportation, which was the original purpose of the contract.³
- Fulfilment of the terms of the contract - which specified that Navman GPS tracking devices be placed on 6,000 special education school buses for the purpose of collecting electronic data such as the bus operator, the bus attendant, and the entrance and exit times of student ridership – required manual input from the bus operators. Approximately 75-80% of the time, drivers failed to “log onto” the Navman system whether through mechanical or driver error, rendering the Navman devices in these instances useless.
- Due to poor inventory and financial oversight, the DOE paid \$157,644.39 to Navman for missing or inactive devices. The investigation also disclosed numerous incidents of Navman having billed the DOE for duplicate license plate numbers, vehicle identification numbers (“VIN”), serial numbers, and instances where devices sat in parking lots and other non-DOE locations such as California and off the coast of Africa. Due to lack of proper record-keeping by OPT and Navman, SCI was unable to review billing records dating from the inception of the Navman contract through September 2017. Based upon a lack of management and oversight by OPT, it is more likely than not that there were additional incidents of billing for duplicate and / or missing devices that will never be fully recoverable.
- Employees who administered the Navman project at the initial stages through fall 2018 consistently failed to properly oversee and supervise crucial aspects of it, including but not limited to record-keeping and device functionality.

¹ OPT is responsible for, among other things, determining bus routes, stops, and schedules; determining eligibility for yellow school bus, public transit bus, or subway pick-up for students; conducting inspections of bus companies, including background checks of bus drivers and matrons; and liaising with schools and with bus drivers.

² Per DOE statistics, 51,874 special education students utilized DOE transportation as of June 21, 2019.

³ See Appendix A, attached hereto, for a brief explanation regarding Medicaid reimbursement.

SCI obtained a contract entitled “Medicaid Reimbursement for Pupil Transportation Contract,” between Navman and DOE, and conducted a financial review both of the money spent by DOE and whether DOE recovered any money from Medicaid.⁴ The nominal purpose of installing GPS on buses was to collect data so that the DOE could recover federal reimbursements through Medicaid to cover annual bus transportation costs. SCI discovered that no Medicaid transportation reimbursements were provided to the DOE and that since 2017 – the first year that OPT’s customer service unit began tracking Navman complaints – there were consistent complaints about the system:⁵



* This graph includes only complaints from bus companies regarding Navman; it does not include complaints from parents or guardians regarding late or missing buses.

As a result, SCI opened the current investigation. The scope of the investigation was a review of the Navman-DOE contract, and identification of factors such as fraud, mismanagement, or poor oversight that led to the DOE spending millions of dollars for GPS devices that resulted in no Medicaid reimbursements and myriad parent complaints in September and November 2018.⁶ SCI reviewed correspondence from and / or spoke with several individuals who worked on the Navman project, including the managers responsible for implementing it: Eric Goldstein (“Goldstein”), the former Director of the Office of School Support Services (“OSSS”) from 2009 to 2018⁷; the Director of OPT, Alexandra Robinson (“Robinson”), who reported directly to Goldstein from December 2011 until Goldstein’s termination in 2018 and is the current Executive Director of OPT; and Eden Perez (“Perez”),

⁴ As set forth fully in Appendix A, prior DOE Medicaid submissions were non-compliant. In 2009, New York State returned \$539.75 million to the federal government (\$100 million of which paid back by the DOE) for its non-compliant submissions. See <http://www.parentadvocates.org/index.cfm?fuseaction=article&articleID=8726> (“In July 2009, the Department of Justice, Office of the Inspector General, Centers for Medicare and Medicaid Services and New York State reached a settlement in which the State agreed to return \$539.75 million to the federal government, \$100 million of which would be paid back by New York City.”)

⁵ As set forth more fully below, prior to 2017 no formal procedure was in place to address Navman-based complaints that were received.

⁶ These issues are set forth fully in Appendix B.

⁷ In September 2018 Goldstein was reassigned; in October 2018, his employment was terminated.

Robinson's former Executive Assistant who was promoted to OPT's Transportation Account Manager and currently is an Assistant Regional Director. Of note, Robinson identified the need for an electronic system for Medicaid reimbursement for transportation costs, was on the selection committee for the Navman contract, and selected Perez as project manager to oversee its implementation and the customer service arm of OPT.

THE INVESTIGATION:

I. Medicaid – Financial Reimbursement and Record Keeping

As set forth fully in Appendix A, the DOE is entitled to apply for Medicaid reimbursements for – among other items – transportation costs associated with special education students. While the exact amount the DOE *could* have recouped is unclear, Executive Director of Medicaid Andrew Hollander (“Hollander”) told SCI investigators that from 2013 to present the DOE potentially could have recouped \$500,000 to \$1 million annually in Medicaid reimbursement for transportation – a total of between \$3.5 and \$7 million.⁸

There was public concern that the DOE was losing out on millions of dollars by not properly obtaining Medicaid reimbursements, as the DOE lagged far behind the state’s other large school districts in filing claims.⁹ In fact, the DOE filed no claims related to nursing services, occupational and physical therapy, psychological counseling, audiological evaluations, or transportation between 2006 and 2010; meanwhile, Buffalo, Rochester, Syracuse and Yonkers — where the combined special education populations are less than 10 percent of New York City’s — were reimbursed \$77 million for such services.¹⁰

Robinson told SCI investigators that when she was named OPT Executive Director in December 2011, she “told Goldstein there is money left on the table by [the DOE] not asking for Medicaid reimbursement.” Robinson stated that after she was hired “Goldstein had [her] meet with people from special education and Medicaid.” At that time, any documents submitted for Medicaid reimbursement were paper documents. Goldstein asked her “is there any other way to track this [other than the use of paper documents]?” Robinson told Goldstein “[OPT] need[s] an electronic system.”

It should be noted that the DOE instituted the Special Education Student Information System (“SEGIS”) database, which ultimately cost approximately \$130 million. Its proposed use was to simplify the Medicaid claims process and to electronically track services provided to special education students; however, since its 2011 launch, it did not work as intended, and recently was shuttered.¹¹

Within one month of starting her position, Robinson drafted an internal memorandum entitled “Medicaid and School Transportation – An Information Guide to the Process and Reimbursement” in which she wrote, “while there is no current basis for electronic accounting

⁸ As discussed more fully, prior to 2013 the DOE could have expected to recoup significantly more money.

⁹ See “City Schools Missing Out on Aid for Special Needs,” *New York Times*, <https://www.nytimes.com/2011/12/29/nyregion/new-york-schools-fail-to-get-medicaid-money-for-special-needs-services.html>.

¹⁰ *Id.*

¹¹ See “Sayonara SEGIS: New York City to scrap its beleaguered special education data system,” available <https://www.chalkbeat.org/posts/ny/2019/02/22/sesis-special-education/>; see also “N.Y.C. Shelving Troubled Special Education Data System,” available <https://www.edweek.org/ew/articles/2019/03/13/nyc-shelving-troubled-special-education-data-system.html>

within most school districts it would be a safe assumption that electronic tracking for the above formulas and claim process requirements would save the district dollars in administrative time and effort.” She further explained that a “tracking tool that tracks a sample run or route with time on board will suffice perhaps for state reporting requirements but actuals are needed for the federal program.” Continuing, she stated that the process and paperwork was so cumbersome, “if it is not done correctly, reimbursement reverts to zero” and that many states opted out because it was “not worth the hassle.”

As stated, Robinson operated under the assumption that all data for Medicaid resubmission was to be collected manually, rather than electronically. Prior to speaking with Buffalo about its collection procedure, in February 2012 Robinson drew up an initial list of 40 routes – containing 350 students – from which a team of temporary OPT employees manually attempted to track Medicaid-eligible students. SCI interviewed former OPT Administrative Staff Analyst David Jackson (“Jackson”), who worked for OPT from July 2012 to July 2014. SCI asked fundamental employment questions, such as Jackson’s title and supervisor; Jackson “guessed” that his supervisor was Robinson because he worked on the “Navman project.”¹² When asked about the collection of paper records, Jackson stated “there was a lot of error.” The Medicaid Unit was unable to submit any of the manually-collected records as required data was missing. Matthew Berlin (“Berlin”), who was OPT Director from 2009 to September 2011 therefore requested that Robinson document all routes and issue violations to bus companies that did not properly complete documentation.¹³ In response, on October 5, 2012, Robinson wrote, “[T]his is the most passive-aggressive way to go about this I have ever experienced-and I am beyond the game playing. I was hired (I think) to bring this department into the 21st (or at least the 19th) Century and will not stand by as we set the DOE up for a federal audit.”¹⁴

Goldstein expressed his concerns in an August 2013 email: “[t]his whole thing seems to be done backwards, frankly. According to the metrics I received, we have six people working full time on paper processing and have so far processed 12,600,000 pieces of paper (over twelve million!!) and for what? This whole thing should have been outsourced from the beginning and then when we understand how it works as a system then take it back in-house in either part or as a whole.” Ultimately, OPT was overwhelmed with paperwork and was unable to manually track the records to submit for reimbursements. Both Goldstein and Robinson wanted an automated system to collect data regarding student’s routes in anticipation of an effort to reclaim money for busing through Medicaid.

Several attempts were made to resolve the issue of data collection.¹⁵ One approach was to not work with the Medicaid Unit or Finance Department and instead to contract for a product

¹² Jackson described his work as the “Navman project” despite the DOE’s contract with Navman having not been filed with the Comptroller until March 2015 – after Jackson left his DOE employment.

¹³ Referring to the paper-based data-collection process, Goldstein acknowledged an open secret and wrote to Robinson on March 3, 2012, “The solution that we are piloting is only sustainable as a pilot as it is not scalable. There are other issues surrounding the archiving of data that are pertinent.”

¹⁴ October 5, 2012 email from Robinson.

¹⁵ SCI interviewed DOE Finance Department Senior Executive Director of Financial Systems and Business Operations Richard Carlo (“Carlo”), who gave a presentation to Robinson in September 2013 about one such

that would automate the collection of data and the Medicaid billing. On March 21, 2012, Goldstein wrote to Deputy Chancellor Karen Grimm (“Grimm”) that “We [OPT] are also preparing a [sic] RFP that will allow a company that knows what they are doing to manage this [Medicaid reimbursement for transportation].” Robinson began an Expedited Competitive Solicitation (“ECS”) – a process used when “time constraints require procuring the services of a vendor quickly and use of another source method would not be practicable and / or feasible” – in July 2012, and provided draft language that she had previously used regarding Medicaid data collection.¹⁶ Robinson and Lisa D’Amato, OSS’s Procurement Manager, were listed as the “Procurement Managers” on the Executive Summary approved by then-Chancellor Walcott. The Executive Summary stated the purpose of the ECS was to “provide an electronic system to collect and disseminate the information necessary for New York State reimbursement of Medicaid-eligible students” by choosing a vendor able to capture data in compliance with Medicaid rules and to interface with current DOE systems.¹⁷ DOE chose the bid of Navman, and by May 2013 the DOE Panel for Education Policy (“PEP”) had approved a Request for Authorization to Contract with Navman.¹⁸

A. A Change in New York’s Approach to Medicaid Reimbursement

Shortly after DOE selected Navman’s bid, on August 28, 2013, the New York State Office of Health Insurance Programs (“OHIP”), New York State Education Department, Preschool / School Supportive Health Services Program (“SSHSP”), and Medicaid in Education Units issued a Medicaid in Education Alert Issue #13-10 to clarify federal guidelines for Medicaid Reimbursement of Transportation. The alert stated that the Centers for Medicare and Medicaid Services (“CMS”) clarified its policy and “specifically excludes” reimbursement for transportation between home and school when a student with a disability is transported in an “unmodified vehicle.” It defined a “specifically modified vehicle” where a vehicle had a “physical feature to accommodate a specific student with a disability” and provided an example of a bus with a wheelchair lift. It further provided examples of those not qualified for purposes of Medicaid reimbursement, including the following: air conditioning, seat belts, a bus aid, or installed video equipment. The alert provided further guidance, including but not limited to, a reminder regarding bus logs maintained for each one-way trip, a statement that transportation on a “regular (unmodified) bus or other vehicle to/from school must not be billed to Medicaid,” and that services must meet the criteria established by CMS. As detailed above, this alert served to curb what the DOE could reasonably expect to recoup from Medicaid. Prior to this alert, the DOE could have expected reimbursements between \$10 and \$20 million annually; after the alert,

internal solution to the issue but, per Carlo, before the presentation ended Robinson said “this doesn’t fit our needs” and added “I’ve done this in a different state.”

¹⁶ DOE’s Procurement Policy Procedures, Section 3-05, pp. 62-64.

¹⁷ In the past 10 years, OPT has only utilized ECS procedure on four occasions – two of which were contracts with Navman.

¹⁸ Navman originally bid alongside TransitPro Logistics, with Navman proposing to provide the GPS and routing and TransitPro Logistics providing the Medicaid reimbursement billing. OPT decided to eliminate the second portion, *i.e.* Phase II, of the RFP and internalized the Medicaid reimbursement portion. As a result, Navman proceeded to contract without TransitPro Logistics.

the estimated potential recovery from reimbursements was reduced to between \$500,000 to \$1,000,000 per year. Therefore, the cost of the Navman contract would exceed what the DOE could recover in Medicaid reimbursements, rendering the project a net loss from the start. Nevertheless, OPT forged ahead with the implementation of Navman devices for Medicaid reimbursement.

II. Personnel Who Oversaw the GPS Project

The implementation of an electronic, GPS system had been in the works since 2005.¹⁹ Per Berlin, who was OPT Director from 2009 to September 2011, Goldstein wanted GPS on buses, though Berlin believed that “[GPS] would have been a boondoggle.”²⁰

Berlin’s replacement, Robinson, subsequently revived the project. Robinson was the former President of the National Association of Pupil Transportation (“NAPT”), a trade organization, where she had been a member since 1989.²¹ ²² Robinson’s work history included: Interim Director of the Montebello Unified School District in California (January – June 2011), Director of Transportation for the San Diego School District (1996 – 2010), Coordinator of Special Education Transportation for the state of Florida (1993 – 1996), Manager of Transportation of Orange County Public Schools, Florida (1989 – 1993), and Crisis Intervention Specialist for the Transportation Department of Orange County Public Schools, Florida (1988 – 1989). Most of Robinson’s experience was with smaller, out-of-state school districts that owned their own buses; for instance, enrollment of all San Diego students – kindergarten through twelfth grade – is only approximately 126,000 students.²³ ²⁴ In contrast, the New York City DOE transports the largest number of students by school bus in the country – approximately 150,000 students, operated by 60 private bus companies using 9,500 buses costing \$1.2 billion. As noted above, fleet-tracking software for Medicaid reimbursements would be used for following at least 50,000 students per day.

SCI interviewed multiple people who stated that Robinson was DOE’s de facto internal expert for Medicaid reimbursements for transportation. In March 2012, Goldstein emailed

¹⁹ See “City school buses to get GPS tracking systems,” *Daily News* September 28, 2007, <https://www.nydailynews.com/news/city-school-buses-gps-tracking-systems-article-1.247546>.

²⁰ Knowing that the program would be a waste of money, Berlin “killed it” by “dragging his feet on the concept.” As a result, OPT did not initially move forward with GPS. Berlin became the Director of the Medicaid Unit in September 2011.

²¹ NAPT is self-described as “the world’s premier market space for public and private student transportation service providers and the companies that provide valuable products and services to support safe school transportation.” See <https://www.napt.org/about>.

²² Robinson’s affiliation with NAPT did not appear to end in 2011. Robinson was both President of NAPT and executive director of OPT; she continued as President of NAPT until at least 2013. See “Alex Robinson builds training in NYC, partnerships at NAPT,” available: <https://www.schoolbusfleet.com/article/612162/alex-robinson-builds-training-in-nyc-partnerships-at-napt>

²³ As of June 2019: Montebello Unified School District has approximately 80 buses transporting approximately 4,500 students; San Diego School District has a fleet of approximately 400 district-owned buses transporting approximately 8,000 students daily; and Orange County Public Schools has approximately 1,600 district-vehicles transporting approximately 69,000 students.

²⁴ See <http://www.ed-data.org/district/San-Diego/San-Diego-Unified>.

Grimm and wrote, “[Robinson] actually has experience collecting Medicaid dollars for busing.” However, there is no evidence that Robinson had such experience. Additionally, when Keating was asked by SCI investigators about the steps OPT took regarding Medicaid reimbursement for transportation, she responded, “we had an internal expert – Alex Robinson.” She added that “[Robinson] told me she had submitted Medicaid in the past in California and was successful.” Keating explained that Robinson said this frequently with confidence and authority. Based upon witness statements and multiple emails, Robinson led supervisors and others within DOE to believe that she was an “expert” who had successfully submitted Medicaid reimbursements (for transportation), when in fact she had previously never done so.

SCI reviewed public information and contacted the transportation divisions in San Diego and Montabello, California, where Robinson worked prior to DOE. When SCI confronted Robinson about her prior experience of submitting and receiving Medicaid reimbursements, Robinson admitted that she had never successfully submitted nor received transportation-based reimbursements. She provided conflicting statements to SCI investigators during her interview. First, Robinson claimed that Montabello never submitted for reimbursements, but she later stated that Montabello “may” have been preparing to submit during the six months that she worked there. Robinson’s lack of Medicaid reimbursement experience and her supervisor’s reliance on her expertise may have been one of many factors that contributed to the Navman contract which never resulted in any Medicaid reimbursements by the OPT.

Approximately one month after the Navman contract was signed, OPT posted for two “Transportation Account Manager” positions, one of which would be the Medicaid account manager and would support the OPT Director’s office.²⁵ One of these positions was filled by Eden Perez, Robinson’s former Executive Assistant.

When SCI interviewed Perez, she stated that she applied for the “Project Manager” position for which she was hired – inconsistent with the title of the job posting for which she applied. Upon review of Perez’s resume, it appears that she may not have the minimum requirements.²⁶ She had an Associate Degree with five years’ experience as executive assistant, as a temporary DOE employee assigned to the OPT Director, and one year as a physical therapist with DOE’s Department of Health. Nevertheless, Perez was granted an interview in front of a multi-person panel, and then a one-on-one interview with Robinson. Perez told SCI investigators that Robinson hired her and was her supervisor. Robinson explained hiring Perez by saying, “we needed someone who could manage projects.” When asked about Perez’s experience, Robinson stated that “[Perez] managed the reconstruction of the (OPT) office.”

²⁵ The position had minimum requirements such as: a baccalaureate degree from an accredited college and 4 years of full-time experience in “purchasing and or inspecting supplies, materials, products, and services such as: paints, linoleum, hose, sand, etc. in certain fields with at least 18 months in a supervisory, administrative or managerial capacity (or) an associate degree plus 6 years of full time experience with 18 months of supervisory, administrative or managerial capacity.

²⁶ For instance, Perez listed tasks and responsibilities associated with her title of Executive Administrative Assistant and Project Manager from August 2008 until September 2013 that do not demonstrate any supervisory experience.

Others interviewed by SCI described Robinson and Perez as being “too close,” and Perez unable to fulfill the job requirements. During Goldstein’s interview, he stated that Robinson was “insistent” to make Perez the project manager of the Navman project. He further described that Robinson was protective of Perez and that Robinson was “too close” to Perez. For instance, an SCI review of Robinson’s DOE computer hard drive revealed that Robinson had corrected Perez’s resume and helped her write a cover letter to NAPT for a scholarship. SCI investigators spoke with another senior-level manager who said “you have to have experience to be a Project Manager” and added “[Robinson] is a nice woman but you shouldn’t be close to people you supervise.” Ostensibly, this individual was referring to the friendship between Robinson and Perez which – as detailed on Perez’s Facebook page (under the name “Eden Santiago”) – included evenings in August 2012 and November 2013, prior to Perez’s being hired as Transportation Account Manager, that involved “laughing, drinking and partying.”²⁷

When asked about her department’s involvement in the Navman Project, the Support Services Director of IT Infrastructure and Operations stated “we (Support Services IT Infrastructure and Operations) were excluded from it completely.” She stated that as the Navman Project progressed, Perez would call meetings of her department and ask why “they weren’t getting the data” – though Director offered to give “technical” advice, she recalled an email from Robinson sent to “make it clear” to Kamta’s team not to bring up at meetings anything that would shine a negative light on the Navman project²⁸.

It is possible that some of Perez’s unfamiliarity with the project was due to her sustained period of absences from OPT. By email dated July 16, 2014, Robinson announced that Perez “will be joining” OPT as Project Manager; however, Perez said in an email to SCI that she did not begin as Project Manager until November 2014, and personnel records show that she was on medical leave, pursuant to the Family Medical Leave Act (“FMLA”), from December 12, 2014 until March 2, 2015.

In June 2019, Perez was reassigned and no longer directly supervised by Robinson; her current title is Manager of Training in OPT’s customer service unit. In her new role, Perez supervises the Training and MetroCard departments. Her general responsibilities include scheduling of training for schools, bus vendors, and OPT staff.

III. The Navman-OPT Contract

The proposed contract with Navman was for three years at approximately \$9.2 million, with the provision that if OPT found the internal system in place for performing Medicaid

²⁷ During this time, Perez was employed as Robinson’s Executive Assistant; by the end of the following year, she was hired by Robinson in a position Perez described as “Project Manager.”

²⁸ SCI investigators reviewed an June 14, 2017, from Robinson to Kamta and Mani Chathapuram Krishnamoorthy and CCed to Support Services CIO George Pitagorsky, Kim Jackson, and Eden Perez, in which Robinson wrote “the time to tell me that the product we have chosen is going to fail, or headed in that direction is not in a room with Moshe (Becker) and the rest of us for the first time.” Robinson added “Unfortunately not everyone wants this project to succeed; it’s a lot of money so people can’t wait to prove it a waste.”

claiming services – including data extraction and preparation of claim submission – was insufficient, OPT would engage Navman to perform those services also and seek a new Request for Authorization. The committee – which included Robinson – selected Navman “on its view that they offered superior hardware and integration software, they have more experience in the field, and lower pricing.”²⁹

Former DOE Deputy General Counsel William Joyce raised concerns about the proposed agreement. By email sent May 17, 2013, he asked Goldstein why the specifications for the Navman agreement were not included in the DOE’s bids for bus companies. In reply, Robinson stated that the Navman agreement was “specific for a wireless device to track students on buses; funding for such has been established by the finance dept. and specifies a device that will work with our system to track specific students for Medicaid reimbursement.” She continued, “The requirements currently in our bid for new bus service are for [GPS] or AVL [Automatic Vehicle Location]-specific to vehicle location and NOT student tracking...these are two different things.”

Yet by all available accounts, it was apparent that the sole reason and purpose OPT negotiated contracts for the tracking of buses was so that the DOE could recoup the costs associated with transporting students with special needs from Medicaid. As the Director of OPT, Robinson was clearly aware that private bus vendor contracts were being negotiated simultaneous to the Navman contract. The proposed 2013 special education bus contract stated explicitly, “the contractor (bus company) shall have the ability to remotely locate and monitor each of its vehicles” and “that automatic reporting must be accomplished *without the need for any human action on the vehicle* (emphasis added).”³⁰

Navman devices consisted of two parts: a built-in GPS that pinged a location every few minutes, and a tablet that a driver would have to log into for the purposes of identifying the driver, matron, students, and route. This tablet component would not automatically turn on when buses were started; instead, it specifically required human action to function.

²⁹ Navman submitted three references in its bid, but only one – from the Genesee Intermediate School District Transportation Services Department in Flint, Michigan – mentioned Medicaid reimbursement.

³⁰ See page 122, Section 4.26, subsection (L).



Source: <https://i.ytimg.com/vi/fWVVY2SB1vs/maxresdefault.jpg>

However, the information as to the specifics of Navman's requirement that a bus driver actually turn on the device and manually mark when a child entered or left the bus was never communicated to the DOE personnel negotiating the bus contracts. Robinson was aware of the two contract negotiations but it appears she never shared how the product worked with those who actually negotiated the bus contract. The clear inconsistencies between the Navman contract and the bus contracts is one reason, along with many other mitigating factors, why the Navman contract never achieved any of its intended purposes – neither for locating buses nor for tracking students to obtain Medicaid reimbursements. Therefore, the failure to include protocols regarding GPS in OPT's bids for buses appeared to be a glaring mistake.

The aforementioned August 2013 alert regarding Medicaid compensation appeared to alter DOE strategy. On September 13, 2013, former DOE Chief Operating Officer Andrew Buher ("Buher") sent an email to Hollander regarding the Navman contract that stated "[h]ere is my final decision (meeting unnecessary). I am not funding. If OPT wants to move forward they can fund." On September 24, 2013, Hollander sent an internal memorandum to Buher, and copied 12 executives from various departments who participated in securing the Navman contract, including among others, Goldstein and Robinson. His memo recommended that DOE "cease current practices pursuing Medicaid reimbursement for transportation" due to a recent alert. He stated "[t]he electronic tracking devices will never likely be profitable given the recent change in regulations, and the current pilot of using paper records has proven exceptionally lengthy with no promise of repeatable results."

SCI investigators spoke with Buher who stated "my guess is I told Trigale a contract for Medicaid reimbursement for transportation] wasn't a good idea." Buher added that "Medicaid was one of the big buckets the Chancellor [Walcott] was interested in fixing," and that former

Executive Director for Financial Operations Michael Trigale (“Trigale”), who worked with Berlin and Hollander, told Buher “we need to close the gap on the Medicaid side.” SCI investigators also met with CFO Triagle, who bluntly stated that “Medicaid was a shit show for us back then.” Trigale described a Medicaid steering committee of which Goldstein and Grimm were members, and “there was a lady from California [Robinson] who stated she had some experience supposedly [with Medicaid reimbursement],” adding “she really pushed back on our recommendations for in-house devices.”

Two options were outlined: that OPT move forward with Navman for a limited number of routes and students (which would decrease the potential Medicaid claims to approximately \$1 million annually), or that OPT not contracting with Navman and DOE utilize school aides to help track the student data, a scheme that came with the “added advantage” of being able to provide student services when not logging the transportation data. Ultimately, Buher stated that he did not recommend “capital investments that may never see potential revenue realized” and recommended that the DOE work with outside counsel and the other large New York state districts to oppose the 2013 alert. Despite the concerns that the potential reimbursements from Medicaid received by the DOE would not nearly cover the cost of the contract with Navman, OPT proceeded. Importantly, Navman was not contracted for routing systems purposes – OPT had a separate routing system department, which made any routing benefit obtained by Navman redundant.³¹

The DOE ultimately entered into a contract entitled, “Medicaid Reimbursement for Pupil Transportation Contract” with Navman Wireless on March 28, 2014 for GPS devices to be installed on 500 vehicles for \$1.9 million – a cost of \$3,800 per vehicle. The contract was not registered until April 27, 2015 by the New York City Comptroller (“Comptroller” or “Comptroller’s Office”) after the contract had been rejected multiple times by the Comptroller. Some of the concern was that the RFP was for a much larger number of devices than the final contract. Perez stated that “the [Navman] contract was registered about the spring of 2015” and that she already had a plan in place that 70-80 Allied Empire buses would be equipped with Navman devices. When asked about billing, Perez stated “I don’t know how they [Navman] were paid,” and added that when she reviewed the invoices, she did not look at the serial number of the devices but only the number of buses. Perez stated “We didn’t know the exact serial numbers [of the devices].” Despite the fact that the Navman contract called for available space for a Navman employee in a NYC-based OPT office, Gregory Kent, Navman’s “On Site Project Manager,” only started reporting to work there in September 2017 – years after the contract went into effect – and, as of three months ago, is no longer employed by Navman.

IV. The Pilot Program and its Issues

In November 2013, OPT began planning a “pilot” program of Navman on DOE buses. Robinson told SCI that Grimm had recommended a pilot of 500 buses being installed with Navman devices. SCI investigators showed Robinson an email chain from November 1, 2013, in

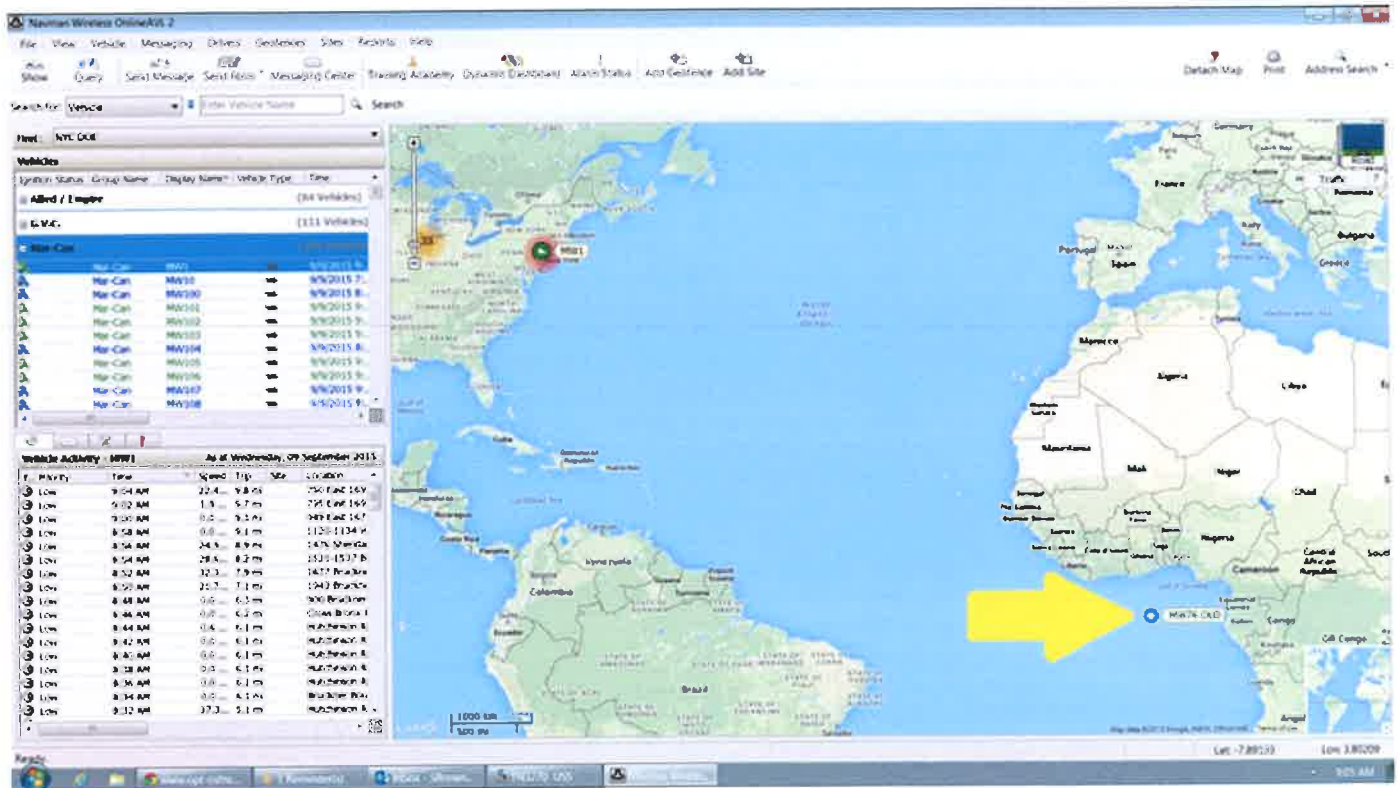
³¹ DOE Support Services Director of Contract Management Lisa D’Amato (“D’Amato”) told SCI that the routing system contractor for general education is Edulog and that the contract has been in place for approximately 10 years. D’Amato added that the routing system for special education is an in-house system.

which Goldstein asked if there was a reason not to proceed with the Navman contract, and School Support Services Chief Financial Officer Tracy Green responded, “[n]o reason...it’s best to do 500 based on the costs. More bang for the buck.” Robinson reviewed the email chain – on which she was copied – and stated “I didn’t see an issue,” and “It seemed like a good idea at the time.”

Perez stated that in late 2015, “we equipped the rest of the 500 buses,” and that drivers and attendants had to be trained on the devices. Perez identified problems with the program as “getting driver’s to log in and subscribe to the devices.” Perez – who admitted she was “not a data person” – advised that she and Robinson knew it was an issue, and noted that 75% “of the drivers don’t log on.” OPT On Board Technology Strategy Manager Robert Wiesmann (“Wiesmann”) said that 75% of drivers did not log into their GPS device and therefore OPT had no idea who was driving the bus, who the matron on the bus was, if any children were on the bus, or if the bus was on an OPT route. Wiesmann, who began his work with the Navman project in July 2018, stated that without the driver logging on the only thing OPT could see was the location of the bus as the GPS system would ping a location every few minutes. Lastly, Wiesmann stated that bus contractors were not issued violations if the driver did not sign into the Navman device.

A review of documents revealed that Perez was made aware of repeated service deficiencies involving the Navman devices, including:

- August 7, 2015, when Bus company owner Charles Curcio sent an email to Perez stating, “Please understand that most of the problems are repetitive due to the fact that Navman has to this date still not corrected the technical issues that we found that needs to be tailored for our industry in New York.”
- September 9, 2015, when OPT Router Seth Brown sent an email to Perez that noted, “We seem to have a bus off the coast of Africa ☺.” The email also included the following image:



Note: The above yellow arrow was inserted into the photo by SCI. The blue dot indicated where the GPS device, paid for by the DOE, showed a school bus located off the coast of Africa

- October 22, 2015, when Marc-Can Transportation Dispatcher Lawrence Zeigler (“Zeigler”) emailed Perez and stated, “There seems to be quite a few problems,” and the following day, when Zeigler sent an email stating, “Hello Eden, I know you hear nothing but bad news from me but today the drivers are saying they can’t find their routes on the buses. Is the server down?”
- November 13, 2015, when OPT Quality Assurance Specialist Darren Johnson wrote in an email, “Two units have issues, battery in unit dead, and one the language is in Italian.”
- November 20, 2015, when Zeigler – who earlier had been told by Perez that 50 routes were not properly logged in the prior week– responded, “I have two problems, one is that some of the new drivers are not in the system yet, but that’s only 10-12 drivers. Some of them can’t connect to their routes and last we have some that keep stating that it has a low battery.”
- November 23, 2015, when Curcio sent an email stating, “Units won’t recognize PINs.”
- April 20, 2016, when Zeigler sent an email stating, “A lot of my drivers are telling me they can’t log in this morning.”
- May 4, 2016, when Navman Representative Gerald Hayes (“Hayes”) sent an email to Perez stating, “The file for back up process failed due to human error.”

- December 15, 2016, when Curcio sent an email stating “I’m looking at the map right now and I see buses 2903 and 2103 sitting in the yard and they are not here. They are at least 15 miles away doing PM runs.”
- August 18, 2017, when a representative of JoFaz Transportation sent an email to Robinson stating “Please be aware that there are some problems with our Navman GPS. There are some vehicles that are registering that they are moving but they are really in our yards.”
- September 8, 2017, when Victoria Wood of All County Bus sent an email to Gerald Hayes, Perez, and Robinson, with the subject line “Navman Issues help needed” and wrote, “I am writing this email to everyone that has ever been in contact with our company regarding any part of the Navman project. We are experiencing MANY problems with every aspect of these systems and need help to try and resolve issues.”

Perez also detailed issues to Hayes in a July 19, 2017 email in which she outlined problems such as “log in failure, device has no power, [and] Navman disconnected but there is full service.” Additionally, there appeared to be a disconnect between proper tracking of devices and installation. As noted, one device appeared to be in the waters off the coast of Africa. Further, Robinson advised that OPT did not keep data on license plates or Vehicle Identification Numbers (“VINs”). This last point cannot be understated – OPT installed devices on a per-vehicle basis, but did not keep data regarding in which exact vehicle (by license plate or VIN) the devices had been installed. This mistake was compounded by an explicit lack of Navman to keep proper records from the inception of the project until September 2017, and to only provide paper invoices.³² These paper invoices were approved by Perez without matching up devices to buses to review for duplications or comparison – because, as stated, devices were not tracked by VIN – to the complaints from the bus companies.

In addition, as discussed more fully below, Navman did not properly retain necessary paper records, meaning that, even retroactively, OPT could not submit claims for Medicaid reimbursement. Between missing records and malfunctioning units, the twin purposes of the pilot – to track students, and to assist DOE in creating claims for Medicaid reimbursement – went unmet.

V. Expansion of the Project

Rather than address these critiques that involved Navman being installed on merely 500 school buses, OPT continued to move forward with the full rollout of the project, plowing forward with a project rife with missing and inactive devices that cost DOE over \$157,000. (*See supra* at p.18.) On October 24, 2016, Goldstein sent an email to Lisa D’Amato, the Director of the Contract Management Unit since 2007, in which he wrote, “I need to give the go ahead. I am underwhelmed and disappointed at the moment as NavMan [sic] was seemingly unable to provide what seemed like fairly simple analytics.” On October 24, 2016, Robinson sent an email to Goldstein stating “Hi Eric-There are several issues but VERY fixable.” Robinson detailed issues regarding the failure of drivers to log onto the Navman systems and that the data from

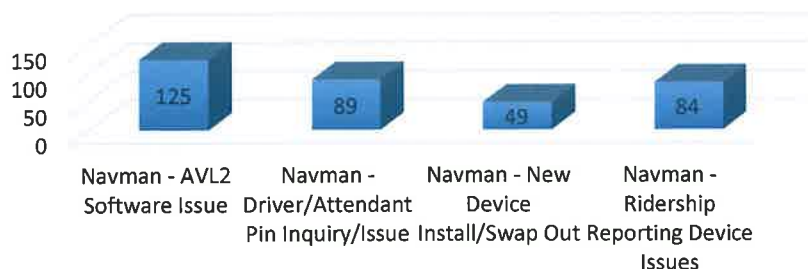
³² *See supra* at 19.

Navman was not student specific, but “I am certain that the data from Navman is available, we just need more time to collect it.” Goldstein responded, “Well I suppose that is all understandable but after all this investment, when we needed them it was, at least to this point, a big disappointment. I don’t see how one can reach any other conclusion.” Robinson told SCI that “Once [Goldstein] said we have GPS on 500 buses, Tweed [DOE Headquarters] said ‘why don’t we have it on 6,000 buses?’” Perez stated that the equipping of 6,000 buses was done in two phases, with 3,750 devices installed by June 30, 2016 and the remaining 1,750 devices installed by November 2017.

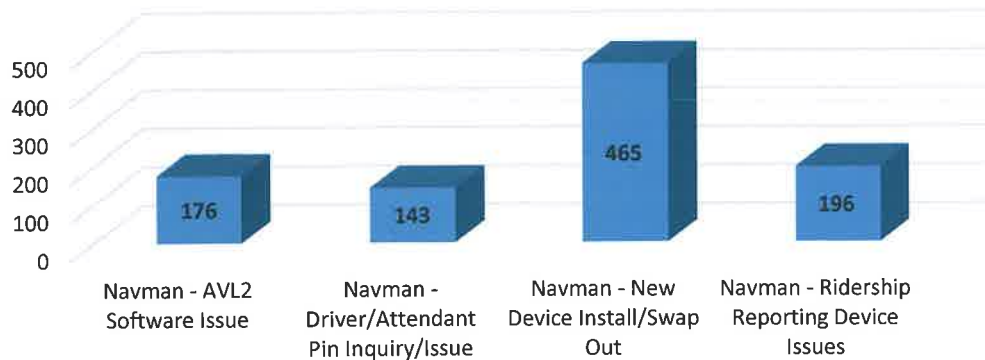
Robinson prepared a PowerPoint presentation, entitled “Navman Expansion,” on or about January 13, 2017. In it, she stated “The Navman Pilot shows that the technology works and offers useful benefits to OPT and its clients.” The expansion called for was not 6,000 buses but rather the “entire school-age fleet,” with a potential cost of approximately \$17.5 million. With “full GPS coverage,” OPT would be able to, “Quickly and accurately respond to inquiries”; “Assess travel time to optimize routes”; and “Immediately determine vehicle locations.” This last claim ran counter to the myriad issues detailed above that occurred during the initial pilot of 500 school buses.

SCI investigators interviewed OPT Customer Service Manager Richard Sperraza (“Sperraza”) – who is supervised by Robinson – who stated that in 2017, Perez came to him to “brainstorm about what we need to do” regarding Navman information. (As noted above, Perez now directly reports to Sperraza.) Sperraza stated that on August 31, 2017, he created four information fields in the customer service drop down box that listed of types of incidents reported to the OPT customer service unit: (1) Navman-AVL2 Software Issue; (2) Navman-Driver/Attendant Pin Inquiry/Issue; (3) Navman-New Device Install/Swap Out; and (4) Navman-Ridership Reporting Device Issue. SCI reviewed Customer Service data and noted that from September 5, 2017 to April 29, 2019 there had been 2,181 calls into OPT’s customer service unit regarding Navman issues, which excluded complaints regarding guardians requesting the location of their children. Complaints were sent to Wiesmann, and, per Sperraza, “no system” captured Navman issues prior to August 31, 2017. Perez provided documents that showed that, prior to August 2017, issues with Navman were dealt with solely via email and not properly tracked.

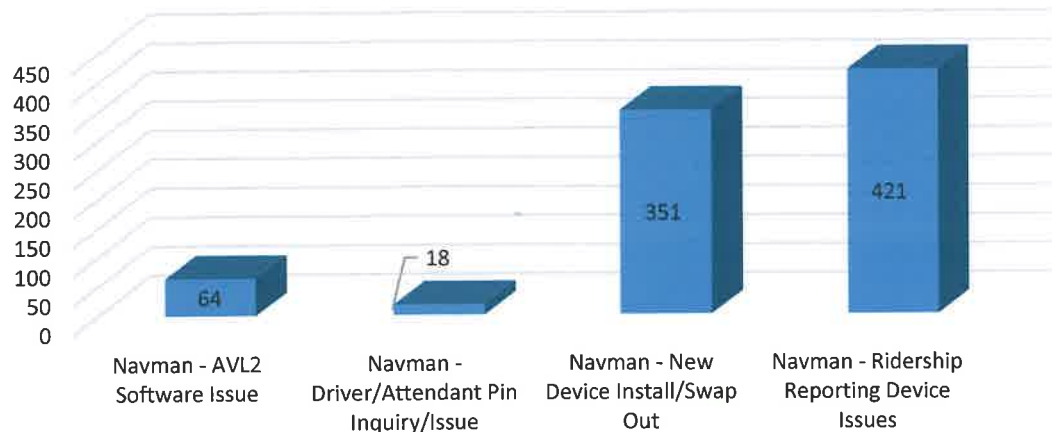
Total Number of Navman Complaints in 2017 by Category



Total Number of Navman Complaints in 2018 by Category



Total Number of Navman Complaints in 2019 by Category



Beyond the structural inefficiency regarding the Navman devices, there was also a growing financial cost. SCI reviewed documents provided by DOE containing a list of 57 missing GPS devices and 513 inactive GPS devices “which are on buses, but cannot be detected.” Using the data, SCI was able to calculate that the DOE paid \$17,463.99 for missing GPS devices and \$140,180.40 for inactive GPS devices – a total of \$157,644.39.

Ultimately, Goldstein became aware that Navman had installation problems, including bad units and missing units. Goldstein was unhappy with Perez and “yanked” the project from her and gave it to OPT Manager of Geographic Information Systems Tim Calabrese

(“Calabrese”) along with Deputy Chief Executive Support Services Robert Deschak.³³ SCI investigators interviewed Calabrese, who stated that in April 2018, Goldstein directed him to take over as project manager of Navman from Perez after Goldstein expressed concern about how poorly OPT was documenting GPS devices.³⁴ Calabrese stated that he looked at invoices and found numerous duplicates of serial numbers and also noted that hundreds of devices were inoperable or missing; simply put, “prior to me there was no system to track inventory.” At the end of 2018, after Goldstein left DOE employment, Calabrese was removed from the GPS project, and was unable to attend any further meetings regarding it. Per Calabrese, the Navman project had two issues: “I think we [OPT] rushed to install devices without thinking how we track inventory” and that no one had devised a proper method “to get Medicaid reimbursement.” Calabrese stated that “the initial Navman pilot program wasn’t to see if we could do things with data, but seemed to be about how fast we could put devices on 500 buses.” Calabrese also highlighted a major issue with Navman devices in a July 2018 email to Support Services Deputy Director of Finance James Sarkis (“Sarkis”), “We’re seeing about 30 GPS units that have been in [California] at TTNM [Teletrac Navman]’s office for more than a year that are showing up on our monthly invoices.”

Additionally, Kamta told SCI investigators that all internal complaints concerning Navman were always “about data,” specifically, that it “wasn’t coming out and wasn’t usable.”

Email records demonstrated that Sarkis attempted to remedy certain issues. On September 20, 2018, he wrote, “we reviewed issues discovered in electronic NAVMAN invoices:

- a. Incorrect unit cost for hardware on the electronic hardware invoices.
- b. Duplicate serial numbers on the same monthly invoice for service charges.
- c. Duplicate license plates with different devices/VINS on the same monthly service invoice.
- d. Duplicate VINs with different devices on the same monthly invoice.
- e. Installation maintenance charge omitted from some invoiced service items.
- f. Missing fields, specifically VIN and license plate, for invoiced service items.”

SCI investigators interviewed Sarkis, who stated that “I think they (Navman) were a little careless.” For example, as late as March 1, 2019, Sarkis wrote to Navman representative Gregory Kent, “There are 96 instances of VIN duplications. While I appreciate the response below, I’m not totally understanding it. For example, the below table shows the same VIN

³³ In a July 10, 2019 email, Perez indicated that there were several “project managers assigned to the Navman project through the years: Eden Perez – November 2014-December 2015,” Azdar Choudhury from December 2015 – March 2017, and Affan Haqqi March 2017 – March 2019. Yet Perez advised SCI investigators on July 18, 2019 that Choudhury and Haqqi were consultants, with Haqqi only having been hired by the DOE in October 2017, and supervised by Perez.

³⁴ Though the original contract expired in December 2017, an extension was exercised in January 2018 (the Comptroller registered the extension for January 1, 2018 – December 31, 2019).

appearing twice on multiple invoices-why would the same vehicle continue to appear twice across every month?” Per Wiesmann, over 600 Navman GPS devices are inactive and Navman still charged the DOE \$36.00 a month per bus for these inactive devices. Sarkis was also advised that Navman was not able to provide electronic copies of old DOE invoices. The lack of old invoices and records presented a total obstacle to OPT in fully determining the exact amount of money that was spent – and, ultimately, wasted – on the project. It appears unacceptable that a company priding itself on, and having bid a contract for, the assistance of providing electronic tracking would itself lack basically electronic record keeping.

OPT created an Illumination Program approximately five years ago, which oversaw OPT technological projects including Navman. Per Perez, the program had four main areas of focus: On-board technology, including the placement of GPS on buses; routing; business intelligence and data warehousing; and better quality service of transportation. In 2018, the Illumination Program was renamed the Project Management Office. Regardless of nomenclature, the department ultimately was overseen by Perez and Robinson. SCI investigators interviewed Program Manager for OPT Project Management Office Anusha Anantharaman (“Anantharaman”) who, along with Wiesmann, was hired in 2018. Their hires led to a review of the Navman project, detailed in a document entitled *Teletrac Navman Capabilities Assessment* and dated December 21, 2018. Anantharaman – originally a consultant on OPT projects not including Navman – stated that this document was prepared by Wiesmann and that she and Wiesmann presented the document physically to Perez and sent it to Robinson and Kevin Moran. The *Teletrac Navman Capabilities* document stated in pertinent part that the DOE had so far invested \$12 million into the program with 6,000 buses installed with the Navman devices – 895 of which were inactive, and 90 of which were lost or stolen.³⁵ The document described Navman as a DOE vendor thusly: “Low performance accountability, no inspection of GPS devices, no installation or maintenance reporting system, inefficient escalation process, and no commitment to consistent performance review” and “Unaccountable point of contact for GPS system, No maintaining data input in terms of vehicles and yard/garage information, low commitment to monitoring health of GPS devices, missing resident GPS knowledge and exclusion of GPS adoption and mandatory ridership reporting in contract.” When asked what Perez and Robinson’s reaction was to the report, Anantharaman said, “many people here [at OPT] are conditioned to deal with this idiocracy.”

The logistics of the device clearly created problems. On October 24, 2018, Deschak sent an email to DOE Deputy Chief Operating Officer Lauren Siciliano that stated, “each day only 25% of drivers log in [to the Navman system]...of the drivers who [do] log in, a little more than half (51%) subscribed to a route.” He continued, “Each day about 10% of all units do not communicate at all with us.” And, lest a codicil or change to the contract would remedy the situation, Deschak stated, “Immediate compliance from contract amendment will not result in immediate complete GPS coverage for all installed units.” Put plainly, if OPT spent the above-cited \$8.6 million on devices in which, at best, one quarter of drivers were logged in, and, of

³⁵ As stated above, to date the DOE has spent approximately \$8.6 million on the Navman project. *See supra* at page 2.

those, only half subscribe to a route, then only \$1.065 million was even being used purposefully, with the remaining \$7.535 million a total waste.

SCI investigators attempted to obtain documents from Navman and Project Manager Gregory Kent for the instant investigation. To date, SCI has received no documents from Kent or Navman. As discussed, Navman's records prior to 2015 appear to be non-existent.

It is apparent that the Navman contract failed to meet the expectations of its original aim and implementation, *i.e.* Medicaid reimbursement and a GPS system that would allow OPT to know exactly the location of buses. This notably led to the creation of a new RFP (# R1272) for "Bus Fleet Tracking, Ride Management and Notification System for NYC Schools" released on March 7, 2019.

VI. DOE and GPS in 2019

It took parents testifying at the City Council, along with City Council legislation, to shepherd a bill signed by the mayor that requires DOE to use GPS technology to allow parents to track their child's school bus – all buses, and not merely the 6,000 used for special education students.³⁶ The City Council's efforts were spearheaded by Speaker Corey Johnson and Council Members Ben Kallos, who sponsored the bill, and Mark Treyger, Chair of the Education Committee. As the 2019-2020 school year begins, the Navman contract remains in effect while a contract with Via for Schools ("Via"), a different GPS-provider, was announced by the DOE and is pending approval. The Via-enabled tracking will provide peace of mind to parents of the most vulnerable special needs children and the young children who take school buses daily. The City Council took steps to legislate a GPS system with a parent-enabled app, routes disseminated to parents and guardians prior to the school year, and a requirement that buses take practice runs for these routes.³⁷ However, as discussed further, the system currently in place is still rife with similar constraints and errors that undermined the prior one, and – despite current technology – results in a system in which guardians and parents do not know the precise location of their children in most cases.

The DOE has now taken steps to comply with the letter of the law, and is moving to a system in which parents can track their children. A secondary outcome will be that the DOE can

³⁶ See <https://www.chalkbeat.org/posts/ny/2019/08/08/nyc-officials-are-behind-schedule-on-installing-gps-on-school-buses-before-the-new-year/>. See further <https://stnonline.com/news/nyc-school-buses-are-now-required-to-have-communication-tracking-devices/> ("The New York City Council passed two bills last month, one requiring the placement of communication devices and tracking devices on all school buses by the start of the 2019-2020 school year in September. The other gives parents a more hands-on say when it comes to the transportation of their children.") See additionally "Parents slam NYC schools after snowstorm 'madness,'" available <https://nypost.com/2018/11/16/commuters-still-pissed-after-nyc-dropped-the-ball-during-snowstorm/>.

³⁷ See "City Council passes bill to track school buses with GPS," available <https://pix11.com/2019/01/09/city-council-passes-bill-to-track-school-buses-with-gps/> ("The Office of Pupil Transportation will also be required to do practice runs on bus routes before the school year starts, and produce reports tracking complaints and quality of service.").

make a decision whether they can potentially recoup from Medicaid transportation costs.³⁸ (The recovered monies from Medicaid can partially offset the expected \$36 million expenditure).³⁹

Per the DOE press release dated August 21, 2019, Schools Chancellor Carranza said “We’ll have GPS in every bus on the first day of school, and through our partnership with Via, we’ll soon have a state-of-the-art app for families to track buses and get real-time automatic updates.”⁴⁰ Also per the press release, installation of the devices was set to commence on a rolling basis; as of September 4, 2019, the New York City Department of Citywide Administrative Services (“DCAS”) equipped 4,680 buses the GPS Geotab devices. Geotab devices are used by other city agencies to monitor their vehicles’ whereabouts. The contract with Via is awaiting approval by the PEP and the Comptroller’s office. As a result, some buses have GPS through Navman while others have the GPS through Geotab.

In anticipation of the opening of the 2019-2020 school year, OPT hired more customer service representatives to handle the volume of calls. On June 18, 2019, OPT had a customer service staff of which 80 percent were temporary employees. The following day, June 19, 2019, 26 additional customer service representatives were hired as full-time DOE employees, making the total number of OPT customer service personnel approximately 80 people. The current process of locating a child – given the nature of a bifurcated system – is complicated by the fact that only eight customer service personnel (the supervisors) have access to the Geotab system from their computer – a system in which they have not yet been trained. (All other customer service personnel have access to the Navman system, a system still riddled with the errors detailed above in which, per Sperraza, only four percent of drivers even enter student ridership information.) The current process for locating a child is as follows:

- A parent or guardian calls OPT customer service, inquiring as to the whereabouts of her child
- An OPT customer service representative attempts to locate a student’s transportation profile, which details the bus the student *should* be on
- The representative then calls the bus company and asks the vendor to radio the driver to verify if the child is on the bus. Per Sperraza, nearly half the time the bus companies will not answer the phone.
- Customer service supervisors have access to a “Daily Student Data Report” that may show a child’s absence or other pertinent information regarding the bus on which a student is being transported

³⁸ See “GPS tracking to be installed on all New York City school buses for start of school year,” available <https://abc7ny.com/traffic/all-nyc-school-buses-to-have-gps-tracking-for-1st-day-of-class/5484116/>.

³⁹ See “All NYC school buses equipped with GPS, but new technology is around the corner,” available: <https://www.nydailynews.com/new-york/education/ny-school-bus-tracking-gps-20190821-cvnpvtsl2balxjm44sx7qbe7ei-story.html> (“The agency announced a 5-year, \$36 million partnership with the app Via on Wednesday. The technology will allow parents to track buses in real time, but means the GPS installed for this school year will need to be swapped out for new technology”).

⁴⁰ Available: <https://www.schools.nyc.gov/about-us/news/announcements/contentdetails/2019/08/21/chancellor-carranza-announces-partnerships-with-via-to-launch-via-for-schools-gps-and-parent-app-for-all-school-buses>.

- If OPT customer service remains unsuccessful in locating a child, per Sperazza, the parent or guardian is instructed to “call the police.”

The DOE is attempting to finally terminate the contract with Navman, subject to the terms of sections 13.1 and 14.2 of the current agreement (“Cancellation for the Convenience of the BOE” and “The Disengagement Period,” respectively).⁴¹ Once the contract with Via is approved, the DOE will seemingly have complied with the letter of the law and appears set to have GPS – with swipe-able technology to monitor student locations, with a corresponding application for parents to track – soon. Yet as detailed above, GPS devices were installed on 6,000 school buses last year, and the DOE has been contemplating the use of GPS since as early as 2005. The current efforts are admirable, but display how consistently OPT has wasted valuable funds and fallen short in prior years.

As mentioned above, though all school buses currently have Geotab or Navman devices, these devices merely ping a position of a bus – locations which can prove unreliable – and relies upon drivers interfacing with the devices, a requirement that is not yet standardized in current City contracts. These are the same issues that have plagued the GPS project since its inception. As the 2019-2020 school year begins, the problems of the past continue to reverberate for today’s school children. For instance:

- On September 6, 2019, SCI received a complaint that a student went missing for three hours on September 5, 2019, until his sibling found him walking down the block.
- Also on September 6, 2019, SCI received a complaint that a 4th-grade student was not dropped off at the correct location, and instead was left unsupervised after being told to “GET OFF THE BUS;” the child was forced to walk home with the guidance of a stranger.
- News reports suggest that GPS has not been properly installed on all buses, and parents of special-needs children remain unable to locate their children during transportation to and from school.⁴²

The set-up, as it presently stands, leaves parents and guardians in the dark when searching for a child: “The city’s Education Department told parents that starting Sept. 5, they’d be able to call a central office for location updates on any bus, rather than reaching out to one of the dozens of private companies operating the buses. But it’s not working. In two calls to the Office of Pupil Transportation Wednesday monitored by The News, parents asked for the locations of a bus only to be told they didn’t have access to the information. One mother of a first-grader in a Queens

⁴¹ By letter dated September 1, 2019, Weismann informed Navman that the DOE would not renew the contract beyond December 31, 2019.

⁴² See “School bus fails to show up; leaves children with special needs stranded,” available <https://pix11.com/2019/09/06/they-need-to-go-to-school-mother-of-special-needs-kids-after-bus-problems-meant-no-school/> (“With no way to track her son’s bus to see when pick would be, Beth called The Office of Pupil Transportation and didn’t get a return call until 12 hours later”).

public school who asked to remain anonymous, was told by an operator that her son's bus had GPS, but it wasn't turned on."⁴³

While progress has surely been made both in moving on from Navman and attempting to – at last – create a workable GPS solution to DOE transportation, the problems from past attempts continue to reverberate, wreaking havoc for parents and guardians today.

⁴³ See “Even with new GPS, NYC parents still in the dark on school bus delays, locations,” available <https://www.nydailynews.com/new-york/education/ny-school-bus-gps-20190911-qfryx3svjrzykvrovhme4jvi-story.html>.

CONCLUSION AND RECOMMENDATION:

From the beginning, the Navman project lacked oversight, accountability, communication, and employees with the technical abilities to oversee a large-scale management project – that ultimately failed when no usable data was retrieved for Medicaid reimbursement. The Navman project demonstrated a lack of oversight, accountability, and communication; it was the epitome of throwing good money after bad.

OPT desired to obtain an electronic system to collect information on student ridership that could be used to collect Medicaid reimbursement, but this desire was stunted by two major factors: Medicaid changed its regulations for what was claimable Medicaid transportation, and the Navman Project depended on school bus driver input for its success. In addition, “in house expert” Alex Robinson had no expertise or knowledge in collecting transportation-related Medicaid reimbursement. Worse still, Robinson insisted upon hiring Perez, who had no prior experience as a project manager and lacked the technical knowledge to be one. These errors were compounded when Robinson and Perez failed to advise superiors of the consistent nature of problems with the Navman Project, a failure that led to decisions being made with inaccurate information.⁴⁴

There are myriad places to lay blame, including:

- The money the City expected to recoup from Medicaid decreased significantly in August 2013, a reduction that should have changed OPT’s cost-benefit analysis in moving forward with the Navman project.
 - o Under the original paradigm, OPT expected to recover approximately \$20 million annually. After 2013, that figure was reduced to between \$500,000 and \$1 million.
- The pilot program of 500 school buses failed due in part to poor physical technology and unit errors.
 - o Devices demonstrated inaccurate locations, including a bus off the coast of Africa and buses in California.
 - o Per Goldstein, issues included “installation problems, bad units, and missing units.”
- For the first two years of the project, Navman only provided paper invoices, and did not put in place a system for receipt and review of complaints from the more than 60 school bus companies.

⁴⁴ As noted above, Goldstein was terminated in October 2018, after having consistently been provided inaccurate information from Perez and Robinson regarding the Navman project.

- These paper invoices were signed off by Perez without having matched devices to buses to review for duplications, and without comparison to the complaints from the bus companies.
- OPT chose to expand beyond the pilot program, despite obvious flaws, such as:
 - Fundamental problems with how drivers interacted with Navman. Per Perez, “75% of drivers” did not log on to the Navman system.
 - Prior to 2017, all Navman issues were dealt with via emails and not properly tracked to analyze the trends and deficiencies of the system
- Miscommunication between departments.
 - As detailed above, it is apparent that OPT did not properly communicate internally with their customer support and their accounts payable. Nor was there communication between OPT, DOE Contracts & Purchasing and the Medicaid unit.
 - The Navman contract required bus drivers to manually operate devices, yet a contract – being negotiated simultaneously – regarding bus drivers explicitly stated that drivers would not be forced to operate technology.

Even worse, the Navman project did not exist in a vacuum; rather, the continued failure to implement a system for proper Medicaid reimbursement will continue to cost the City up to \$1 million annually.

Evidence of this failure can be gleaned from the November 2018 snow storm during which time Navman GPS devices were installed on 6,500 school buses for special education children. Yet, precise locations of those buses could not be determined and OPT was unable to provide concerned parents with precise information about the locations of their children. Today, the approximately 58,000 students with special-needs travel on buses equipped with Navman technology, and no one – not parents, teacher, or even OPT officials – know precisely their whereabouts. Further, the DOE would not be able to properly submit for Medicaid reimbursement for any of the transportation costs.

In the future, the DOE must take all necessary steps to ensure that any person overseeing a major project have proper and proven expertise. In this instance, it is substantiated that Robinson and Perez mismanaged city resources, including the fact that each purposefully downplayed issues that plagued the project. As Executive Director and leading force behind the Navman project – including recommending some of the RFP and contract terms, expansion of the pilot, and the hiring of an unqualified manager whom she did not properly supervise – Robinson’s management was a main contributor to the project’s demise. SCI therefore recommends discipline up to and including termination of Robinson for her consistent, willful neglect of the Navman project’s problems, her mismanagement of the project, and her failure to

take corrective actions even when advised of significant issues. Additionally, Perez approved bills without proper review, and failed to take corrective actions despite consistently being advised of issues with the Navman problem. SCI therefore recommends appropriate disciplinary measures of Perez for her consistent, willful neglect of the Navman project's problems and her mismanagement of billing procedure. Notably, OPT should ensure that all future Navman bills are viewed with careful scrutiny, especially in referring to devices that have received complaints from school bus companies.

Additionally, the DOE's Office of Contracts and Purchasing should review all contracts not just in terms of contractual language but also through the prism of other contracts being drafted and signed. In this instance, knowledge that bus contracts were being drafted simultaneous to the Navman project would have obviated crucial deficiencies. Regarding the RFP/bidding process, the DOE – not the vendor – should create the scope of work. If DOE personnel do not have expertise in a particular area, such as GPS placement on buses, a local consultant with specific relevant expertise should be hired.

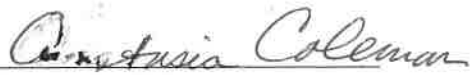
Finally, when contracts such as these require coordination between multiple offices or divisions (such as OPT, the Medicaid Unit, and Contracts and Purchasing), oversight should be promulgated to ensure all departments work together seamlessly. Clearly, a lack of communication and flow of information between and among the various departments contributed to the many failures of this project. The DOE must hold its vendors and employees accountable for the oversight and implementation of its contracts, the technology, and billing for services. Lastly, all persons hired to be project managers – specifically in technically-involved projects – must have the appropriate technological background and a previous record of supervisory experience commensurate with the project with which they are tasked.

We are sending a copy of this report to the DOE Office of Legal Services. Please respond within 30 days of receipt of this letter as to any action taken or contemplated regarding this matter. Should you have any inquiries regarding the above, please contact Jonathan Jacobs, the assigned attorney for this matter, at (212) 510-1423.

Sincerely,

ANASTASIA COLEMAN
Commissioner
Special Commissioner of Investigation for the
New York City School District

By:


Anastasia Coleman
Commissioner
Special Commissioner of Investigation for the
New York City School District

AC:DS:

c: Howard Friedman, Esq.
Karen Antoine, Esq.
Katherine Rodi, Esq.

APPENDIX A:

A Brief Primer on Medicaid and the New York City School District

Under the federal Individuals with Disabilities Education Act (IDEA), school districts must provide students with disabilities a Free Appropriate Public Education (FAPE).⁴⁵ DOE must provide education and related services without costs to students with a disability or their parent or guardian. DOE develops an Individualized Education Plan (“IEP”), which is the guiding document designed to meet the unique educational and related services needs of a student. In 1988, Congress passed legislation allowing states to seek reimbursements through Medicaid for certain special education services provided by school districts.⁴⁶ Medicaid is jointly funded by the federal and New York state governments, with Medicaid providing guidance to the state regarding eligibility requirements for services.⁴⁷ School related Medicaid billing for services in New York is provided under the School Support Health Services Program (“SSHSP”) and the Preschool Supportive Health Services Program (“PHSP”). The federal government’s Centers for Medicare & Medicaid Services (“CMS”) offers guidance in Medicaid billing for states to advise school districts. School district reimbursements are overseen by the Centers for Medicare and Medicaid Services (“CMMS”), which is a part of the US Department of Health and Human Services.

In 2002, the US Department of Health and Human Services’ Office of Inspector General (“HHS OIG”) began audits across the country of Medicaid reimbursements. One audit exclusively focused on Medicaid reimbursements received by the DOE, as it had submitted 62% of New York State’s Medicaid claims, amounting to \$122.6 million during 1993 to 2001. The audit encompassed a statistical sample of 120 claims submitted. In 2005, the results of the audit determined that all 120 claims billed were noncompliant for various reasons, that included: unable to verify that transportation services billed were rendered, a covered Medicaid school health service was not rendered when transportation was billed, claims lacked documentation, no child / family’s plan was provided or was untimely or transportation services were not included in the child / family’s plan.

A civil suit followed that encompassed DOE’s noncompliant Medicaid reimbursements along with other New York state school districts.⁴⁸ In July 2009, US Department of Justice (DOJ), the HHS OIG, CMMS and New York State agreed (“2009 settlement agreement”) to return \$539.75 million to the federal government, \$100 million of which would be paid back by the DOE which included all categories for reimbursements not just transportation costs. The DOE was prohibited from submitting for any reimbursement that year. In 2010, the CMMS and an approved New York State’s Special Plan Amendment (“SPA”) again allowed school district’s to submit claims, retroactive to 2009 for a set of Medicaid services that included Special Transportation.

⁴⁵ IDEA governs how states and public agencies provide early intervention, special education and related services.

⁴⁶ Medicare Catastrophic Coverage Act of 1988.

⁴⁷ The federal law and regulations governing the allowance of transportation services are contained in section 1902(a)(27) of the Social Security Act and 42 CFR Sec. 431.17 and 433.32.

⁴⁸ Other states have interpreted federal law differently than New York and have been able to collect monetary reimbursements not based on the stringent requirements of New York State.

Following the SPA, the above-referenced steps were taken to place GPS/Navman devices on buses to allow for Medicaid reimbursement. When interviewed by SCI, Hollander stated that there were 90-100,000 students who received special education services and that in 2018 Hollander's office has recouped \$91-92 Million in Medicaid reimbursement – though that had nothing to do with OPT or their Navman program, for which no Medicaid reimbursement monies had been recouped.

Hollander also made clear in a November 2017 memorandum that New York appears to have more stringent requirements regarding Medicaid reimbursement compared to others. He wrote, "DOE standard operating procedures include extensive steps *beyond SSHSP [School Supportive Health Services Program] requirements to ensure there is a medical need for transportation....*Please note that New Jersey, Virginia, and Pennsylvania are a few examples of states that have interpreted CMS [Center for Medicare and Medicaid Services] guidelines on transportation claiming more broadly than" the New York State Department of Health.

APPENDIX B: THE GENESIS AND SCOPE OF SCI'S INVESTIGATION

SCI began its investigation into OPT and Navman after two recent points of public outcry over school bus transportation. During the beginning of the 2018-2019 school year, OPT's complaint line received 67,075 calls.⁴⁹ The complaints included students missing the first days of school due to poor route planning, bus drivers unfamiliar with new routes arriving late, and students spending unusually long hours on buses. On October 16, 2018, the Committee on Education for the New York City Council ("Education Committee") held a hearing on OPT and introduced various local laws to amend the New York City Administrative Code. One local law concerned the placement of tracking devices on school buses. Kevin Moran ("Moran"), Senior Advisor to the Chancellor for Transportation, stated that special education buses were equipped with GPS. Moran added that OPT wanted to expand GPS to all of the DOE bus routes. The second public outcry occurred in November 2018, when an early-season snow storm delayed approximately 700 bus routes, leaving thousands of students – many of whom were under 12 years old and / or had physically or mental disabilities – stranded on buses for hours while parents were unable to determine whereabouts of their children. On November 29, 2018, the Education Committee, jointly with other committees, held a public hearing regarding "the City's Preparation for and Response to Winter Storm Avery."

On January 9, 2019, the City Council passed legislation called the Student Transportation Oversight Package ("STOP") that included, among other things, a requirement that GPS systems be installed on all school buses, to allow parents to use an application to track their children via computer or other electronic device.⁵⁰ Also in January 2019, SCI received information that some of the aforementioned 6,000 GPS devices – already paid for by the DOE – were missing.

SCI commenced its investigation in January 2019 and concluded it in July. Among DOE personnel that SCI interviewed or communicated with were employees assigned to OPT, the Office of School Support Services, Contracts and Purchasing, the General Counsel's Office, and the Medicaid Unit. SCI also interviewed Navman employees.⁵¹ SCI reviewed over 120,000 emails, several hundred documents, and reviewed publically-available information from City Council hearings and newspaper reports. SCI reviewed the information provided by each witness and evaluated the credibility of their accounts utilizing various factors. Specifically, SCI evaluated, where possible, the consistency or inconsistency of various accounts of events given over time, motives to be untruthful, whether other corroborative or contradictory evidence existed, as well as whether the witnesses' versions of events made sense given the backdrop and context of events surrounding Medicaid reimbursements for transportation of NYC school children.

⁴⁹ See "School bus complaint line hits 67,075 calls in four days, even chancellor can't get student to class on time," *Daily News*, <https://www.nydailynews.com/new-york/education/ny-metro-school-bus-complaints-spike-chancellor-powerless-20180913-story.html> ("The city's busing complaint line was flooded with calls, receiving 67,075 calls in the first four days of school").

⁵⁰ See <https://abc7ny.com/education/new-bill-requires-gps-tracking-on-all-nyc-school-buses/5041011/>

⁵¹ SCI requested that Navman provide documentation regarding complaints with respect to their goods and services. To date, no information has been provided to SCI. Navman explained its failure to comply with SCI's request by stating that the company had undergone mergers that the information was difficult to gather.

APPENDIX C: TIMELINE OF SIGNIFICANT AND RELEVANT EVENTS:

- DOE officials began mulling the use of GPS on buses in 2005.
- In 2005, Eric Goldstein was hired as the Executive Director of School Support Services, overseeing OPT led by then-Director, Matt Berlin.
 - Berlin stated that OPT “didn’t have the technical or managerial smarts to do it” and that the process “would have been a boondoggle.” Berlin also stated that he knew the program would be a waste of money so he “killed it” by “dragging his feet on the concept.”
- In May 2010, DOE hired a Medicaid Compliance Officer, instituted a compliance program and trained thousands of staff members on Medicaid compliance.
- In September 2011, Matt Berlin became the Executive Director of Medicaid, leaving OPT.
- By letter dated October 20, 2011, the Manhattan Borough President expressed concern to Chancellor Walcott about DOE’s Medicaid reimbursements for special education services costing City taxpayers millions of dollars.
- In December 2011, Alexander Robinson is hired as the new Director of OPT. She immediately began drafting an RFP for electronic tracking of buses for the purposes of Medicaid reimbursements.
- On December 28, 2011 The New York Times published an article “*City Schools Missing Out on Aid for Special Needs*” which highlighted that DOE “lagged far behind the state’s other large school districts in filing claims.”
- On January 10, 2012, Robinson wrote a document entitled “Medicaid and School Transportation – An Information Guide to the Process and Reimbursement” in which she stated, “while there is no current basis for electronic accounting within most school districts it would be a safe assumption that electronic tracking for the above formulas and claim process requirements would save the district dollars in administrative time and effort.” She further explained that a “tracking tool that tracks a sample run or route with time on board will suffice perhaps for state reporting requirements but actuals are needed for the federal program.”
- From February – July 2012, OPT attempted a pilot program using a paper system to claim Medicaid reimbursements. The paperwork was too overwhelming and nothing could be filed.
- On March 1, 2012, the Education and Finance Committees jointly held an oversight hearing on Medicaid Claims for Special Education, Related Services by the Department of Education, and participants alleged that the DOE failed to properly submit for Medicaid reimbursements.
- By e-mail sent March 3, 2012, Goldstein wrote “Alex (Robinson) actually has experience collecting Medicaid dollars for busing.”
- In May 2013, OPT contracted with Navman.
- In August of 2013, New York State issued a Medicaid Alert.
- By e-mail sent September 24, 2013, Andrew Hollander wrote: “I am recommending that the DOE cease current practices pursuing Medicaid reimbursement for transportation service due to the issuance of a NY State Medicaid Alert 13-10 (MA10), which largely

limits reimbursements to instances where the transporting vehicle has had a physical modification to serve the student. The electronic tracking devices will never likely be profitable given the recent change in regulations, and the current pilot of using paper records has proven exceptionally lengthy with no promise of repeatable results.”

- By e-mail sent August 7, 2015, Charles Curcio wrote to Eden Perez: “Please understand that most of the problems are repetitive due to the fact that Navman has to date still not corrected the technical issues that we found that needs to be tailored for our industry in New York.”
- On September 9, 2015, Eden Perez was made aware that one of the Navman devices showed a bus “off the coast of Africa.”
- By e-mail sent October 24, 2016, Goldstein wrote, “I am underwhelmed and disappointed at the moment as Navman was seemingly unable to provide what seemed like fairly simple analytics.” In response, Robinson wrote: “Hi Eric - There are several issues but VERY fixable.”
- By e-mail sent September 20, 2018, Sarkis wrote, “We have reviewed and discovered in electronic Navman invoices: A.) Incorrect unit costs for hardware on electronic hardware invoice B.) Duplicate serial numbers on the same monthly invoice for service charges C.) Duplicate license plates with different devices/VINs on the same monthly service invoice D.) Duplicate VINs with different devices on the same monthly service invoice E.) Installation maintenance charge omitted from some invoiced service items F.) Missing fields, specifically VIN and license plate, for invoiced service items.”
- RFP (RFP # R1272) for “Bus Fleet Tracking, Ride Management and Notification System for NYC Schools was released on March 7, 2019 because of “issues with Navman.”
- In August 2019, OPT announced that DOE buses would soon be outfitted with GPS in partnership with Via.
- Prior to the start of the 2019-2020 school year, DCAS began placing Geotab GPS devices on school buses not already outfitted with Navman. The DOE also announced its intention to terminate the Navman contract.

