

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on Department of Homeless Services Controls Over Payments to Hotel and Scatter Site Housing Operators July 1, 2001–June 30, 2002

FM03-123A

October 1, 2003



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office conducted an audit to determine whether the Department of Homeless Services (Department) maintained adequate controls over payments to hotel and scatter site housing operators and ensured that housing facilities were maintained in a safe and sanitary condition. The results of our audit, which are presented in this report, have been discussed with Department officials, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that City agencies properly account for government funds and ensure that organizations under contract with the City are providing quality services to the public.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

William C. Thompson, Jr.

William C. Thompson, Jr.

Report: **FM03-123A**
Filed: **October 1, 2003**

Table of Contents

AUDIT REPORT IN BRIEF	1
INTRODUCTION	2
Background	2
Objectives	3
Scope and Methodology	3
Discussion of Audit Results	4
FINDINGS AND RECOMMENDATIONS	
Noncompliance with the City Charter and PPB Rules	5
Unsafe and Unsanitary Conditions at Scatter Site Apartments	6
Recommendations	7
ATTACHMENT A	
ATTACHMENT B	
ADDENDUM – Department Response	

*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on Department of Homeless Services
Controls Over Payments to
Hotel and Scatter Site Housing Operators
July 1, 2001–June 30, 2002**

FM03-123A

AUDIT REPORT IN BRIEF

This audit determined whether the Department of Homeless Services (Department) maintained adequate controls over funds transferred from the City general fund to a Department bank account for payments to operators who provided conditional housing to families; complied with the City Charter and Procurement Policy Board (PPB) rules when using hotels and scatter site housing facilities; and ensured that conditional housing facilities were maintained in a safe and sanitary condition.

Audit Findings and Conclusions

Our evaluation of Department controls over payments to operators of conditional housing facilities found that the City funds were properly accounted for in the Department bank account and that these funds were used to pay operators for providing housing to homeless families. However, the Department did not comply with the City Charter and PPB rules when entering into informal agreements with operators of conditional housing facilities. The Department paid \$96 million to these operators during Fiscal Year 2002.

We visited 20 units in six hotels and 56 apartments in 17 apartment buildings in which homeless families reside. The hotels as well as 10 of the apartment buildings inspected generally were in satisfactory condition. However, the remaining seven apartment buildings, all operated by Gin Realty, had conditions that may pose a threat to the health and safety of the occupants placed there by the Department. Specifically, 30 of 41 apartments we visited in these seven buildings had unsafe and unsanitary conditions, which included roach infestation, peeling paint, leaking faucets, water damage and mold on ceilings and walls, missing or broken tiles, and holes in walls and ceilings.

Audit Recommendations

To address these issues, we recommend that the Department should:

- Procure the services of hotel operators and apartment owners in accordance with the provisions of the City Charter and PPB rules by:
 - entering into formal contracts with the operators,
 - ensuring that contracts contain measurable performance standards and penalties for poor performance, and
 - registering the contracts with the Comptroller's Office.

- Adhere to its plan to conduct more frequent inspections and to reduce the number of units operated by low performing landlords.

INTRODUCTION

Background

The Department of Homeless Services (Department) is responsible for providing temporary emergency shelter and support services to eligible homeless families and individuals in a safe and supportive environment. The Department also provides outreach services to people living in public places, determines eligibility for emergency housing services, assesses client service needs, and offers services to other government agencies and private organizations to help homeless people identify long-term housing options. Within the Department, the Division of Family Services provides temporary housing to homeless families, and the Division of Adult Services provides transitional housing to single adults.

The Emergency Assistance Unit (EAU) is responsible for evaluating the needs of the families requesting shelter and determining each family's eligibility. While eligibility is being determined, families are to be placed in a conditional placement facility up to 10 days. As of June 30, 2002, the Department used 45 hotels and "scatter site" housing in 292 apartment buildings throughout the City for conditional placements. These hotels and apartment buildings provided housing for approximately 4,000 families at a given time.

If found eligible for temporary housing, families are then to be moved to a transitional facility (Tier II) where they receive support services, including employment training, education services, substance abuse prevention, independent living skills training, and child care.

During the period July 1, 2001–June 30, 2002 (Fiscal Year 2002), the Department paid approximately \$96 million to the operators of hotels and scatter site apartments for the provision of conditional housing to homeless families.

This audit was prompted by the transfer of approximately \$111.8 million from the City treasury to a separate bank account maintained by the Department. According to Department officials, these funds were transferred so that hotels and scatter site operators could be paid for services rendered.

Objectives

Our audit objectives were to determine whether the Department:

- Maintained adequate controls over the funds transferred from the City general fund to the Department bank account for payments to operators who provided conditional housing to families;
- Complied with the City Charter and Procurement Policy Board (PPB) rules when using hotels and scatter site housing facilities; and
- Ensured that conditional housing facilities were maintained in a safe and sanitary condition.

Scope and Methodology

The scope of this audit covered July 1, 2001, through June 30, 2002 (Fiscal Year 2002). We reviewed the PPB rules, the City Charter, Comptroller's Directives, and other applicable regulations. To gain an understanding of Department procedures, we interviewed Department officials and conducted a walk-through of operations, documenting the results through memoranda.

We evaluated agency controls over depositing and disbursing funds from its bank account. We reviewed records obtained from the City Financial Management System to determine whether the \$111.8 million was transferred into the appropriate account. We then traced each amount to the bank statements and monthly Cash Management Reports generated by the Department of Finance.

We selected five facilities (three hotels and two scatter sites) and traced the amounts billed to the Department for January 2002 to the amounts paid according to the bank statement and related supporting documentation, which included check registers and billing summary reports.¹

In addition, we selected three payment amounts from the bank statements (consisting of 88 payments to facility operators). We traced each payment to the billing summary reports and determined whether the payments were actually made to the operators of the facilities. For a

¹ The three hotels were Baychester Motel, Park Overlook Hotel, and Kings Inn Family Center. The two scatter sites were Helpers I Scatter Sites and Bronx Somerstein Scatter Sites.

sub-sample of five payments, we reviewed actual operator billings and related supporting documentation to determine whether the appropriate amounts were paid.²

To determine whether the conditional placement facilities were maintained in a safe and sanitary condition, we inspected 20 units in six hotels and a total of 56 apartments in 17 apartment buildings. We interviewed the apartments' residents and photographed and videotaped the conditions found.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with Department officials during and at the conclusion of this audit. A preliminary draft report was sent to Department officials and discussed at an exit conference on June 12, 2003. On June 13, 2003, we submitted a draft report to Department officials with a request for comments. We received a response from the Department on June 26, 2003.

Department officials disagreed with the audit finding that their arrangements with the operators violated the City charter and PPB rules. However, they agreed to implement the audit's recommendations. In that regard, they stated that the Department will enter into contracts with a majority of the facilities now without contracts and will enhance the procedures for monitoring operators of scatter site apartments.

The full text of the Department's response is included as an addendum to this report.

² Our sub-sample covered payments to three hotels (Bay Family Center, East River Family Center, and New Broadway) and two scatter sites (Gin Realty 2 and Pilgrim Realty).

FINDINGS AND RECOMMENDATIONS

Our evaluation of Department controls over payments to operators of conditional housing facilities found that funds transferred from the City general fund were properly accounted for in the Department bank account and that these funds were used to pay operators for providing housing to homeless families. However, the Department did not comply with the City Charter and PPB rules when entering into informal agreements with operators of conditional housing facilities. In addition, 30 of the 56 apartments we visited had unsafe and unsanitary conditions.

These issues are discussed in further detail in the following sections of this report.

Noncompliance with the City Charter and PPB Rules

The Department paid \$96 million during Fiscal Year 2002 to 20 operators of 45 hotels and to 10 operators of approximately 1,700 scatter site apartments for services provided to homeless families. Hotel operators were paid between \$1,040 and \$3,870 a month for each unit, and scatter site operators were paid between \$2,700 and \$2,910 a month per apartment. The Department claims to have entered into unwritten agreements with these hotel operators and apartment owners and that PPB rules do not apply to this type of service. The Department stated that it does not have to contract with the hotel and scatter site operators because it is not procuring services when it places homeless families in conditional facilities and because it cannot predict the quantity of housing needed. However, PPB rules do cover this type of service. In general, the City Charter and the PPB rules state that, “except as otherwise provided by law, these Rules shall apply to the procurement of all . . . services . . . to be paid out of the City treasury or out of monies under the control of . . . the City.” In addition, the PPB rules contain provisions for contracting with providers of “client services,” which the rules define as:

“Programs contracted for by the City of New York on behalf of third-party clients, including programs to provide social services, health or medical services, **housing** and shelter assistance services, legal services, employment assistance services, and vocational, educational, or recreational programs. Client services are sometimes referred to as ‘human services’ and government agencies whose primary missions involve the award and administration of such contracts, or provision of the same or similar services by agency employees, are sometimes referred to as ‘human services agencies.’ Examples of client services include, but are not limited to, day care, foster care, mental health treatment, operation of senior centers, home care, employment training, **homeless assistance**, preventive services, health maintenance organizations, youth services, and the like.” [Emphasis added.]

Department officials stated that their decision not to enter into contracts is supported by the New York City Law Department and recognized by the Courts in *Ferrer v. Dinkins*, 635 NYS2D 965; *Midtown South Preservation and Development Committee v. City of New York*, 130AD2d 385; and *Davis v. Dinkins*, 206 AD2d 365. However, the cases cited by the Department do not support its argument that it is not required to contract with the hotel and scatter site operators. For example, the issue in *Ferrer* was whether the City had entered into a lease agreement with a particular hotel to

place homeless clients and if so, whether it was required to comply with Uniform Land Use Review Procedure and “fair share” procedures. The issue in *Midtown South* was whether the City was required to adhere to the State Environmental Quality Review Act procedures before placing homeless clients in hotels within the Midtown South area of Manhattan.

The Department’s position has not changed since it responded to a prior Comptroller’s Office audit—(ME97-184A), issued June 30, 1998—that it did not have to follow PPB rules when procuring services under its “Family Hotel Program.” That audit found that the Department did not have written contracts with any of the hotels that provided services to families. Instead, the audit stated that the agency conducted business with the hotels under “gentlemen’s agreements.”³ Since the issuance of the prior audit, the Department has increased from 15 to 45 the hotels where it places families without a contract, and it has begun using non-contracted scatter site apartments under the same “agreements.”

The contractor selection process, mandated by the City Charter and the PPB rules, is an important safeguard to ensure that the City funds are effectively applied to provide quality service for clients. In addition, the Charter requires that all contracts be registered with the Comptroller’s Office since the Comptroller is responsible for tracking City expenditures and maintaining a registry of City contracts. Obviously, this provision was also not followed by the Department.

The absence of written agreements with hotel and scatter site operators can lead to conflicting interpretations of the terms of those agreements. Without written contracts, any agreements that are reached between the City and the operators may be unenforceable. With written contracts, the parties would create a clear statement of the obligations of both parties, including the social services that the operators are required to provide. Formal contracts would establish performance standards and enhance the monitoring of operators.

Unsafe and Unsanitary Conditions At Scatter Site Apartments

As part of this audit, we visited 20 units in six hotels and 56 apartments in 17 apartment buildings in which homeless families reside. The 17 buildings were managed by four of the 10 scatter site operators that provide services on behalf of the Department. We found that the hotels as well as 10 of the apartment buildings inspected generally were in satisfactory condition. However, the remaining seven apartment buildings, all operated by Gin Realty, had conditions that may pose a threat to the health and safety of the occupants placed there by the Department. Specifically, 30 of the 41 apartments we visited in these seven buildings had unsafe and unsanitary conditions. These conditions included roach infestation, peeling paint, leaking faucets, water damage and mold on ceilings and walls, missing or broken tiles, and holes in walls and ceilings. Moreover, some residents reported that their apartments were infested by mice.

In a letter dated April 30, 2003, we informed the Department about the conditions observed. (See Attachment A.) In a letter dated May 14, 2003 (see Attachment B), the Department stated that it inspected 27 of the apartments we visited on or before the dates of our

³ In the prior report, the Department referred to its agreements with the non-contracted hotel owners as “gentlemen’s agreements”—handshake agreements.

visits and sent notices to the landlords to make the necessary repairs. The Department's letter also stated that its inspectors found most of the same conditions that we identified. The agency acknowledged that the conditions were below its standards, but stated that it did not feel the conditions posed threats to the health or safety of the clients. Further, the Department stated that it revised its inspection checklist to cover some of the conditions we found and would conduct more frequent re-inspections to ensure that the landlords make the repairs.

In addition, the Department stated it has instituted an evaluation system to measure scatter site landlords by number of units, quality, building quality, and service outcomes for clients, and will reduce the number of units used in buildings managed by operators with the lowest performance. It also stated that Gin Realty scored the lowest ratings in its evaluation and that the Department will immediately begin to reduce Gin Realty's scatter site units.

However, given the absence of formal contracts, we question how the Department can enforce performance standards and ensure that operators provide safe and sanitary conditions to its clients.

Recommendations

The Department should:

1. Procure the services of hotel operators and apartment owners in accordance with the provisions of the City Charter and PPB rules by:
 - entering into formal contracts with the operators,
 - ensuring that contracts contain measurable performance standards and penalties for poor performance, and
 - registering the contracts with the Comptroller's Office.

Department Response: "Your audit recommends that the City enter into formal contracts with all shelter operators, and that these contracts should be registered with the Comptroller. While the attached opinion from the Law Department makes clear that it is well within the City's right to continue utilizing facilities through per diem payment arrangements, I agree with you. We should move toward establishing contracts with the majority of uncontracted facilities with which the City currently has relationships."

Auditor Comment: The Comptroller's Office has reviewed the Law Department's memorandum and disagrees with its conclusions for the reasons stated in this audit. Notwithstanding our disagreement on legal issues, the Comptroller's Office commends the Department for its decision to implement our recommendation and to enter into formal contracts with hotel and scatter site housing operators. We urge the Department to encompass all such operators in this initiative.

2. Adhere to its plan to conduct more frequent inspections and to reduce the number of units operated by low performing landlords.

Department Response: “DHS [the Department] has had in place since March 2002 a process for routine inspection of all hotel and apartment units in the family shelter program. All units are inspected, at a minimum, twice annually. . . .

“DHS has created an evaluation system to measure scatter site operators by unit quality, building quality, and service outcomes for clients. . . . We have already reduced the allocation of scatter site units of operators with the lowest performance. (The operator of the units in question in your audit scored lowest in this evaluation and has had a reduction in units.)”



ATTACHMENT A

COMPTROLLER OF THE CITY OF NEW YORK
1 CENTRE STREET
NEW YORK, NY 10007-2341
(212) 669-3500

WILLIAM C. THOMPSON, JR.
COMPTROLLER

April 30, 2003

The Honorable Linda Gibbs
Commissioner
Department of Homeless Services
33 Beaver Street
New York, NY 10004

Dear Commissioner Gibbs:

I am writing to alert you to unsafe and unsanitary conditions found at several housing facilities that provide services on behalf of the Department of Homeless Services. As you are aware, my office is conducting an audit of services provided by operators of scatter site housing facilities and hotels. As part of this audit, my staff visited six hotels and 17 apartment buildings in which Department clients reside. The 17 buildings were managed by four of the 11 scatter site operators that provide services on behalf of the Department.

The auditors found that the hotels as well as 10 of the apartment buildings inspected were in satisfactory condition. However, the remaining seven apartment buildings, all operated by Gin Realty, had conditions that may pose a threat to the health and safety of the occupants placed there by the Department. Specifically, the auditors found roach infestation, peeling paint, leaking faucets, water damage and mold on ceilings and walls, missing or broken tiles, and holes in walls and ceilings. Moreover, some residents reported that their apartments were infested by mice. (Attachment I contains a list of the problem conditions by address and apartment number. Attachment II contains photographs of conditions noted in certain apartments.)

I am troubled that a City program designed to help homeless people is subjecting them to such deplorable conditions. Immediate action by your office is required to ensure that Gin Realty corrects these conditions. In addition, your staff should inspect all other scatter site housing facilities to ensure that any similar conditions are identified and corrected.

Please inform me of the specific actions your office will take to remedy the situation. If you have any questions regarding this matter, please do not hesitate to contact Mr. Gary Rose, Director of Financial Audits, at (212) 669-8107.

Very truly yours,

William C. Thompson, Jr.

WCT/GR
Enc.

cc: Susan Kupferman, Director Mayor's Office of Operations
Michael King, Acting Audit Director
Greg Brooks, Deputy Comptroller for Policy, Audits, Contracts and Accountancy
Gary Rose, Director Financial Audits

Addresses Redacted at the Request of the Department of Homeless Services

ATTACHMENT I

(Page 1 of 3)

Address	Apt #	Observations	Tenant Complaints
[REDACTED] #1	A4	Leaks in bathroom	Roaches and mice
[REDACTED]	A6	Hole in bedroom wall Crack in kitchen ceiling Shower curtain rod not secured to wall	Roaches and mice
[REDACTED]	C4	Peeling paint in bathtub Leak in bathroom	
[REDACTED] #2	2B	Peeling paint (See Attachment II - Picture #1) Leak next to kitchen light (See Attachment II - Picture #2) Water-stained kitchen wall	Roaches
[REDACTED]	B1	Broken walkway outside apartment (See Attachment II - Picture #3) Foul odor emanating from outside of building Holes in bathroom wall Missing tiles in bathroom Ant crawling on bed Backyard not cemented (puddle of muddy water just outside bedroom window could be the cause of stench in apartment) (See Attachment II - Picture #4)	Roaches, ants, and mice
[REDACTED] #3	5	Peeling paint	
[REDACTED]	6	No lights in bedroom and kitchen Loose electrical outlet in bedroom Only one electrical outlet in the kitchen is functional Damaged bedroom door frame	
[REDACTED]	8	Mold on bathroom walls Bathtub hot water faucet leaks (See Attachment II - Picture #5)	Roaches
[REDACTED]	12	No conditions found	Roaches
[REDACTED]	21	Roaches Smoke detector hanging off ceiling (See Attachment II - Picture #6) Leak in living room ceiling Sagging kitchen floor Hole in bedroom wall Hole in living room wall	Roaches

Address	Apt #	Observations	Tenant Complaints
[REDACTED]	23	Bubbling paint on bathroom wall	Roaches
[REDACTED]	26	Roaches (See Attachment II - Picture #7) Hole in kitchen wall Tiles missing in kitchen and bathroom Crack in bathroom wall (See Attachment II - Picture #8) Bump in kitchen floor Bathtub faucet leaks Rusted kitchen shelf	Roaches and mice
[REDACTED]	29	Peeling ceiling paint Faulty front door lock Holes in wall Light hanging	
[REDACTED]	32	Roaches on kitchen walls and ceiling (See Attachment II - Picture #9) Bubbling paint on bathroom wall	
[REDACTED] #4	2B	Mold on bathroom ceiling Clogged kitchen sink Damaged wall under kitchen sink Water damage on wall Damaged radiator Hole in bathroom wall Loose bathroom sink	
[REDACTED]	2C	Leak under sink Mold in bathroom (See Attachment II - Picture #10)	
[REDACTED]	5A	Leak in bathroom Mold in bedroom Mold in bathroom (See Attachment II - Picture #11) Bathtub faucet leaks Crack in ceiling and walls	Roaches
[REDACTED] #5	1G	No conditions found	Roaches
[REDACTED]	2A	No conditions found	Roaches and mice
[REDACTED]	2C	Roaches on wall	
[REDACTED]	2G	Rusted kitchen cabinet (under sink)	
[REDACTED]	5E	No conditions found	Roaches and mice
[REDACTED] #6	3A	No conditions found	Roaches

Address	Apt #	Observations	Tenant Complaints
[REDACTED]	3E	Peeling paint on front door	Roaches and mice
[REDACTED]	4D	Mold in bathroom Hole in bathroom wall	Roaches and mice
[REDACTED] #7	3K	Hole in bedroom wall Leak in bathroom wall	Mice
[REDACTED]	3S	Holes in the ceiling	
[REDACTED]	4G	Roaches crawling in sink(See Attachment II - Picture #12)	
[REDACTED]	5S	Broken bathroom vanity	Roaches and waterbugs

Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

██████████ Apt. 2B - Picture #1 - Peeling paint

Address # 2



██████████ Apt. 2B - Picture #2 - Leak next to kitchen light

Address # 2



Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

. Apt. B1 - Picture #3 - Broken walkway outside apartment

Address # 2



. Apt. B1 - Picture #4 - Backyard not cemented

Address # 2



Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

Apt. 8- Picture #5 - Bathtub hot water faucet leaks

Address # 3



Apt. 21 - Picture #6 - Smoke detector hanging off ceiling

Address # 3



Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

Apt. 26 - Picture #7 - Roaches

Address # 3



Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

Apt. 26 - Picture #8 - Cracked bathroom wall and missing tiles

Address # 3



Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

Apt. 32 - Picture #9 - Roaches on kitchen walls and ceiling

Address # 3



Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

Apt. 2C - Picture #10 - Mold in bathroom

Address #4



Apt. #5A - Picture 11 - Faucet leaks and mold in bathroom

Address #4



Photographs of Scatter Sites with Unsafe and Unsanitary Conditions

Apt. #4G - Picture 12 - Roaches crawling in sink

Address #7





NYC Department of Homeless Services

Linda Gibbs
Commissioner

2003 MAY 19 P 5:06
NEW YORK CITY
COMPTROLLER'S OFFICE

May 14, 2003

The Honorable William C. Thompson, Jr.
Comptroller
City of New York
1 Centre Street
New York, NY 10007

Dear Comptroller Thompson:

I am writing in response to your April 30, 2003 letter regarding the audit of hotels and apartment housing for homeless families that your office is conducting. Thank you for the alert to the conditions that concerned you. We reviewed the situation immediately and want to inform you of the results of that review.

The Current Inspection Procedure

The Department of Homeless Services has had in place since March 2002 a process for routine inspection of all hotel and apartment units in the family shelter program. All units are inspected, at a minimum, twice annually with most being inspected at four-month intervals; this amounts to approximately 5,000 separate apartment inspections within a one-year period. During these inspections, visual checks and confirmations are performed to ensure that all DHS apartments and the overall building are being maintained in a safe and overall satisfactory manner. The attached sample inspection sheet lays out those items that are routinely reviewed during a typical inspection. After each building inspection is completed, a notice of deficiencies is sent to the landlord with a requirement for repairs within five days. Landlords must confirm completion of the repairs in a written response to DHS. Occasional re-inspections are conducted to confirm the work was completed.

Apartments Identified by the Comptroller's Office Site Visits

We have generally found our inspection process to be effective in maintaining a consistently acceptable quality of environment at our scatter site apartments. Of the 29 apartments cited by your auditors, for instance, 27 of them had been inspected by DHS staff during the period April 15 to April 22, 2003. Notice letters were sent to the landlord from April 17 to May 2, and repair confirmation letters received back to DHS from April 25 to May 7.

Upon receipt of your letter, our staff immediately revisited all 29 units cited, with most being re-inspected on the same date as receipt of your letter. Our re-inspection revealed that, for the most part, the deficiencies noted by your office often corresponded to deficiencies identified in the DHS inspections and were cured by the time our inspectors revisited the site. Upon notification of any additional items raised in your site visits, all remaining items were cured within two days upon final re-inspection.



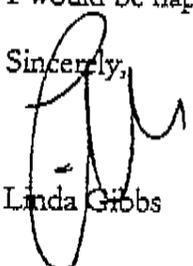
At the same time, given the serious nature of the concerns your letter raised, I chose to visit the units to personally inspect them and satisfy myself that the conditions were acceptable. I was disappointed with what I found. While I am satisfied that there were no conditions present that posed a threat to health or safety, I did find conditions that were below the level of quality that I expect this agency to maintain.

As a result, several actions will be taken.

1. Adjust inspection standards
It would appear that while this agency seems more alert to safety-related deficiencies which are technical in nature, your office has been sensitive to deficiencies more of a housekeeping or environmental nature. While these environmental issues are not health or safety threats, they do speak to the general quality and good repair of the units that I believe is important to expect in our standards. As a result, this agency will immediately expand the list of deficiencies which are noted during a typical inspection. A revised list of items to be included in inspection by this department is attached.
2. Enhance follow-up re-inspections
DHS occasionally confirms that repairs are completed as attested to in the five day turnaround correspondence from landlords by a re-inspection visit. We will be routinizing this on a more frequent random selection basis.
3. Establish provider accountability
DHS has created an evaluation system to measure scatter site landlords by unit quality, building quality, and service outcomes for clients. The first period of performance (January to April 2003) has been recently completed. We will be reducing the allocation of scatter site units of landlords with the lowest performance. Not surprisingly, the landlord of the units in question in your audit scored lowest in this evaluation and will immediately begin a reduction in units.
4. Address specific units
The units noted in your letter will be the first to close as we reduce this provider's capacity. We will continue to use inspection results to direct specific units be taken out of the program.

I assure you that the Department of Homeless Services is committed to providing temporary shelter to homeless families that meets high standards of repair, cleanliness, and maintenance and will continue our commitment until the anticipated conclusion of the scatter site program. If you would like to discuss this further, my staff and I would be happy to meet with you.

Sincerely,



Linda Gibbs

OPERATOR _____ DATE _____

LOCATION ADDRESS _____

1 Street & Exterior of Building		YES	NO	2 INTERIOR OF BUILDING & UNIT		YES	NO
1.1	Is building free from high levels of AIR Pollution from vehicular exhaust, sewer/fuel gas, dust or other pollutants	<input type="checkbox"/>	<input type="checkbox"/>	2.1	Interior Stairs & HALLS hazard free?	<input type="checkbox"/>	<input type="checkbox"/>
1.2	Are EXTERIOR SURFACE sound and hazard free?	<input type="checkbox"/>	<input type="checkbox"/>	2.2	Unblocked FIRE EXIT from building?	<input type="checkbox"/>	<input type="checkbox"/>
1.3	Are all exterior surfaces accessible to children under 7 years old free of cracking, peeling & loose paint or adequately covered to prevent exposure to LEAD BASE PAINT?	<input type="checkbox"/>	<input type="checkbox"/>	2.3	Is fire escape sturdily attached? (shake fire escape?)	<input type="checkbox"/>	<input type="checkbox"/>
1.4	Is the address clearly posted on exterior of building?	<input type="checkbox"/>	<input type="checkbox"/>	2.4	Is there a small, red fire extinguisher located in the kitchen area?	<input type="checkbox"/>	<input type="checkbox"/>
1.5	Is there debris scattered around front/side/rear of building?	<input type="checkbox"/>	<input type="checkbox"/>	2.5	Is apartment # clearly marked on door? Is building decent/safe/sanitary?	<input type="checkbox"/>	<input type="checkbox"/>
1.6	Are the porches/stairs/railing sound & hazard free?	<input type="checkbox"/>	<input type="checkbox"/>	2.6	Is building decent/safe/sanitary?	<input type="checkbox"/>	<input type="checkbox"/>
				2.7	Is there a working mailbox or a controlled location where clients can receive mail?	<input type="checkbox"/>	<input type="checkbox"/>
				2.8	Do hallway & exits have a clear path for egress & are well lit?	<input type="checkbox"/>	<input type="checkbox"/>
				2.9	Are there any hanging exposed electrical wires?	<input type="checkbox"/>	<input type="checkbox"/>
3 KITCHEN				4 BATHROOM			
3.1	Is there a SINK with hot & cold running water?	<input type="checkbox"/>	<input type="checkbox"/>	4.1	Is there a SINK with hot & cold running water?	<input type="checkbox"/>	<input type="checkbox"/>
3.2	Is there a new OVEN?	<input type="checkbox"/>	<input type="checkbox"/>	4.2	Is there an operable WINDOW OR EXHAUST FAN?	<input type="checkbox"/>	<input type="checkbox"/>
3.3	Is there a food preparation area?	<input type="checkbox"/>	<input type="checkbox"/>	4.3	Is there toilet in proper working order? (i.e. not loose)	<input type="checkbox"/>	<input type="checkbox"/>
3.4	Is the refrigerator new?	<input type="checkbox"/>	<input type="checkbox"/>	4.4	Is there a private bath/shower/wash basin with running hot & cold water?	<input type="checkbox"/>	<input type="checkbox"/>
3.5	Are there hardwood cabinets in very good conditions?	<input type="checkbox"/>	<input type="checkbox"/>	4.5	Is the wall/floor/ceiling tile properly grouted and caulked?	<input type="checkbox"/>	<input type="checkbox"/>
				4.6	Is tub and tub area cleaned and free of mold and standing water?	<input type="checkbox"/>	<input type="checkbox"/>

REMARK: (Refer only to items shown on this side of the page)

5 HEATING & PLUMBING		YES	NO				
5.1	Is the HEATING EQUIPMENT safe & capable of providing ADEQUATE heat?	<input type="checkbox"/>	<input type="checkbox"/>	6.6	Are all interior doors hung properly and provide secured privacy?	<input type="checkbox"/>	<input type="checkbox"/>
5.2	Is there operable WINDOWS?	<input type="checkbox"/>	<input type="checkbox"/>	6.7	Does the apartment provide privacy? (i.e. secure lock)	<input type="checkbox"/>	<input type="checkbox"/>
5.3	Are there plumbing leaks? (i.e. steam leaks)	<input type="checkbox"/>	<input type="checkbox"/>	6.8	Are the windows in good condition?	<input type="checkbox"/>	<input type="checkbox"/>
5.4	Is the drinking water clean? (i.e. no rust)	<input type="checkbox"/>	<input type="checkbox"/>	6.9	Are the gates on the fire escape window approved by the fire department?	<input type="checkbox"/>	<input type="checkbox"/>
5.5	Are the common areas (Stairs, hallways elevators, etc.) clean, well lit, & free of graffiti?	<input type="checkbox"/>	<input type="checkbox"/>	6.10	Are there any hanging exposed electrical wires?	<input type="checkbox"/>	<input type="checkbox"/>
6	OVERALL APARTMENT			6.11	Is there at least one light & one outlet or two outlets per room the CEILING, WALLS, & FLOOR sound & free from hazardous defects?	<input type="checkbox"/>	<input type="checkbox"/>
6.1	Is the apartment number clearly marked?	<input type="checkbox"/>	<input type="checkbox"/>	6.12	Is the unit free of RATS, MICE, VERMIN?	<input type="checkbox"/>	<input type="checkbox"/>
6.2	Does the apartment have a kitchen and a bathroom?	<input type="checkbox"/>	<input type="checkbox"/>	6.13	Do windows have guards & do not exceed 4-1/2" space?	<input type="checkbox"/>	<input type="checkbox"/>
6.3	Is the apartment freshly painted? (i.e. no peeling paint & no chipping or blistering plaster)	<input type="checkbox"/>	<input type="checkbox"/>	6.14	Is the furniture new? (i.e. beds/bunk beds, one 3" diameter kitchen table or equal, one dresser in each sleeping area)	<input type="checkbox"/>	<input type="checkbox"/>
6.4	Are the floors & floor coverings in good, clean condition? (i.e. wood floors must be refinished & sealed)	<input type="checkbox"/>	<input type="checkbox"/>	6.15	Are linens and a set of bathroom towels provided?	<input type="checkbox"/>	<input type="checkbox"/>
6.5	Apartment entrance door has a operating door bell.	<input type="checkbox"/>	<input type="checkbox"/>	6.16	Has a copy of latest vermin exterminating receipt been provided?	<input type="checkbox"/>	<input type="checkbox"/>
7	SMOKE DETECTORS			8	LEAD PAINT		
	Is there at least one hard-wired smoke detector in proper working condition?	<input type="checkbox"/>	<input type="checkbox"/>		If the owner is required to cover any interior or exterior surfaces, has compliance certification been obtained?	<input type="checkbox"/>	<input type="checkbox"/>
9	ELECTRICAL						
9.1	Are fixture and devices tight and secure with no exposed wires?	<input type="checkbox"/>	<input type="checkbox"/>				
9.2	Are all light fixtures fully lamped?	<input type="checkbox"/>	<input type="checkbox"/>				
9.3	Are outlets available and in sound condition?	<input type="checkbox"/>	<input type="checkbox"/>				
Total Rooms # Bedrooms							
REMARKS:							
Does this unit meet Housing Quality Standard? <input type="checkbox"/> <input type="checkbox"/>							
INSPECTED BY: (signature)		DATE	INSPECTED BY: (signature)		DATE		



NEW YORK CITY
COMPTROLLER'S OFFICE
2003 JUL -1 A 9 50

June 25, 2003

The Honorable William C. Thompson, Jr.
Comptroller
City of New York
1 Centre Street
New York, NY 10007

Re: Audit Report on Department of Homeless Services Controls over Payments to Hotel and Scatter Site Housing Operators July 1, 2001 – June 30, 2002

Dear Comptroller Thompson:

The Department of Homeless Services (DHS) would like to thank your office for the attention you have paid to the important issue of providing services to homeless families in New York City. We believe your audit has raised important issues in a manner that will advance reforms within the department. We will use this opportunity to further strengthen the integrity of our processes, as well as build the public's confidence that important resources are being appropriately managed.

Your audit intent, as stated in your opening letter, was to review the DHS processes for paying shelter operators who provide shelter to homeless families and individuals in hotels and transitional facilities, with the possibility of evaluating the computerized systems controls to ascertain the integrity, validity, and reliability of DHS data.

Audit finds integrity in vendor payment process and controls

We are very pleased that you have confirmed the integrity of the DHS process of tracking client receipt of services and vendor payment for those services. The audit confirms that DHS has a well managed system of payment controls that allows us to monitor and confirm that payments are made only when shelter is received, for each client and for each day of service. Given the enormity of our system and the dispersion of the services throughout the City, this is a complex management challenge and we are proud of this finding. Your audit contained no recommendations in this area.

At the same time, your audit has raised additional concerns beyond the original audit scope that deserve very serious consideration. These relate to the method the City follows to pay for temporary shelter and the physical quality of scatter site units.

Enhancing procurement of shelter services

Your audit recommends that the City enter into formal contracts with all shelter operators, and that these contracts should be registered with the Comptroller. While the attached opinion from the Law Department makes clear that it is well within the City's right to continue utilizing facilities through per diem payment arrangements, I agree with you. We should move toward establishing contracts with the majority of uncontracted facilities with which the City currently has relationships.



With that goal in mind, our plan is to develop a process to convert existing facilities from per diem payment arrangements to contracts, while also ensuring that a greater percentage of all new facilities come in through an established contracting process. The accepted practice of entering into per diem payment arrangements for daily rentals of rooms on an as-needed basis should be limited to those facilities that the City may not need on a routine or predictable basis. An example of this is the short-term stay "overnight facility" – the demand for which can and does range from zero to 300 apartments on any given night.

The number of non-scatter site per diem facilities has grown over the years and now comprises about a third of our existing shelter stock – approximately 3,200 units now shelter 3,200 homeless families. Efforts to convert these facilities into a contracting process must be sensitive and thoughtful so as to avoid disrupting existing services. As you can appreciate, any effort that places these facilities and the families they serve at risk would be harmful to our clients.

While we may be able to use current procurement methods such as negotiated acquisition or the open ended RFP to move existing facilities from per diem status to contract vendor, for any new facility to be brought on through a contracting process, the City may need to create new procurement methods or adapt existing ones, so that DHS can act within time frames that this time-sensitive service can tolerate. Together with the Mayor's Office of Contracts, we look forward to discussing with you some options to ensure a responsive procurement process that can meet the service mandate of this agency.

Improving conditions in scatter site apartments

In your audit you expressed concern over physical conditions in the units of one scatter site operator out of the seven hotel and scatter site operators your office selected to review. As you know, I have announced my plan to close the scatter site program. To date, and despite increases in the family shelter population, we've taken the difficult step of reducing that program by 40 apartments. We will continue to reduce this program until it is gone. In the meantime, I share your concern that we ensure appropriate standards in the remaining units.

DHS has had in place since March 2002 a process for routine inspection of all hotel and apartment units in the family shelter program. All units are inspected, at a minimum, twice annually. We perform visual checks of the apartments and the overall buildings. A notice of deficiencies is sent to the operator with a requirement for repairs within five days. Occasional re-inspections are conducted to confirm the work was completed.

Based on DHS site visits to units included in your audit, as well as your audit recommendations, we will build on our ongoing quality assurance efforts with the following:

1. Adjust inspection standards
Environmental issues which speak to the general quality and good repair of units have been added to the list of deficiencies noted during a typical inspection.
2. Enhance follow-up re-inspections
DHS occasionally confirms by a re-inspection visit that repairs are completed as attested to in the five day turnaround correspondence from operators. We routinized this on a more frequent random selection basis effective in May.
3. Establish provider accountability
DHS has created an evaluation system to measure scatter site operators by unit quality, building quality, and service outcomes for clients. The first period of performance (January to April 2003) has been recently completed. We have already reduced the allocation of scatter site units of operators with the lowest performance. (The operator of the units in question in your audit scored lowest in this evaluation and has had a reduction in units.)

4. Address specific units

We will use inspection results to direct specific units be taken out of the program.

I assure you that DHS is committed to providing temporary shelter to homeless families that meets high standards of repair, cleanliness, and maintenance. We will continue to strengthen our quality assurance efforts in the scatter sites even as we work to end the program.

As you know, the City of New York is the only jurisdiction in the nation that promises to ensure enough shelter to meet demand. I want to express our interest in working closely with your office to turn your recommendations into meaningful reforms that improve our approach to homeless services, while ensuring our ongoing ability to meet our unique mandate.

Thank you for your attention to these important matters.

Sincerely,



Linda Gibbs



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007-2601

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MEMORANDUM

TO: LINDA GIBBS
COMMISSIONER
DEPARTMENT OF HOMELESS SERVICES

FROM: DANIEL MULLER 

DATE: JUNE 24, 2003

SUBJECT: PAYMENTS TO HOTEL AND SCATTER SITE HOUSING OPERATORS

You have forwarded to this office a copy of a Comptroller's draft audit report dated May 29, 2003, and have requested that we state our position as to the correctness of the assertion in the draft report that a procurement under Chapter 13 of the City Charter and the PPB Rules is required in order for DHS to pay the owners or operators of hotels or scatter site apartment buildings for short-term rental of housing units to its clients. Based on the facts you have presented, we believe that the transactions at issue do not constitute City procurements.

DHS and its predecessor agency HRA have been making referrals of homeless persons to hotels since prior to 1987, under a protocol described in several court decisions that have upheld the practice against a number of legal challenges. Clients eligible for public assistance are referred to operators who have expressed to DHS a willingness to accept homeless families. DHS pays on behalf of its clients the shelter portion of their public assistance grant to these facilities. The operators are not obligated to accept any particular family or any number of families; DHS is not obligated to pay them in connection with anything other than the units actually occupied by the clients, nor is it obligated to refer any families at all.

Although the draft audit suggests that the program constitutes the procurement of "client services" within the meaning of Section 1-01(c) of the PPB Rules, under the arrangement set forth above, DHS is not in fact procuring any services. The operators are not providing employment training or assistance, day care, mental health or substance abuse treatment, educational or recreational programs, or any other social services falling under the "client services" category of the PPB Rules, but simply space -- a room or apartment.¹ Any support services that the clients might receive while residing in these units would be provided by DHS or a social service contractor, not by the building owners. This arrangement is clearly distinguishable from the Tier II or transitional housing facilities provided by DHS, where the

¹ We understand that a number of operators have hired one or more social service staffers to provide assistance on site, and that a small payment is added to the room fee in such cases. This step taken by some operators to attract or keep this business opportunity does not in our view alter the fundamental nature of the relationship discussed in this memorandum. The cost of this incidental service is so minor compared to the cost for the room space as to be legally insignificant.

operator does in fact provide services for DHS and the relationship thus is governed by a contract procured pursuant to the PPB Rules.

As stated above, the City's referral of homeless persons for temporary emergency housing is a long-standing practice which has been challenged several times in the past. The Courts have consistently rejected land use and environmental challenges to this referral arrangement. Midtown South Preservation and Development Committee v City of New York, 130 AD2d 385 (1st Dept. 1987) (SEQRA); Davis v Dinkins, 206 AD2d 365 (2nd Dept. 1994) (ULURP); Ferrer v Dinkins, 218 AD2d 89 (1st Dept. 1996) (ULURP, "fair share"). The latter cases established that the temporary shelter secured through such arrangements do not constitute leases between the City and the property owners. While city procurement rules were not an issue in these cases and therefore these decisions do not contain a holding that the arrangement does not violate the city procurement rules, the Comptroller's assertion that the cases do not support that conclusion is clearly wrong. The reasoning and facts relied on by the courts to reach their conclusions that the arrangement contained no legal obligations and thus did not create a lease also dictate that the arrangement is not a procurement. The Court's statement in Ferrer v Dinkins, citing Midtown South Preservation and Development Committee v City of New York, that "a similar arrangement was found consistent with a mere referral system" is a sound a basis for find the absence of either a lease or a procurement relationship between the City and the operators.