

AUDIT REPORT

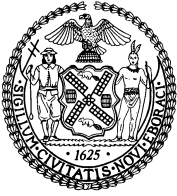


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on Department of Homeless Services Controls over the Determination of Eligibility of Temporary Housing Benefits for Homeless Families

MG09-058A

October 15, 2009



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 Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has audited the Department of Homeless Services (DHS) to determine whether DHS maintains adequate controls over the determination of eligibility for temporary housing benefits for homeless families.

DHS is mandated to provide temporary and emergency shelter for homeless families and single adults in New York City. Audits such as this provide a means of ensuring that agencies provide required services in accordance with applicable regulations and procedures.

The results of our audit, which are presented in this report, have been discussed with DHS officials, and their comments have been considered in the preparation of this report.

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

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/ec

Report: MG09-058A
Filed: October 15, 2009

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

**Audit Report on Department of Homeless Services
Controls over the Determination of Eligibility of
Temporary Housing Benefits for Homeless Families**

MG09-058A

AUDIT REPORT IN BRIEF

The audit determined whether the Department of Homeless Services (DHS) maintains adequate controls over the determination of eligibility for temporary housing benefits for homeless families. DHS, in partnership with public and private agencies, is tasked to provide temporary and emergency shelter for homeless families and single adults in New York City. In addition, DHS provides job training, substance abuse and mental health services, as well as housing-search support. The services are designed to help homeless families gain self-sufficiency and make the transition from temporary to permanent housing. DHS manages 11 City-run and 205 privately-run shelter facilities consisting of 49 single adult facilities and 167 family facilities.

Since 1985, several lawsuits have been filed against the City and State regarding the provision of emergency shelter in the City for homeless families with children. In an effort to address and resolve the problem of family homelessness without the intervention of the courts, the New York City Family Homelessness Special Master Panel (the Panel) was created by a New York State Supreme Court Order in January 2003 and was active until April 2005.

DHS adopted various recommendations made by the Panel regarding a variety of aspects of the family shelter system, including the creation of a central family intake center called the Prevention Assistance and Temporary Housing Office (PATH), which provides assistance to families seeking emergency housing. PATH operates 24 hours a day, seven days a week.

Audit Findings and Conclusions

DHS must improve its controls over the eligibility determination process with respect to ensuring that its investigative guidelines have been followed when families are found to be ineligible for shelter. Also, DHS is not accurately reporting the reasons that some families are determined to be ineligible for benefits.

DHS has established a number of guidelines to govern the overall process of determining eligibility for temporary housing benefits for homeless families. However, in instances in which

families are determined to be ineligible for temporary housing, DHS has not implemented sufficient controls to ensure that its investigative guidelines for determining eligibility are followed by its staff in a consistent manner. For 32 sampled cases in which families filed more than one application (encompassing 138 applications), DHS staff did not consistently adhere to its procedures when processing the applications and determining eligibility for 7 (22%) of the cases. As a result, families were delayed or denied assistance for which they may have been eligible.

We did find that PATH staff responsible for the eligibility verification process generally followed DHS guidelines for meeting with applicants in an initial screening, scheduling eligibility assessment conferences within the required time frame after the filing of the application, and referring applicants who claimed to be victims of domestic abuse to NOVA. However, these positive aspects are mitigated by the weaknesses in the eligibility determination process cited above.

Based on the evidence maintained in the case files sampled, neither we nor DHS could ascertain whether there were sufficient efforts to investigate applicants' situations before making determinations of eligibility. The absence of controls to ensure that guidelines are consistently followed increases the risk of incorrectly denying temporary housing benefits.

Recommendations

To address these issues, we make four recommendations. DHS should:

- Improve its oversight of the eligibility determination process and ensure that the Team Leaders and quality review staff diligently review the case files and assess eligibility in accordance with the guidelines.
- Modify its guidelines to reflect further action that investigators are required to take when one of the multiple prior residences cannot be verified so as not to delay the eligibility process.
- Ensure that training, both initial and ongoing, is adequate so that employees are thoroughly familiar with and adhere to all DHS policies and procedures when processing applications and determining eligibility.
- Ensure that it reviews the reasons for determining ineligibility and accurately reports detailed reasons families are found not eligible for services.

DHS Response

In its written response, DHS officials did not directly address the four audit recommendations. However, they acknowledge the validity of two of our recommendations pertaining to training and the assessment of eligibility in accordance with the guidelines. The response also included objections to our methodology and to our findings. After carefully reviewing DHS's arguments, we found them to be without merit.

INTRODUCTION

Background

DHS, in partnership with public and private agencies, is tasked to provide temporary and emergency shelter for homeless families and single adults in New York City. In addition, DHS provides job training, substance abuse and mental health services, as well as housing-search support. The services are designed to help homeless families gain self-sufficiency and make the transition from temporary to permanent housing. DHS manages 11 City-run and 205 privately-run shelter facilities, consisting of 49 single adult facilities and 167 family facilities.

Since 1985, several lawsuits have been filed against the City and State regarding the provision of emergency shelter in the City for homeless families with children. In an effort to address and resolve the problem of family homelessness without the intervention of the courts, the Panel was created by a New York State Supreme Court Order in January 2003 and was active until April 2005. The Panel, which consisted of three members who served for the Panel's two years, was responsible for evaluating the shelter system for homeless families, issuing reports, and making recommendations.

DHS adopted various recommendations made by the Panel regarding a variety of aspects of the family shelter system, including the creation of a central family intake center (PATH), which provides assistance to families seeking emergency housing. PATH operates 24 hours a day, seven days a week.

Families claiming to be homeless and seeking public shelter are subject to an eligibility process and in-depth investigation through which DHS determines whether the families have an available, safe, and appropriate temporary or permanent housing resource they could use instead of resorting to a shelter. Families begin the process of obtaining public shelter by filing an application with PATH. All members of a household are required to be present at PATH with general identification documents proving that the household constitutes a family. DHS defines a family as: 1) legally married couples with or without children, 2) single parents with children, 3) pregnant women, and 4) unmarried couples with or without children who have cohabited for a substantial period of time (i.e., six months or more) and demonstrate a need to be placed in a shelter together. According to the Fiscal Year 2008 Mayor's Management Report, 9,664 families with children entered the DHS shelter services system, with a daily average of 7,802 families with children in shelters. According to data obtained from DHS's computerized Client Tracking System (CTS), DHS received 29,897 applications filed by 16,832 families during that year. Of these applications, DHS approved eligibility for 10,080 (33.72%) of them and denied eligibility for 8,532 (28.54%). An additional 11,265 (37.68%) applications were discontinued by applicants. (The remaining 20 applications, 0.06%, relate to other categories and outcomes.)

Families are initially screened for eligibility for temporary housing assistance at PATH. Families with health-related issues are referred to an on-site triage nurse for consultation and assistance. Those who report domestic violence issues are referred to the on-site Human Resource Administration (HRA) No Violence Again (NOVA) unit, where trained employees are able to identify and deal with such matters. NOVA then determines through its own

investigation whether the case is one of domestic abuse and requires immediate shelter placement or whether there are other viable housing options, in which case the applicant is sent back to PATH.

After initial screenings, families are referred to the Diversion Unit, which is located at the PATH facility and is operated by HRA staff who determine whether the families are eligible for other types of HRA programs and therefore do not need to enter the shelter system. Families who do not qualify for alternative assistance continue with the DHS application process. While DHS continues its investigation, conditional temporary housing is granted to new applicant families, to families who reapply after 90 days of their last application, and to families whom DHS determines to be in immediate need¹ of temporary emergency shelter.

DHS staff review documentation presented by the family, such as letters from landlords, eviction notices, a two-year housing history, and medical reports. DHS determines eligibility only after verification of that information and after field investigators conclude that there are no viable housing options at any of the residences the family listed as having used during the prior two years. DHS guidelines call for a determination of eligibility for temporary housing assistance to be made within 10 days of receiving an application.

Families found eligible for temporary housing assistance remain in their current conditional shelters and receive assistance in finding permanent housing.² Families not found to be eligible for services are required to leave the conditional shelters upon notification of ineligibility. Ineligible families are also informed of their rights to a DHS Legal Conference, a State Fair Hearing,³ and reapplication. In addition, those families are referred to a variety of services, including crisis counseling, child care, financial services, and other resources, such as training for employment. To track families as they progress through the eligibility process, PATH staff enter basic family information and the outcome of applications in CTS.

Prior to October 2007, a family previously deemed ineligible for temporary housing assistance was automatically placed in an overnight shelter if they reapplied at PATH after 5:00 p.m. The family did not need to present documentation or indicate a change in circumstance since being deemed ineligible. DHS officials state that as a result of that policy, PATH was inundated with families seeking overnight shelter after 5:00 p.m. Consequently, DHS changed its procedures. Currently, ineligible families arriving at PATH to reapply for temporary housing assistance after 5:00 p.m. do not receive overnight shelter unless they first demonstrate a material change in circumstances. However, families arriving at PATH after midnight do receive automatic overnight shelter without having to present a change in circumstances.

¹ DHS considers a family to be in immediate need when any of the following exists: domestic violence, child abuse, eviction from the last residence, or a situation that is an immediate and significant threat to the health or safety of any member of the family.

² Homeless families found eligible for assistance are provided with temporary housing and during that time DHS works with the family to make the transition to permanent type of housing. There is no timeframe for how long the family can remain in the temporary housing.

³ This is a State Supreme Court Hearing conducted at the PATH facility by a State Fair Hearing Liaison.

Objective

The objective of this audit was to determine whether DHS maintains adequate controls over the determination of eligibility for temporary housing benefits for homeless families.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit was Fiscal Year 2008. To accomplish our objective and to obtain an understanding of the DHS controls over the determination of eligibility for temporary housing benefits for homeless families, we conducted interviews with department representatives and staff responsible for processing applications and determining eligibility. We interviewed the Deputy General Counsel, a Legal Manager, a Group Manager, a Senior Team Leader, a Team Leader, and a Family Worker. We also interviewed a supervisor in the Field Investigations unit to obtain an overview of methods used to investigate family housing histories. In addition, we accompanied two teams of field investigators while they visited different residences in an attempt to verify families' two-year housing histories. We also interviewed seven PATH employees to determine their familiarity with eligibility guidelines and to determine the extent of the initial training they received from DHS.

To obtain an understanding of the workflow at PATH, we conducted a walk-through of the procedures families are required to follow during the processing of their applications for temporary housing assistance. To obtain an understanding of the guidelines governing the eligibility process for temporary housing assistance, we reviewed pertinent DHS policies and procedures, flowcharts of the process, the Mayor's Management Report, and relevant information obtained from the DHS Web site and other sources. The following were used as audit criteria:

- New York State Administrative Directive 94 ADM-20,
- Listing of intake documentation required for homeless service applications,
- The Streamlined Eligibility Process,
- *DHS Guidelines for Eligibility Investigations*, and
- General DHS guidelines, "Welcome to PATH."

DHS provided us with an electronic file extracted from CTS consisting of 29,897 applications that were filed by 16,832 families during Fiscal Year 2008. We also obtained the record layout and description of the file, the record count, and the programming codes used to extract the data from CTS. We requested the Audit Bureau's Division of Information Technology to evaluate the reasonableness and completeness of this computer data.

To obtain an overview of the process followed by families applying for services and to perform an initial review of case files of families who applied for temporary housing assistance during our period of review, we judgmentally selected a sample of 11 families who filed from 1 to 23 applications each, for a total of 72 applications, 58 of which were filed during Fiscal Year 2008. We made this selection to obtain a cross-section of families applying only once and applying numerous times, from which to determine whether DHS processed applications in a consistent manner. We also randomly selected a second sample of 40 families who filed a total of 100 applications, 99 of which were filed during Fiscal Year 2008. Our two samples, combined, included 51 families with a total of 172 applications⁴ (157 of which were filed during Fiscal Year 2008). We reviewed the 51 case files to determine whether PATH staff adhered to DHS guidelines in the assessment of first-time applications, such as the immediate assignment of a PATH staff member to review the case, the scheduling of an eligibility assessment conference, and the direct referral to NOVA in the cases of allegations of domestic abuse.

Out of the 51 families, 15 were eligible for temporary housing and 4 families were deemed ineligible on the first application and did not reapply. The remaining 32 families applied two or more times for temporary housing assistance. To determine whether DHS guidelines and procedures were followed when processing applications for families with numerous applications, we reviewed the case folders for the 32 families that contained documentation for a total of 138 applications, 123 of which were filed during Fiscal Year 2008. We analyzed the files for the 32 families to determine whether there was sufficient evidence to support the final eligibility determinations. We also examined the case folders to check the adequacy of written staff records and of the application review performed by the Family Worker, Team Leader, and Legal staff. We then interviewed 11 PATH employees, consisting of 5 Team Leaders, 3 Family Workers, and 3 Legal staff who were involved with the eligibility determination of these 32 families.

We also performed limited testing of the accuracy and reliability of information in the CTS files by comparing the information in the hard-copy files of the 3 most recently filed applications for each of the initial 11 families judgmentally selected to data in the electronic CTS file (a total of 27 applications⁵). We determined whether essential information, such as application dates and outcome codes on the paper source, was accurately recorded in the CTS database.

To ascertain whether DHS determined eligibility for temporary housing assistance within its 10-day guideline, we tested the entire database of 29,897 applications for Fiscal Year 2008. We established the time elapsed between the application date (the date family applied for DHS services) and the investigation date (the date of the final determination of eligibility).

⁴ This is the number of applications that we were aware of, based on the documents provided by DHS. There is a possibility that more applications were filed either prior to or after Fiscal Year 2008.

⁵ Our sample of 11 families consisted of 2 families who filed one application and 2 families who filed two applications. We looked at all 6 applications of these families as well as the last 3 applications of each of the seven families who filed 3 to 23 applications, for a total of 27 applications.

The results of the above tests, while not statistically projected to the respective populations from which the samples were drawn, provided a reasonable basis to satisfy our audit objectives.

Discussion of Audit Results

The matters covered in this report were discussed with DHS officials during and at the conclusion of this audit. A preliminary draft report was sent to DHS officials and discussed at an exit conference held on September 1, 2009. On September 29, 2009, we submitted a draft report to DHS officials with a request for comments. We received a written response from DHS officials on October 8, 2009.

In their response to our draft report, DHS officials did not directly address the four audit recommendations. However, they acknowledged the validity of two of our recommendations pertaining to training and the assessment of eligibility in accordance with the guidelines. The response also included objections to our methodology and to our findings. After carefully reviewing DHS's arguments, we found them to be without merit. Comments concerning methodology and findings are erroneous and appear to be an attempt to divert attention from our findings and recommendations.

Of greater concern to us, and consistent with its official response, is DHS's conduct during the course of this audit. In an apparent attempt to thwart our efforts to conduct this audit, DHS (1) refused to provide requested standard materials to the auditors in a timely manner, (2) fostered an air of intimidation among its own staff with regard to cooperating during the audit, and finally (3) attacked the integrity of the auditors themselves.

To ensure that we have a good understanding of the area being audited, it is customary for us to obtain background information from the audited entity. During the course of this audit, however, DHS consistently refused to provide in a timely manner the materials that we repeatedly requested. These were basic materials central to the process under audit that DHS should have had readily at hand. For example, from the initial onset of the audit, and despite our numerous requests, it took DHS 10 months to provide us the PATH Manual, which contains the procedures followed by PATH staff in the eligibility determination process. It is also customary for auditors to interview persons who work in the area being audited to determine their level of knowledge and expertise and to ascertain whether their roles are consistent with the overall mission of the audited program and in compliance with written procedures. To be of value, it is important that such interviews be conducted in an environment where persons are able to speak freely without fear of reprisal. Nonetheless, DHS objected to our conducting staff interviews without a DHS attorney and a member of DHS Audit Services present. As a result, DHS staff were visibly nervous during such interviews and reluctant to respond to our questions in the presence of other DHS personnel. In fact, DHS attorneys often interrupted the responses of DHS staff members and inappropriately answered questions about decisions made by those very staff members.

Additionally troubling, however, was DHS's conduct upon receipt of the preliminary draft of our report. Instead of addressing the preliminary findings through the routine audit process, DHS instead chose to make unfounded accusations to the Mayor's Office of Operations attacking the integrity of the auditors. Among the claims made by DHS were that an auditor falsified her identity to gain access to an office and interview staff there and that another auditor stated a preexisting personal bias with regard to the eligibility process. (In a separate letter to the Mayor's Office, our office rebutted all of the claims made by DHS.)

Finally as part of its official response to our draft report, DHS included affidavits from PATH employees on this issue, which represents a level of confrontation that has not been equaled under the current administration. As noted in the Detailed Discussion of the DHS Response section of this report, we question whether the affidavits were voluntarily provided by the employees absent any coercion by DHS.

We commence an audit with the expectation of good faith and cooperation on the part of the auditee. Unfortunately, from the beginning of this audit, that expectation was seriously misplaced. Instead of cooperating, a clearly defensive DHS was primarily concerned with limiting our ability to conduct our audit in accordance with generally accepted government auditing standards and in preventing our detection of any potential weaknesses in its eligibility determination process. If DHS were a City agency interested in improving its operations and services, as it should have been, it would have assisted us in determining whether weaknesses existed and in identifying the causes of those weaknesses. Under present circumstances, we fear that the weaknesses we found will persist unless management changes its ethical and operating philosophy and addresses those weaknesses.

A detailed discussion of the DHS response is included as an appendix to this report, and the full text of the DHS response follows the appendix as an addendum.

FINDINGS AND RECOMMENDATIONS

DHS must improve its controls over the eligibility determination process with respect to ensuring that its investigative guidelines have been followed when families are found to be ineligible for shelter. Also, DHS is not accurately reporting the reason that some families are determined to be ineligible for benefits.

DHS has established a number of guidelines to govern the overall process of determining eligibility for temporary housing benefits for homeless families. However, in instances in which families are determined to be ineligible for temporary housing, DHS has not implemented sufficient controls to ensure that its investigative guidelines for determining eligibility are followed by its staff in a consistent manner. For 32 sampled cases in which families filed more than one application (encompassing 138 applications), DHS staff did not consistently adhere to its procedures when processing the applications and determining eligibility for 7 (22%) of the cases. As a result, families were delayed or denied assistance for which they may have been eligible.

We did find that PATH staff responsible for the eligibility verification process generally followed DHS guidelines for meeting with applicants in an initial screening, scheduling eligibility assessment conferences within the required time frame after the filing of the application, and referring applicants who claimed to be victims of domestic abuse to NOVA. However, these positive aspects are mitigated by the weaknesses in the eligibility determination process cited above.

Based on the evidence maintained in the case files sampled, neither we nor DHS could ascertain whether there were sufficient efforts to investigate applicants' situations before making determinations of eligibility. The absence of controls to ensure that guidelines are consistently followed increases the risk of incorrectly denying temporary housing benefits.

The details of these findings are discussed in the following sections of this report.

Failure To Ensure That Policies and Procedures Are Followed

Of the 51 cases sampled, 32 involved families who applied two or more times for temporary housing assistance. Our review of these 32 cases revealed that DHS personnel did not consistently adhere to existing policies and procedures, as outlined in *Guidelines for Eligibility Investigations*. In 7 (22%) of the 32 case files, DHS staff failed to comply with eligibility guidelines with regards to (1) the verification of a two-year housing history, (2) the provision of assistance to families, and (3) the provision of accepting the primary tenant's statements in light of other circumstances.

In failing to follow eligibility guidelines, DHS staff placed an undue burden on families in need of assistance, whereby two of the seven families were found not eligible after filing 3 and 16 applications respectively, and another five families, while eventually being deemed eligible, had to file from 3 to as many as 23 applications each.

The details of this finding are discussed below.

DHS Does Not Adhere to Guidelines to Verify a Two-Year Housing History

DHS does not ensure that its staff adheres to the guidelines related to the verification of a two-year housing history. As a result, it is more likely that applicants may be forced to remain homeless while they unnecessarily reapply for housing several times.

The *Guidelines for Eligibility Investigations* contains the rules that staff are required to follow when determining whether a family is eligible for temporary housing assistance. One of the requirements established by DHS is that a family must provide its housing history for the preceding two years. However, the guidelines allow for exceptions. The guidelines state the following:

“An applicant who has cooperated with the investigation but has not been able to provide requested information or documentation relating to housing history or other circumstances should be found eligible if the agency has nonetheless been able to verify through its investigation that the applicant is without other housing options. . . .

“The investigator must be careful however, to distinguish between incorrect or inconsistent information from that which is false or misleading. The former may be simply the result of poor recollection. For example, an applicant who has resided in several places in the recent past may have difficulty remembering the exact addresses and time spent at each address. . . .

“Minor discrepancies, such as an inconsistency in the recall of names, dates or addresses relating to residences several years past, should generally not form a basis for a finding of non-cooperation, particularly where the applicant has otherwise cooperated with the investigation.”

State and City guidelines also call for DHS to provide assistance to families in obtaining verifiable information for their applications.

According to the New York State Administrative Directive 94 ADM-20,

“When assistance in obtaining information or documentation relevant to the verification of eligibility is required from an applicant, the district will attempt to assist the applicant to obtain such information or documentation, if necessary.”

In addition, according to *Guidelines for Eligibility Investigations*,

“The agency is required to make reasonable efforts to verify eligibility and to assist clients in obtaining documentation needed to do so. Agency staff are

expected to pursue all reasonable avenues of verification when investigating an applicant's eligibility. . . .

“The applicant should be informed about alternate documents that will satisfy the verification requirement, and staff should, where necessary, assist the applicant in obtaining such documents or other verification.”

According to these guidelines, staff and investigators have some leeway when seeking to establish the housing history of applicants. The failure of an applicant to provide certain information in and of itself is not sufficient to deny an application. DHS staff have an obligation to ascertain whether a lack of information is an attempt by a family to purposely withhold information or mislead investigators. Additionally, DHS staff are obligated to assist clients in obtaining the information needed to determine their eligibility. If the investigator or caseworker determines that a family is being cooperative, the application may nonetheless be approved.

Of the 32 sampled cases involving families who applied two or more times, 9 cases were declared ineligible one or more times due to non-cooperation. Our review of case files, however, identified four cases (44%) in which DHS guidelines were not followed before making that determination. Consequently, the finding of non-cooperation appears to be incorrect, resulting in families being delayed in getting needed shelter, or denied assistance for which they may have been eligible.

In one case involving a family of two adults and two children, the family filed 10 applications during our scope period and 13 applications prior to our scope period for a total of 23 applications. The reason cited for the determinations of non-eligibility was non-cooperation in providing verifiable information for prior residences. The family had been able to provide an address for all 10 prior residences in which they had lived. In addition, according to the notes of the legal staff, the family was cooperating with DHS in the investigation and DHS had been able to rule out all prior residences as viable housing options. Nevertheless, despite the family's cooperation and despite the fact that all 10 prior residences had been precluded as viable housing options, the family was repeatedly denied eligibility on the basis that DHS had not been able to verify the length of stay for 5 of the prior residences. By the 23rd application, DHS finally decided that the family should be declared eligible for temporary housing assistance, even though the length of stay for one of the housing options still remained unverified. Consequently, it is doubtful whether all of the previous assistance denials were justified. In total, the family filed 23 applications over the course of nine months before receiving housing assistance from DHS.

DHS Response: “The Comptroller contends that the Applicant cooperated during the investigation. . . .When the Applicant provided contact numbers for the landlords of these locations, the Agency promptly contacted these individuals in an attempt to verify her claimed length of stay. . . .Even assuming DHS should have found Family One eligible on an earlier application, the controls built into the Eligibility Process worked. There was no limit on the number of times Family One could apply for shelter.”

Auditor Comment: It is not *our* contention that the family cooperated during the investigation, but is the contention of DHS legal staff upon review of the case. Moreover, DHS did not make all efforts to corroborate information provided by the family. In fact, various missteps occurred throughout the application process. For example, the ineligibility determination for this family was repeatedly enforced despite the fact that according to the case files, DHS had already verified one of the five residences in question by the sixth application and had exceeded the requirement for a two-year verification period for the second residence in question by the ninth application. Furthermore, DHS officials were remiss in meeting investigation requirements, since they did not conduct the required investigations for the third and fourth residence in question until the 19th application. In addition, according to the case records, DHS had contacted the landlord for the remaining residence in question by the eighth application. However, he was unable to verify that the family had resided with the primary tenant, and DHS had not been able to reach the primary tenant. DHS's inability to verify a prior place of residence should not result in the penalization of the family.

Finally, DHS cites the sheer number of applications as an indication of effective controls built into the eligibility process. With this rationale, it was not until the 23rd application that DHS decided the family should be declared eligible for temporary housing assistance, even though one of the housing options still remained unverified. Had the controls in place been functioning properly, it is doubtful that the family would have had to file 23 applications prior to being deemed eligible for housing. Contrary to DHS's assertions, the fact that the family was required to file this many applications is evidence in and of itself that the controls within the eligibility process were not functioning in the intended manner.

Another case involved a family made up of two adults, a man and a pregnant woman, who had a documented history of drug abuse. This family was initially denied assistance for lack of cooperation in providing verifiable information for prior residences. According to the case file, the two adults had difficulty recollecting their whereabouts for the two years preceding the applications for services. However, by the third application, they had been able to provide information for all seven of their prior places of residence. Although DHS staff were able to verify that the couple lived in six different locations and were using drugs, they were unable to verify that the couple had resided at one particular residence. DHS staff attempted to contact the facility where the couple claimed they resided, but were directed to an automated system and were unable to speak with anyone. Rather than performing a field visit to verify the couple's stay at the residence, DHS denied them eligibility on the grounds of being non-cooperative.

DHS Response: "The initial finding of non-cooperation was based on Family Two's failure to submit any documentation to support their claimed length of stay at a Residential Treatment Facility. . . ."

Auditor Comment: As stated above, the family did provide information for all seven prior places of residence. However, when DHS staff attempted to verify information for this facility, they were directed to an automated system. Rather than performing a field

visit as part of the investigation process, however, DHS staff chose instead to deem the family non-cooperative and ineligible for temporary housing assistance.

At that point, the pregnant applicant went to live with her mother, with whom she had not lived for 15 years because of the applicant's drug addiction. The mother had custody of the applicant's two existing children through an Administration for Children's Services (ACS) mandate. Once that occurred, DHS determined that the applicant now had a viable housing option, despite the mother's written statement that the applicant could not live in her home. There was no evidence in the case file that DHS contacted ACS to determine whether that residence should have been excluded because of the applicant's drug habit and the influence that it might have on the two children being raised by the grandmother.

The only evidence in the case file regarding contact with ACS was a note by the family worker stating that they had contacted ACS and that there was no "active ACS case." DHS later provided us with two additional documents that were not initially in the case file, consisting of an ACS referral, as well as a referral to the ACS counterpart in Nassau County, which had not been previously mentioned in the case file. Although the referrals were an attempt to determine whether there were any active ACS cases pertaining to that family, they were insufficient. In other cases with referrals, the records showed that DHS personnel placed telephone calls to ACS to gather additional information as a result of the referral. However, in this case there was no indication that DHS delved into the circumstances to ascertain the influence that the mother's drug habit might have on the two children. As a result, the applicant was sent to her mother's place of residence, where the mother then had to file for an Order of Protection with the police against the applicant, barring her from entering the mother's place of residence.

DHS Response: "Though the [primary tenant] had custody of the Applicant's children, the Custody Order itself, which DHS thoroughly reviewed and considered, granted the Applicant visitation rights and did not preclude the Applicant from living with her children. Further, prior to recommending this as a housing option, DHS referred the case to ACS and was informed that no active case existed.

"While the Comptroller contends that these efforts were insufficient, citing other cases in which DHS staff placed calls to ACS workers following referrals, this conclusion is baseless. DHS staff places calls to ACS workers when informed that the family has an active ACS case."

Auditor Comment: There was no evidence in the case file of a Custody Order, nor did the case notes refer to the applicant's visitation rights. Accordingly, we cannot give credence to DHS's assertion. The information contained within the case file was the applicant mother's claim that her daughter had not lived with her in 15 years as a result of her drug addiction. Based on the fact that there were young children involved, this case should have received greater scrutiny so as to ensure that their lives were not placed in jeopardy. However, as stated earlier, there was no evidence in the case file that DHS contacted ACS to determine whether that residence should have been excluded because of the applicant's drug habit and the influence that it might have on the two children being raised by the grandmother. DHS's contention that phone calls to ACS were

unnecessary is inconsistent with prior actions taken by DHS in these types of circumstances.

In processing this case, DHS did not review the totality and unique circumstances pertaining to this case, as required by New York State Administrative Directive 94 ADM-20. Based on the guidelines, it is appropriate to reject an application if an applicant provides false or misleading information, but there is no evidence in the file that DHS found this to be the case for the couple. Therefore, the rationale for the rejection of this case is unsupported as it resulted in the applicant's return to her mother's residence, where, despite the effect on her children, DHS determined that the applicant now had a legitimate and viable housing option. Consequently, it is questionable whether all of the previous assistance denials were justified. In total, this family filed six applications over the course of four months and was deemed eligible for temporary assistance only after the applicant provided DHS with the mother's Order of Protection against her.

Although the guidelines state that efforts should be made to assist applicants in getting required information, the guidelines do not specify or provide parameters as to what those efforts should entail. Instead, it is left up to the interpretation of each DHS employee processing the case. One such case involved a family comprising the applicant and three children. The family had resided in two different places, and although the applicant had been able to verify one of them, she had not been able to do so for the other one, which was in Virginia. The applicant claimed to have been evicted from that place of residence. However, DHS was unable to reach the landlord to verify this claim and as a result, the mother and children were denied assistance for temporary housing. By the time she filed her third application, the applicant presented DHS with a letter from a medical center in Virginia addressed to her at the Virginia residence. However, DHS neither accepted the letter as proof of residency in Virginia nor assisted the family in obtaining further evidence to indicate that they had lived in Virginia. It was not until the family applied for the fourth time and provided DHS with a telephone number for the children's school in Virginia that DHS contacted the school to verify residency. There is no earlier evidence that DHS took any steps to assist the family and verify that they resided in Virginia. Had DHS done so, it most likely would have been able to obtain the required information earlier. Consequently, it is doubtful whether all of the previous assistance denials were justified. In total, this family filed four applications over the course of three months before being deemed eligible.

DHS Response: "First, it is important to note that Family Three left the system on their own during their first application, and were diverted on their second application. . . . despite being issued two appointment slips requesting information and documentation the family provided only an incorrect contact number for the landlord and a single letter addressed to the location. . . . DHS had no way to further assist the Applicant to verify her claimed period of stay at this location.

"On Family Three's fourth application, they provided, *for the very first time*, contact information for their child's school in Virginia. The agency contacted the school, verified the family's claimed length of stay, and shortly thereafter found Family Three eligible for shelter."

Auditor Comment: According to the case records, as early as her first application, DHS was aware of the applicant's residence in Virginia as well as her subsequent eviction. Although we acknowledge that the applicant left the system during the first application and was diverted by the second application, we have no way of knowing why the applicant left the system because DHS does not record this information. Nevertheless, since DHS officials had the applicant's full housing history as early as the first application, they should have used all of its resources to assist the applicant by the third application rather than waiting for the fourth application—including contacting the State Marshal's Office in Virginia to verify the claim that the applicant was evicted. In fact, the case records show no indication that DHS ever contacted the State Marshal's Office.

DHS officials also claim that they issued appointment slips specifying the outstanding information. Once again, this is the standard procedure that is required in all cases and does not qualify as rendering assistance unique to this particular family. Finally, DHS officials contend that they contacted the son's school in an effort to assist the applicant. However, they did this only *after* the applicant provided the phone number on her own. (There is no evidence that DHS requested this information.) Furthermore, DHS made no effort on its own to obtain this information although it could have been easily obtained through a phone directory.

DHS officials should have made reasonable efforts to verify eligibility and to assist the applicant in obtaining documentation by pursuing all reasonable avenues of verification. Reasonable efforts include using all available resources and obtaining the names and phone numbers of the schools attended by the applicant's children rather than waiting for the applicants to provide the information. In fact, contrary to its guidelines, the case records do not reflect any assistance offered by DHS until the fourth application.

In another case, DHS denied an application because the family could not provide evidence to prove that they stayed at a particular residence for three weeks. The family listed the applicant's sister's home as a prior place of residence for a three-week period of their housing history. DHS had made several unsuccessful attempts to contact the sister to verify the place of residence and then met with her husband, who recalled that the family had lived with them but could not remember the dates. The case files indicate that DHS denied them housing because the family was unable to prove that they resided at that particular residence during a particular three-week period. There was no evidence in the case files that DHS informed the applicants of alternate documents they could submit that would enable them to prove their length of stay for a three-week period, nor did we see evidence that DHS assisted the applicants in obtaining that information.

When we questioned DHS officials as to what would be considered sufficient proof of a three-week residency, they replied that documents such as letters from the sister or names and contact numbers for other collateral sources (i.e. landlord, building superintendent, neighbors, social worker, etc.) who could verify her stay at the residence. However, there is no evidence in the case file that DHS staff informed the applicant of the particular documentation that was acceptable. Rather, the case file contained a standard request form that is given to all applicants stating that the applicant bring "proof of residency." Moreover, the family did provide the

contact information for the primary tenant, the sister. There is no evidence that DHS's inability to contact the sister was a failure on the part of the applicant. Nevertheless, DHS used that as a basis to deny assistance to the applicant. The family was not deemed eligible until DHS was finally able to interview the sister and confirm the period of time that the family stayed at the residence. In total, the family submitted seven applications over the course of four months.

DHS Response: "Family Four was given notice regarding the types of documentation they could submit to verify their claimed length of stay at this location. Like all families applying at PATH, upon their initial application, Family Four was provided a copy of the 'Welcome to Path' packet. Section 10 of this packet . . . provides specific examples of documents applicants may provide to assist the Agency's investigation. . . ."

Auditor Comment: In its response, DHS fails to address our initial concern as to the reasonable expectation of producing documents to verify a three-week residence. Instead, DHS continues to maintain that the same "Welcome to Path" packet given to assist a family in providing information of multiple years of residence, would also suffice for a family with a three-week residency. However, the examples in the packet were not appropriate to verify a stay of only three weeks at a residence. This case was unique in circumstances and required additional guidance that DHS did not provide. According to the case records, the applicant appeared for all the scheduled appointments. However, the case records make no mention of any guidance provided to the applicant to assist her in producing the required documentation. During the scheduled appointments, when the applicant had been unable to produce any documents as proof of residency, instead of providing guidance needed for this specific case, officials denied eligibility to the applicant on the grounds of non-cooperation.

Guidelines Regarding Primary Tenant Statements Are Not Followed

DHS does not ensure that its staff adheres to its guidelines when processing applications that require the evaluation of a primary tenant's oral or written statements prior to determining eligibility.

According to *Guidelines for Eligibility Investigations*:

"Statements, whether written or verbal, by either the prime tenant, owner or landlord of a residence as to the availability or unavailability of a location to family seeking shelter constitutes evidence of the truthfulness or validity of the asserted statement. In order to reach a conclusion as to the availability of a location contrary to any such statement, there must be sufficient evidence in the case record to overcome this presumption of truthfulness. Such evidence, which must be adequately described in the case record, may include:

- a) Lack of authority by the author of the statement;

- b) Collusion between the applicant and the primary tenant, owner or landlord in an effort to create the appearance of the unavailability of temporary housing;
- c) Prior or subsequent inconsistent statements or conduct by the author of the statement or someone of equal or superior control over the location; and
- d) Other evidence of equal or greater credibility that the statement is contrary to fact. . . .

“DHS staff must do the following before any family can be determined ineligible. . . . Accord presumptive validity to statements offered by or on behalf of the person in control of a housing resource, concerning its availability and evaluate such evidence in light of other evidence in the case record.” (Emphasis in original.)

According to these guidelines, DHS should take all available evidence into consideration when evaluating the statements made by a primary tenant. In the absence of conflicting evidence, the statements of the primary tenant should be seen as credible. Of the 32 sampled cases involving families who applied two or more times, 15 cases were declared ineligible one or more times because the applicants were deemed to have other housing options. Our review of case files identified three cases (20%) in which DHS guidelines were not followed before making that determination. Consequently, DHS’s belief that applicants had other housing options may have been incorrect, resulting in families being delayed or denied housing assistance for which they may have been eligible.

In one case, a family (the applicant and her toddler) was found ineligible because DHS determined that there was a viable housing option with a friend, where the applicant had resided for the previous eight months. The housing option was considered viable despite the fact that the friend submitted a notarized letter to DHS stating that the applicant could not live there because the residence was overcrowded, as the friend was already living with four children in a one-bedroom apartment. The friend also complained that the applicant was unable to assist with rent and other expenses. The applicant even submitted a letter from the Coalition for the Homeless, which recommended that DHS reevaluate its prior decision and review the applicant’s claim that the friend’s residence was overcrowded.

When DHS first inspected the friend’s residence, her husband was not living with her. By the second DHS inspection, the husband had returned, thereby adding to the already overcrowded conditions in the apartment. There was no evidence that DHS staff determined the friend was not credible. Nevertheless, DHS failed to accord presumptive validity to the friend’s claims that there was no space for the applicant. DHS continued to deem the applicant ineligible for services. The applicant was deemed eligible for services only after a State Fair Hearing ruled that “the credible evidence does not support the Agency’s contention.” The State Fair hearing also determined that the friend was in fact being truthful and that the residence was overcrowded. Consequently, it appears that all of the previous assistance denials were not justified. In total, this family submitted three applications over a period of three months.

DHS Response: “On the Family’s first application, DHS conducted a field investigation of the [primary tenant’s] home and determined that the residence was not overcrowded. Also, on this first application, the [primary tenant] did not claim overcrowding as the reason the Family left; rather the Family left after the applicant had lost her job and could no longer contribute to rent.

“Although the Family successfully challenged the Agency’s second ineligibility determination at Fair Hearing, the reversal was not based upon a finding that DHS had failed to consider the [primary tenant’s] objections to the Family’s return but upon the . . . finding that the [primary tenant’s] claim of overcrowding was credible.”

Auditor Comment: As stated above, despite the fact that the applicant claimed she left her prior place of residence as a result of overcrowded conditions in a one bedroom apartment occupied by the primary tenant and her four children, and the applicant and her own child, DHS still felt that this was a viable place of residence. During the first application, DHS also ignored the primary tenant’s claim that the applicant lost her job and was unable to contribute to the rent. Despite the return of the primary tenant’s husband by the second application, despite the change in circumstances, and despite a corroborating letter from the Coalition for the Homeless, DHS continued to ignore the primary tenant’s reasons for the applicant no longer being able reside with her.

In the second case, an applicant (who was pregnant) was found ineligible because DHS determined that she had a viable housing option with her boyfriend and his mother. The mother, who was the primary tenant, stated that (1) the apartment was overcrowded and (2) she did not want the applicant to reside there. The applicant submitted numerous applications, each time claiming that she was not able to return to the primary tenant because she was not wanted there. There is no evidence to indicate that DHS did not consider the primary tenant to be credible, nor is there any evidence that DHS obtained other information to refute the primary tenant’s statement. Nevertheless, DHS determined the applicant to be ineligible for assistance, apparently giving no consideration to the primary tenant’s statement that she was not welcome back in her home. By her seventh application, the applicant provided a letter from a contract agency affiliated with ACS stating that her prior place of residence (i.e., with her boyfriend’s mother) was “deemed as unsafe for children as the person(s). . . who were residing there were of a violent demeanor and the child would be risk.” The letter goes on to say that in order for the applicant to be reunited with her child, ACS required that she first have a safe and stable residence, without the fear of eviction. There is no evidence that DHS took these statements into account, as required by its guidelines.

When we discussed this case with PATH staff, they told us that every attempt is made to provide the applicants with stable environments so as to facilitate the reunification of parents with their children. However, we did not find this to be the case with this particular applicant. The applicant gave birth on June 10, 2008, but DHS did not change its determination of ineligibility. According to additional records provided to us by DHS⁶ two months afterwards, the boyfriend’s mother’s home was no longer deemed as a viable housing option because of a

⁶ The additional information was not within of our scope period and was not in the case file at the time of our review.

domestic violence issue. Moreover, although this residence was removed as an option, DHS did not indicate whether this applicant was determined to be eligible for assistance. In total, the applicant submitted 16 unsuccessful applications over the course of ten months. Based on the information received from DHS, we doubt that all of the prior assistance denials were justified.

DHS Response: “Though the [primary tenant] stated that the location was overcrowded, the Agency’s investigation refuted this claim, revealing that adequate space and bedding for Family Six in fact existed at the home. It was not until the Applicant’s final application that she alleged, *for the first time*, that she had domestic violence issues with the current girlfriend of her child’s father. DHS immediately referred the applicant to NoVA for an assessment and found her eligible for shelter upon NoVA’s preclusion of the grandmother’s home.”

Auditor Comment: In its response, DHS focuses solely on the claim of overcrowded conditions and continues to ignore the primary tenant’s argument that she did not want the applicant to reside with her. In addition, as stated earlier, by the seventh application, DHS was in possession of a letter from a contract agency affiliated with ACS stating that her prior place of residence was “deemed as unsafe for children as the person(s). . . who were residing there were of a violent demeanor and the child would be risk.” DHS was fully aware of the implications of sending the applicant back to this environment, yet rather than investigating the situation, DHS chose once again to ignore the potential of danger, resulting in a situation of domestic violence. In addition, although DHS now claims that the applicant was found eligible for shelter, we were provided only with evidence that NoVA (HRA’s No Violence Again unit) precluded the grandmother’s home as a viable place of residence but no evidence to indicate that the applicant was found eligible for shelter.

DHS’s failure to accept presumptive validity of statements offered by the person in control of a housing resource places a heavy burden on all parties involved. The primary tenant has no legal responsibility for the homeless family and is not required to take a family back into residence. In this case, as in the others we cite, DHS staff should have examined and evaluated the case based on the “totality of the circumstances,” as required in DHS guidelines.

In the third case, an applicant and her son were declared ineligible because DHS determined that they had a viable housing option with the applicant’s sister in Puerto Rico, where she had resided for over a year. A phone interview with her sister confirmed the applicant’s claim that the sister threw them out of her apartment because she found the applicant’s mildly retarded and hyperactive son to be uncontrollable. The sister claimed that the applicant’s son frequently broke things in the house and hit her two children. She insisted that she did not want the applicant and her son to reside with her. There is no evidence to indicate that DHS did not consider the primary tenant to be credible, nor is there any evidence that DHS obtained other information to refute the primary tenant’s statement. However, not only did DHS fail to “accord presumptive validity to statements offered by or on behalf of the person in control of a housing resource,” it also ignored a recommendation made by both the Team Leader and Family Worker, who, upon evaluating the totality of the case, determined that “this address is not recommended due to applicant’s son uncontrollable behavior. He is a hazard to primary tenant and her family.”

Despite the sister's objections and contrary to the recommendation of the Team Leader and Family Worker, DHS legal staff denied eligibility on the grounds that a viable housing option existed with the applicant's sister. DHS legal staff stated that there was a "lack of hazardous condition," amongst other things, in the previous place of residence. There is no indication of the evidence that DHS legal staff used as basis of its determination that there were no hazardous conditions. Consequently, we question whether the previous assistance denials were justified. In total, the applicant submitted three applications over the course of two months and was not found eligible for assistance.

DHS Response: "DHS did consider the [primary tenant's] claim that her sister and her son could no longer reside with her . . . because of the Applicant's son's 'uncontrollable behavior.' However, given the close familial ties, the Family's prior length of stay and the absence of a medical opinion attesting to a substantial medical issue with the [primary tenant's] home or a substantial risk to the [primary tenant's] health or safety were the Family to return there, DHS concluded that the [primary tenant's] home was an available housing option. Notably, after Family Seven was last deemed ineligible over one year ago, they have not reapplied for shelter."

Auditor Comment: We saw no evidence in the case file, nor has DHS provided any evidence in its response, that the primary tenant's arguments or the Team Leader's and Family Worker's recommendations were taken into account. It appears that DHS has a preconceived notion that regardless of the situation, as long as the family has resided there in the past, any claims of hardship are automatically disregarded. As stated in the report, DHS was made aware of safety risks, yet the legal staff chose to ignore those.

It is interesting to note that DHS believes that the fact that the family has not reapplied for shelter in over a year is a sign of their no longer requiring housing. In doing so, DHS discounts the distinct possibility that the family, still homeless, may have given up hope of obtaining assistance from DHS and that applying again would be fruitless.

In each of the three cases, the primary tenant strongly opposed the applicant's return to the residence. However, contrary to DHS guidelines, that opposition was ignored by DHS staff when processing the applications although they had no evidence to refute or question the primary tenants' statements. In fact, in each of the three cases referring to this issue, we found no evidence in the case files to indicate that DHS granted presumptive validity to any statements offered by the primary tenants, nor did we see an attempt by DHS to evaluate the case either as a whole or based on other contributing factors. The single criterion evident from the case files in DHS's rendering of its decisions was that all of the decisions rested only on the primary tenant's written or oral statements. DHS did not take any of the other circumstances described in its own guidelines into account prior to rendering a decision.

Guidelines Regarding Investigations of Prior Residences Are Not Always Followed

DHS does not ensure that its field investigators adhere to its guidelines when performing investigations of all prior places of residences. In the three cases cited above with multiple

applications, the quality review staff had to instruct the investigators to conduct investigations of additional residences in case the applicants reapplied. By not performing full investigations of all previous residences, the investigators may cause an unnecessary delay in the investigation process.

According to *Guidelines for Eligibility Investigations*, “The agency is required to make reasonable efforts to verify eligibility.” In addition, the guidelines go on to state that “DHS staff must do the following before any family can be determined ineligible. . . .[And] conduct an adequate investigation to make sure that the [other housing] resource is actually available.”

However, the guidelines do not specify or provide further instructions as to what those “reasonable efforts” should entail, nor do the guidelines elaborate on what is considered an “adequate investigation.” In addition, the guidelines are silent about whether multiple investigations are required should an applicant have several prior places of residences of which one is immediately deemed ineligible because it cannot be verified. Instead, the adequacy of such investigations is left up to the interpretation of each DHS employee processing the case. Consequently, for three of the seven previously-cited cases, DHS investigators did not perform investigations of all residences cited on the applications and had to be instructed by quality review staff to do so.

In one example previously cited in the report, a couple had been unable to verify all their residences within the previous two years. Since that couple had already been deemed ineligible on the basis of non-cooperation (for not providing that information), the investigators did not bother conducting investigations of all the other prior residences listed on the application. During the quality review, the investigators had to be instructed to perform field investigations of the other residences. Had the couple eventually been able to recall all the prior places of residence, the earlier lack of a complete investigation into all of the known prior places of residence would have inevitably delayed a reapplication process, since the field investigators would have required additional time to perform those investigations.

Similar reasons existed for the other two cases not being fully investigated, where during the course of the initial investigation, the Family Worker discovered that there were problems with verifying other places of residence. As a result, DHS deemed the applicants ineligible. However, DHS staff did not bother to perform a complete investigation of all the other residences in the event that the applicants reapplied until they were instructed to do so by quality review staff.

When we discussed these cases with the Family Workers and Team Leaders involved in these cases, they confirmed that an investigation of all residences was required under these circumstances. In fact, according to one of the Team Leaders, “they should always assess every location, regardless of the outcome of the first one.” By not performing complete investigations at the first application, DHS staff may cause untimely delays if the reasons applicants were initially deemed ineligible are resolved.

DHS Response: “The Comptroller concludes that in three of the seven cases, DHS should have investigated all the residences listed on the applicant’s two-year housing

history before determining that the family was ineligible either because they had an available housing option or had failed to cooperate with the investigation. This is not required under DHS' Eligibility Process or Guidelines; nor is it operationally practical or sound. . . .

“However, if by the tenth day, the investigation reveals that the applicant has an available housing resource but has not determined the availability of all remaining addresses, the Agency will find the family ineligible for shelter and reserve judgment with respect to other as-yet-unexplored housing options. To ‘reserve judgment’ means that in the event the family re-applies, DHS will investigate those locations upon which it previously reserved judgment. The Agency also will investigate the prior recommended housing option to the extent a re-investigation is warranted, *i.e.*, as a result of new information or changed circumstances.”

Auditor Comment: DHS's argument does not apply to the families we cite in this report, which are the ones denied eligibility on the basis of non-cooperation. In each of the three cases cited, the investigations ceased when DHS determined that they were unable to verify one of the prior places of residence, thereby delaying the process. In fact, DHS investigators had to be instructed by quality review staff to conduct the investigations. These were not the cases that DHS had already determined had a viable housing option, but rather cases, for which, through no fault of the applicant, DHS had been unable to verify a prior place of residence.

PATH Staff May Not Be Familiar with Procedures Related to Determining Eligibility

DHS's failure to ensure that cases are processed in accordance with all of its eligibility guidelines not only delays the application process but increases the risk that determinations of eligibility may be incorrect. One possible reason why cases are not processed in accordance with eligibility guidelines may be that DHS does not ensure that all PATH employees are familiar with procedures related to determining eligibility. As a result, DHS employees do not always process applications or determine eligibility in accordance with DHS standards.

According to DHS officials, “The staff at PATH continue to use the PATH Manual . . . as a reference tool with respect to policies and procedures that remain in effect and that govern the intake and eligibility process at PATH.” We interviewed seven PATH staff—three Family Workers, two Team Leaders, and two senior Team Leaders—to determine whether they were familiar with the guidelines. None of the seven staff were able to produce a copy of the PATH Manual, and only one was able to produce a copy of the *Guidelines for Eligibility Investigations*. Moreover, the three Family Workers stated that they had never seen the PATH Manual.

We asked three of the seven PATH staff—two Family Workers and a Team Leader—to describe the initial training they received as new employees. Each of them stated that training consisted of a little over a week in a classroom setting, followed by three to five days observing

an experienced family worker. After that, the employees were faced with their own caseloads and were told to direct any questions to the supervising Team Leader.

It is essential for all PATH employees not only to be thoroughly familiar with the policies and procedures, but to also have access to these procedures in writing so that they can refer to them in case questions arise during the course of processing applications and determining eligibility. It is equally important for PATH employees to receive adequate training when first starting their employment. Training is an integral part to the success of an organization and ensures that employees are obtaining the knowledge and skills relating directly to the performance of their responsibilities.

It is also of concern that the controls established by DHS to help ensure that incorrect decisions do not occur appear not to be functioning as intended. DHS requires that each of the case applications be reviewed by the Team Leader and by the legal staff as part of its internal control process. Despite the fact that the case files in each of the seven cases cited contained evidence of review by the Team Leaders and legal staff, we nevertheless found evidence that applications were not processed in accordance with DHS guidelines. By not ensuring that its staff adheres to the eligibility guidelines when processing applications, DHS is lending credence to these improper decisions, thereby, increasing the risk that errors may occur in the final eligibility determination.

As stated earlier in this report, prior to October 2007, a family previously deemed ineligible for temporary housing assistance was automatically placed in an overnight shelter if they reapplied at PATH after 5:00 p.m. According to City officials, this procedure was changed because it was being repeatedly abused by ineligible families. Currently, families determined by DHS to be ineligible who reapply⁷ must arrive at PATH after midnight to be automatically placed. Those arriving before that time do not receive overnight shelter unless they first demonstrate a material change in circumstances. In changing this policy, the consequences of any errors in the review process that result in families being erroneously deemed ineligible is increased. Therefore, it is vital that DHS ensure that the eligibility review process is conducted correctly and that any such errors are minimized.

We acknowledge that the eligibility review process is not an exact science and should be treated on a case-by-case basis. However, by not ensuring that its staff follows all of its guidelines, DHS is creating an increased risk that applications will not be processed correctly and that applicants will remain homeless.

For the seven families cited above, a total of 47 applications were filed during Fiscal Year 2008. Of these applications, 26 were denied because the families were either deemed to be non-cooperative or deemed to have another housing option. (For the remaining 21 applications, the applicants did not complete the process in 17 instances and 4 applications were approved by DHS.) Our review of the documentation related to these 26 applications revealed that all but one of them contained insufficient evidence that staff followed the investigative guidelines when making the determinations of non-cooperation or other housing options. One application did contain sufficient evidence that staff followed guidelines when it made the determination of

⁷ Reapplications made within 90 days of being found ineligible.

ineligibility. However, this family filed six applications during our review period before they were deemed eligible by the seventh application. Of the remaining five applications that were denied by DHS, three were denied for non-cooperation and two were withdrawn by the family. Of the three denied for non-cooperation, DHS files did not indicate that PATH staff fully followed investigative guidelines when making those determinations.

In an effort to ensure that it operates in the best interest of the families seeking shelter, DHS must ensure that its staff is thoroughly familiar with the procedures and that eligibility determinations are made in accordance with those procedures. In doing so, DHS should also ensure that the reviews of eligibility determinations by the Team Leader and the quality review units consist of evaluating all the evidence in the case in accordance with DHS and State guidelines.

Recommendations

DHS should:

1. Improve its oversight of the eligibility determination process and ensure that the Team Leaders and quality review staff diligently review the case files and assess eligibility in accordance with the guidelines.
2. Modify its guidelines to reflect further action that investigators are required to take when one of the multiple prior residences cannot be verified, so as not to delay the eligibility process.
3. Ensure that training, both initial and ongoing, is adequate so that employees are thoroughly familiar with and adhere to all DHS policies and procedures when processing applications and determining eligibility.

DHS Is Not Accurately Reporting The Reasons for Ineligibility

DHS is not accurately categorizing and reporting those families who through no fault of their own cannot provide all of the required information, thereby giving misleading reasons for deeming families ineligible.

DHS uses a number of codes to define the status of each family that applies for homeless services. The following lists the major codes and what they signify:

Code	Definition
YY	Eligible—approved for temporary housing assistance
XX	Ineligible—has other housing options available
XA	Ineligible—due to non-cooperation
WA	Withdrawn—did not appear before the Eligibility Investigation Unit. Logged out
WW	Withdrawn—made own arrangements. Left system during investigation

As shown, a family that is assessed as ineligible due to non-cooperation is categorized as XA. DHS uses this category to include families who deliberately do not provide requested information or fail to keep appointments.

However, according to *Guidelines for Eligibility Investigations*, “Only applicants who cannot provide a reasonable explanation why they cannot produce documentation or who otherwise refuse to cooperate on a substantial matter without good reason should be denied assistance for failure to cooperate.” The guidelines further state that,

“When assessing whether an applicant should be found ineligible for non-cooperation, the following factors should be considered:

Has the applicant attempted to provide the requested information? Does the applicant seem sincere in this regard?

Has the applicant been generally consistent with respect to the information he or she provided about the reasons for his or her homelessness, or do the facts keep changing?

Has the investigation verified the essential aspects of the applicant’s story, or have substantial discrepancies been revealed?”

We found 4 cases in our sample of 32 families in which the families were inappropriately categorized as non-cooperating. There is no evidence to indicate that their failure to produce the requested documents was a deliberate attempt to impede DHS’s investigation. Moreover, we saw no evidence in the case files to indicate that DHS staff attempted to consider any of the above-listed criteria prior to rendering a decision of ineligibility.

In an example cited earlier in the report, a family was deemed non-cooperative because they were unable to provide documentation of a three-week stay with a primary tenant. (As we also state earlier, DHS did not indicate the type of documentation that would be acceptable in this instance.) In another example cited earlier in the report, the family that had previously lived in Virginia was deemed non-cooperative because they were unable to verify the residence in Virginia. In these cases, even when DHS, through no fault of the applicant, is unable to verify the prior place of residence, the applicant is deemed non-cooperative. Not only is this categorization misleading, it is also contrary to DHS guidelines, which state that minor

discrepancies and an “inability to recall information or provide requested documentation is not a basis for ineligibility based upon non-cooperation where the applicant has otherwise been cooperative.” (Emphasis in original.)

By inaccurately classifying these cases as ineligible due to non-cooperation, DHS is providing misleading information to interested parties to whom the agency provides information in this area. By combining all the reasons for DHS’s inability to verify the two-year residence history under the one category of “non-cooperation,” DHS is inflating that category and not taking into account the actual reasons a family may not be able to provide all of the required information. Such oversimplified categorization compromises the ability of DHS management to discern and institute new procedures needed to assist the families in gathering the required information. DHS should ensure that it reviews the use of its “non-cooperation” category and that its staff report the actual and specific reasons families are found not eligible for services.

DHS Response: “The Comptroller concluded that DHS inaccurately reports the reasons for ineligibility. . . . This conclusion is based on the auditors’ misinterpretation of certain computer codes used to denote reasons why applicants are found ineligible for shelter. Families who are unable to provide documentation through no fault of their own are not assigned code “XA,” which is the code for “failure to cooperate” in CTS. Rather, code XA is assigned only when there is a valid basis for indicating non-cooperation, *e.g.*, the family failed to appear for appointments or provide a reasonable explanation as to why they could not provide documentation verifying their eligibility, or there were significant inconsistencies between what the applicant and the primary tenant reported concerning the applicant’s length of stay or the reason the applicant left the primary tenant’s residence.”

Auditor Comment: DHS is incorrect in its assertion. As we state in the report, DHS is not accurately categorizing and reporting those families who through no fault of their own cannot provide all of the required information, thereby giving misleading reasons for deeming families ineligible. Each of the cases reviewed that were categorized as “XA” were assessed as ineligible due to non-cooperation. Moreover, there is no room for “misinterpretation” of computer codes, since DHS officials admitted to us that the computer data provided to us did not distinguish between the various reasons for non-eligibility and were all coded as “XA.”

Although DHS officials have admitted to us that there are different categories for the XA ineligibility, they also stated that this would only be evident as a drop-down menu within their computer system itself and not visible in the final hard-copy printout. DHS officials also acknowledged that the different categories were not reflected in the case folders. When we interviewed the 11 PATH employees who were involved in processing our sampled cases, we found that most were not familiar with the different categories and stated that they entered a code of “XA” for all the different levels of non-cooperation, regardless of whether or not it was the applicant’s fault. In each of the four cases cited in the report, the reasons given for non-cooperation were not as a result of the applicant’s fault—a fact clearly not discernable with DHS’s current coding system.

Recommendation

4. DHS should ensure that it reviews the reasons for determining ineligibility and accurately reports detailed reasons families are found not eligible for services.

DETAILED DISCUSSION OF THE DHS RESPONSE

During the course of the audit, we had numerous meetings and correspondence with DHS officials to discuss the issues addressed in this report. All of our analyses of the controls over the determination of eligibility for temporary housing benefits for homeless families were based on objective criteria, as well as from evidence obtained from the DHS case records. In addition, this audit, as all with all audits conducted by the Comptroller's Office, was performed in accordance with Generally Accepted Government Auditing Standards (GAGAS). In conducting audits under these standards, the Audit Bureau takes strenuous measures to ensure that all ethical concepts such as integrity, objectivity, independence, and professional behavior are maintained throughout the course of the audit. This is a high priority for all audits in general and this audit specifically.

Nevertheless, in its response, DHS criticized the ethical foundation of this audit and objected to our methodology. DHS has claimed that various missteps and irregularities have occurred, thereby casting doubt on the integrity of our audit as well as on our findings. We have added this Appendix to record the main issues raised in the DHS response and our comments. (For the full text of the DHS response, see the Addendum of this report.)

Re: Sampling Methodology

DHS Response

The Comptroller's findings are premised in part on his determination that DHS staff failed to follow certain of the Agency's Eligibility Guidelines in determining the eligibility for shelter of 7 families — *or four hundredths of one percent of the 16,832 families who applied for shelter in FY 08*. The 7 families were drawn from a *non-random* sub-sample of 32 families. Although the Draft Report specifically acknowledges that these results were not "statistically projected to the respective populations from which the samples were drawn," the Report nonetheless concludes from these 7 cases that DHS lacks sufficient controls to ensure consistent application of its Guidelines in rendering eligibility determinations.

Auditor Comment

The claim that the audit methodology is flawed is incorrect. GAGAS does not require that audit sample results be statistically projected to the populations from which the samples were drawn. To do so in some instances could require prohibitively large samples. As stated in the report, to determine whether DHS processed applications in a consistent manner, we judgmentally selected a sample of 11 families who filed from 1 to 23 applications each, for a total of 72 applications, to obtain a cross-section of families applying once or numerous times. We did not have the case files at the time that we made this selection, and the judgment used in selecting these families was made in relation to the number of applications filed. We also randomly selected a second sample of 40 families who filed a total of 100 applications. Our two

samples, combined, included 51 families with a total of 172 applications. We reviewed all 51 case files to determine whether PATH staff adhered to DHS guidelines.

The 32 families are not a “sub-sample,” as claimed by DHS, but rather the results of our review of the sample of 51 families to determine whether DHS guidelines and procedures were followed by DHS personnel when they processed applications for families with numerous applications. Likewise, the seven families we cite in the report were not “drawn” as claimed by DHS. The seven families were identified as a result of our findings that DHS staff did not consistently adhere to DHS procedures when processing the applications and determining eligibility.

Re: Interviews of DHS Staff

DHS Response

In concluding that “DHS does not ensure that all PATH employees are familiar with procedures relating to determining eligibility,” the Comptroller relies in part on an auditor’s rushed and incomplete inquiry of seven PATH employees—out of an intake staff of more than 220. As these seven PATH employees confirm in their affidavits (annexed under Exhibit A), the auditor did not fully identify herself, disclose that she worked for the Comptroller’s Office, or identify herself as an auditor.

Auditor Comment

As discussed with DHS and as stated in the audit report, the lack of staff familiarity with procedures is only one aspect of a larger finding that DHS staff do not always follow DHS procedures when they deny shelter to families.

Moreover, DHS’s allegation that the auditor did not properly identify herself during the course of the interviews is false. During the course of the audit, DHS provided the auditor with a DHS identification card so that she could readily gain access to the facility. When interviewing the PATH staff, the auditor presented this identification card, which clearly stated that she was an auditor and not an employee of DHS. At no time during interviews with PATH staff did the auditor claim that she was a DHS employee. In fact, she provided the names of two PATH managers to the PATH employees being interviewed so they could verify her identity if they chose to do so.

Furthermore, we question the credibility of the seven affidavits provided by DHS. We did not provide DHS with the names of the individuals interviewed. Nevertheless, DHS took it upon itself to conduct a hunt to attempt to identify the persons of the individuals from a group of 220 employees. Given the apparent atmosphere of intimidation created by DHS, based on our observations, we question whether the affidavits were voluntarily provided by employees and absent any coercion by DHS. This question is more relevant in light of the fact that two of the affidavits (#3 and #5) were provided by employees who were not even among the seven interviewed by the auditor.

DHS Response

She showed two PATH staffers a few pages from a 141-page PATH Manual and apparently concluded that “PATH staff may not be familiar with procedures relating to determining eligibility” because the two employees who were interrupted in the course of their busy work did not identify the source of these pages.

Auditor Comment

When the interviews were conducted, the auditor produced sections of the 141-page DHS Manual only because those sections of the Manual were all that *DHS itself* had provided to the audit team at that time, despite the fact that since July 8, 2008, our team had made numerous requests to DHS for full copies of all standard operating procedures used by PATH staff. In fact, DHS failed to provide the audit team with the entire PATH Manual until May 14, 2009—10 months into the audit despite our repeated requests. Moreover, the auditor asked all seven employees she interviewed about their familiarity with the PATH Manual—not just two employees, as claimed by DHS.

DHS Response

Had the auditor appropriately identified who she was and properly interviewed these employees, she could have more fully assessed staff knowledge and placed these findings in the proper context. She also would have obtained a full picture of DHS’ comprehensive training program regarding the Eligibility Process.

Auditor Comment

The statement that had the auditor conducted a “proper” interview of the employees, auditors would have obtained a full knowledge of DHS’s comprehensive training program regarding the Eligibility Process is misleading. As stated earlier, when our auditors attempted to interview staff to obtain information related to the processing of sampled cases, DHS insisted that the interviews be conducted in the presence of a DHS attorney and a member of DHS Audit Services. Obviously, this had a chilling effect on DHS staff resulting in their being reluctant, and even visibly afraid, to respond to our questions.

DHS Response

All DHS personnel who are involved in the Eligibility Process, including reception workers, family workers, team leaders, managers, field investigators, attorneys, client advocates, and the Resource Room’s clinical social workers, receive extensive training upon hire, as well as periodic refresher training and training on new initiatives, policies and procedures.

Auditor Comment

On April 13, 2009, DHS provided us with a list of classes offered to their employees during Fiscal Year 2006–2008. The list included the dates the classes were given. When we requested copies of attendance sheets as evidence that employees attended the classes, we found that the dates for the classes had been revised from the earlier version provided to us. Moreover, we were unable to determine whether the seven employees interviewed actually attended the 84 sessions offered to them during the course of the three years because they did not sign the attendance sheet. In addition, although DHS claims that it provided refresher classes to its employees, we found that during the course of the three years, it offered only 2 of the 23 training classes more than once. The remaining classes were offered only one time during the 3-year period. We, therefore, question the extent of training provided by DHS.

Re: Client Safeguards and Quality Assurance Controls in the Eligibility Process

DHS Response

One of the hallmarks of the Eligibility Process is its multiple client safeguards and quality assurance controls that protect against erroneous eligibility determinations—safeguards and controls that the Comptroller’s findings and recommendations fail to take into account. The Process was completely reformed based on recommendations by the Special Master Panel whose members had particular social services and legal expertise. . . . These safeguards and controls take the form of repeated opportunities for applicants to provide information/documentation relevant to their application for shelter, multiple levels of review of a family’s application, three opportunities to challenge a finding of ineligibility, and the family’s ability to reapply for shelter as many times as they desire.

Auditor Comment

The Report acknowledges that DHS has established a number of guidelines and controls to govern the overall process of determining eligibility for temporary housing benefits for homeless families. However, the Report also concludes that in instances in which families are determined to be ineligible for temporary housing, DHS has not implemented sufficient controls to ensure that its investigative guidelines for determining eligibility are followed by its staff in a consistent manner. As a result, any positive aspects performed by DHS staff are mitigated by the weaknesses in the eligibility determination process.

The fact that applicants are provided with numerous opportunities to provide information/documentation relevant to their application is meaningless if the applicants are unaware of the documents required for the specifics of their case. In addition, the seven cases cited contained evidence of review by the Team Leaders and legal staff but were nonetheless not processed in accordance with DHS guidelines—a further indication that the controls are not operating as intended. Finally, the family’s ability to reapply for shelter as many times as they

desire is not a “safeguard” demonstrating the application was processed correctly but is merely a self-serving mechanism to account for applications that are not processed in accordance with the eligibility guidelines.

Re: Applicant’s Responsibility to Cooperate

DHS Response

Contrary to the Comptroller’s assertion, whether or not the applicant deliberately withheld information from or misled DHS about his/her prior housing is therefore not the sole factor in determining whether the applicant has been non-cooperative. Rather, a finding of ineligibility for non-cooperation is also justified where the applicant fails to make a reasonable effort to provide documentation, the applicant does not provide a reasonable excuse for this failure, and where the lack of documentation inhibits the Agency’s investigation of the availability of alternative housing options.

The Guidelines also require DHS to distinguish between applicants who are unable to recall information or provide requested documentation from those who knowingly provide false or misleading information or deliberately refuse to cooperate in providing significant information. Since this distinction is partly premised on determining the applicant’s *intent*, the applicant’s credibility as well as that of the primary tenant and other collateral sources must be considered.

Auditor Comment

We do not state in our report that whether or not the applicant deliberately withheld information from or misled DHS about his/her prior housing should be the sole factor in determining whether the applicant has been non-cooperative. In fact, we do acknowledge that a finding of ineligibility for non-cooperation is justified when the applicant fails to make a reasonable effort to provide documentation. However, by the same token, according to *Guidelines for Eligibility Investigations*, “The agency is required to make reasonable efforts to verify eligibility and to assist clients in obtaining documentation needed to do so. Agency staff are expected to pursue all reasonable avenues of verification when investigating an applicant’s eligibility.” DHS fails to take this criterion into account.

It is of interest to note that DHS agrees with the statements in our report, yet has failed to put them into practice. We cite the fact that according to the guidelines, DHS is required to distinguish between applicants who are unable to recall information or provide requested documentation and those who knowingly provide false or misleading information or deliberately refuse to cooperate in providing significant information. The files for the four cases cited in the report as not complying with Eligibility Guidelines regarding applicants’ cooperation contain no evidence that DHS questioned the credibility of the applicants. Moreover, the case files did not contain evidence that DHS gave credence to the primary tenant’s statements or to any other collateral sources.

DHS Response

In determining, in hindsight, that DHS' finding of non-cooperation in 4 cases "appears to be incorrect," the Comptroller's auditors did not interview the applicants, their landlords or primary tenants or their collateral sources and, therefore, could not assess their credibility. Therefore, their second-guessing of DHS' determinations was made without weighing factors crucial to rendering a determination of non-cooperation.

Auditor Comment

Our finding is based on DHS's own files and case notes, which are required to be detailed and comprehensive so that they can support the eligibility determination and can be reviewed in depth during a Fair Hearing, where access to collateral sources is not an option. As we state in the report, there was no indication that staff determined that credibility was in question. We therefore stand by our findings.

Re: Statements of Primary Tenants

DHS Response

Based on the auditors' review of 3 of the 7 families' case records, they conclude that DHS does not ensure that its staff adheres to Eligibility Guidelines regarding primary tenant statements and, therefore, the Agency's "belief that [these 3] applicants had other housing options *may* have been incorrect." The Comptroller's auditors erroneously concluded that in each of these three cases, DHS failed to give presumptive validity to the primary tenants' opposition to the applicants' return to the residence and failed to obtain evidence rebutting this presumption. However, in accordance with State regulations and as a result of the settlement of the *McCain* litigation, DHS is no longer required to—and does not—give presumptive validity to primary tenants' statements about whether or not their housing is available to the applicant. Nevertheless, the Draft Report focuses on adherence to this Guideline which has not been in effect for almost a year.

Auditor Comment

It is unclear whether DHS is intentionally disingenuous in its response. As clearly stated in the report, the scope of this audit is Fiscal Year 2008 (July 2007–June 2008). By DHS's own admission in its response, the presumptive validity standard was in effect during the period reviewed for this audit. (The *McCain* litigation was not settled until December 2008, nearly six months after the scope period for our audit ended.) Accordingly, we reaffirm our finding.

Conclusion

Overall, after carefully reviewing DHS's arguments, we found them to be without merit, intentionally confrontational, and of questionable ethics. Accordingly, we stand by our findings.

Robert V. Hess
Commissioner

October 8, 2009

Steve Pock
Deputy Commissioner
Fiscal and Procurement
Operations
spock@dhs.nyc.gov

33 Beaver Street
17th Floor
New York, NY 10004

212.361.7946/7. tel
212.361.7950. fax

BY HAND

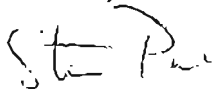
John Graham
Deputy Comptroller
Audits, Accountancy & Contracts
NYC Office of the Comptroller
Executive Offices
1 Center Street
New York, N.Y. 10007

Re: Draft Audit Report on Department of Homeless Services Controls
over the Determination of Eligibility of Temporary Housing Benefits
for Homeless Families (MG09-058A)

Dear Mr. Graham:

The Department of Homeless Services appreciates the opportunity to
respond to the Comptroller's Draft Audit Report. DHS has carefully
reviewed the Report's findings, conclusions, and recommendations, and
encloses its Response.

Sincerely,



Steve Pock

Ends.

cc: Henny (Sylvia) Horschander, Audit Manager
Sharon Patalano, Audit Supervisor
Jennifer Smith, Auditor-in-Charge

Robert V. Hess, Commissioner
Fran Winter, First Deputy Commissioner
Anne Heller, Deputy Commissioner, Family Services
Michele M. Ovesey, General Counsel
Lula Urquhart, Assistant Commissioner, Budget & Audit
Michael King, Audit Director



DEPARTMENT OF HOMELESS SERVICES'
RESPONSE TO THE OFFICE OF THE COMPTROLLER'S
SEPTEMBER 24, 2009 FINAL DRAFT AUDIT REPORT ON
DEPARTMENT OF HOMELESS SERVICES CONTROLS OVER
THE DETERMINATION OF ELIGIBILITY OF TEMPORARY
HOUSING BENEFITS FOR HOMELESS FAMILIES
MG09-058A

October 8, 2009

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I. EXECUTIVE SUMMARY

In August 2008, the Comptroller commenced an audit of the City's intake and application process for families seeking shelter in Fiscal Year 2008 and issued his Final Draft Audit Report (the "Draft Report") in September 2009. The audit was undertaken to determine whether the Department of Homeless Services (DHS or the "Agency") maintains adequate controls over the determination of eligibility for families applying for shelter at PATH, the City's intake center for families with children. In response to the Comptroller's finding that DHS has not implemented "sufficient controls" to ensure that its investigative guidelines for finding applicants ineligible for shelter are "consistently followed," we demonstrate the following:

► Failure to Acknowledge That Controls Over the Eligibility Process Were Informed by Two Years of Expert Study

The Comptroller's findings and recommendations fail to take into account the multiple client safeguards and quality assurance controls that are built into DHS' application and eligibility determination process (the "Eligibility Process") — a Process that was completely reformed following a two-year study by a court-appointed Special Master Panel and that incorporated virtually all of the expert Panel's recommendations. These safeguards and controls are more than sufficient to ensure that PATH staff consistently adheres to the Agency's investigative guidelines (the "Eligibility Guidelines") in determining applicants' eligibility for shelter and to guard against erroneous eligibility determinations. The accuracy of DHS' eligibility determinations is evidenced by the rate at which the Agency's decisions are upheld at State Fair Hearings: In FY 08, DHS was upheld in 94% of the 1,651 Fair Hearings brought by applicants to challenge the Agency's eligibility determinations. In FY 09, DHS did even better and prevailed in 96% of 2,841 Fair Hearings.

► Reliance on a Flawed Sampling Methodology

The Comptroller's findings are premised in part on his determination that DHS staff failed to follow certain of the Agency's Eligibility Guidelines in determining the eligibility for shelter of 7 families — *or four hundredths of one percent of the 16,832 families who applied for shelter in FY 08*. The 7 families were drawn from a *non-random* sub-sample of 32 families. Although the Draft Report specifically acknowledges that these results were not "statistically projected to the respective populations from which the samples were drawn,"¹ the Report nonetheless concludes from these 7 cases that DHS lacks sufficient controls to ensure consistent application of its Guidelines in rendering eligibility determinations.

► Reliance on a Rushed and Incomplete Inquiry of DHS Staff

Compounding the Comptroller's inappropriate use of sampling data was an auditor's rushed and incomplete inquiry of several PATH employees upon which the Comptroller relies in part for his finding that "PATH staff may not be familiar with procedures related to determining eligibility."² As seven PATH employees attest in their affidavits (annexed under Exhibit A), the auditor did not fully identify herself, disclose that she worked for the Comptroller's Office, or identify herself as an auditor. Nor did she conduct an appropriate inquiry of any of these employees for if she had, the Comptroller would have obtained an

¹ Draft Report, p. 7.

² *Id.*, p. 16.

accurate description of DHS' comprehensive training program regarding the Eligibility Process.

► Findings Based on a Misunderstanding of DHS' Eligibility Process and Guidelines

The Comptroller's finding of lack of "sufficient controls"³ is also based on his auditors' misunderstanding of the Eligibility Process and their misreading of certain Eligibility Guidelines. In concluding that DHS erred in finding 4 of the 7 families ineligible for failure to cooperate with the Agency's investigation, the Comptroller's auditors gave insufficient weight to the requirement that applicants make "reasonable efforts"⁴ to obtain documentation and information to verify their eligibility for shelter. In concluding that DHS erred in finding 3 of the 7 families ineligible by not granting presumptive validity to the statements of primary tenants who opposed each family's return to their residence, the Comptroller's auditors both fail to recognize that the presumptive validity standard is no longer applicable, and misapply this expired standard. In concluding that a finding of eligibility upon re-application renders it "doubtful" that denials of prior applications were justified,⁵ the Comptroller's auditors fail to recognize that, as demonstrated by these families' application histories, applicants' circumstances can and often do change between initial and subsequent applications and families often present new information or documentation upon re-application that they failed to produce initially. Similarly incorrect is the Comptroller's finding that DHS is not accurately reporting the reasons for ineligibility in its computerized client-tracking system. This conclusion is based on the auditors' misinterpretation of certain computer codes used to denote reasons why applicants are found ineligible for shelter.

For these and other reasons discussed below, the Comptroller's findings, conclusions and recommendations are not supported by "sufficient, appropriate evidence" and, as a result, lack a "reasonable basis."⁶

II. THE ELIGIBILITY PROCESS ALREADY HAS MULTIPLE CLIENT SAFEGUARDS AND QUALITY ASSURANCE CONTROLS

One of the hallmarks of the Eligibility Process is its multiple client safeguards and quality assurance controls that protect against erroneous eligibility determinations — safeguards and controls that the Comptroller's findings and recommendations fail to take into account. The Process was completely reformed based on recommendations by the Special Master Panel whose members had particular social services and legal expertise. This expertise was especially relevant to designing an intake and application process that would best serve families who often are in need of social services and that would give them the necessary protections against, and the right to challenge, incorrect eligibility determinations.

PATH staff engages in a comprehensive process for gathering relevant information about each applicant's unique circumstances to determine, among other things, whether the family

³ Draft Report, p. 2.

⁴ Eligibility Guidelines, p. 37.

⁵ Draft Report, p. 12.

⁶ Chapter 7 Field Work Standards for Performance Audits (section 7.55), Government Auditing Standards.

has other available housing. Collection of information relevant to determining a family's eligibility for shelter occurs at multiple steps in the Eligibility Process, including an in-depth face-to-face interview with the family lasting about an hour to an hour and a half, a field investigation of places where the family previously resided, interviews of primary tenants, landlords, neighbors, and others about the family's housing history, and, if necessary, referrals to HRA's domestic violence unit and ACS' child protective and support unit on site at PATH.

There also are numerous safeguards in place to ensure that eligibility determinations are accurate and that the rights of families are protected. These safeguards and controls take the form of repeated opportunities for applicants to provide information/documentation relevant to their application for shelter, multiple levels of review of a family's application, three opportunities to challenge a finding of ineligibility, and the family's ability to reapply for shelter as many times as they desire. These protections include:

- **At any stage of the Eligibility Process, the family may provide information** that they failed to provide earlier in the Process as well as new information.
- **Client advocates in DHS' Office of Client Advocacy are on site at PATH to assist families** who experience difficulty in navigating the Eligibility Process.
- **The family's application undergoes multiple levels of review at critical junctures** by the family worker, the senior supervisor (i.e., "team leader"), and a PATH attorney who must review all determinations of ineligibility and has the ultimate authority to reverse them.
- **Each family has the right to a legal conference** conducted by a PATH attorney who has authority to render a determination that the family is eligible for shelter. The family may bring an attorney or other representative to the conference and receives written notification of this fact.
- **Each family has the right to challenge DHS' final determination of ineligibility at an expedited State Fair Hearing and the right to appeal** an adverse Fair Hearing decision by commencing an Article 78 proceeding in N.Y. State Supreme Court. The Agency's near perfect rate at which its decisions have been upheld at State Fair Hearings over the past two fiscal years is a testament to PATH staff's consistent adherence to the Eligibility Guidelines in rendering eligibility determinations.
- **There is no limit on the number of times a family may reapply for shelter.**

III. THE COMPTROLLER'S SAMPLING METHODOLOGY IS SERIOUSLY FLAWED

The Comptroller contends that DHS staff failed to follow some of the Eligibility Guidelines in determining the eligibility for shelter of seven families — or *four hundredths of one percent (0.0004%) of the 16,832 families who applied for shelter in FY 08*. These families were drawn from a sample of 51 families who applied for shelter in CFY 08, 11 or 22% of whom were judgmentally selected, *i.e.*, not chosen at random. A judgment sample is “fraught with problems since the criteria for inclusion depends on someone’s notion of what should be selected. There’s no way to determine how well the sample really represents the population.”⁷ When asked at the Exit Conference what criteria was used to select these 11 families, the auditors stated that selection was based on the number of applications filed by each family and not by the eligibility outcome of their applications. In order to obtain a cross-section of families with varying numbers of applications, the auditors did not use software to select them; rather, as one of the auditors said: “I just went through the list myself and pulled out the 11 based on the number of applications filed.” In contrast to the judgmental selection process that is susceptible to bias, “[o]nly when probability [*i.e.*, random] sampling is used is it possible to estimate the likelihood that sample findings differ from the findings that would have emerged from studying the whole population.”⁸

The Comptroller narrowed the sample of 51 applicants by subtracting out 15 families who were found eligible on their first application and 4 families who were found ineligible on their first application but did not reapply. This limited the sample to 32 families all of whom were found ineligible on their first application and subsequently reapplied. Moreover, 9 (or 28%) of these 32 applicants were part of the 11 families whom the Comptroller had judgmentally selected for his initial sample of 51 families.

A sample of which almost 30% was judgmentally selected, and which was drawn solely from families who were found ineligible for shelter on their first application and subsequently reapplied, is hardly representative of all families who applied for shelter in FY 08. As a result, the sample significantly under or over-represents FY 08 applicants who:

- were found eligible
- were found eligible on their first application
- filed only one application
- failed to complete an application and instead, made their own arrangements
- were found ineligible on their first application due to other housing
- made their own arrangements on their first application
- filed six or more applications

⁷ Marija J. Norušis, Ph.D, *SPSS 12.0 Guide to Data Analysis* (Englewood Cliffs: Prentice Hall 2003).

⁸ John J. Shaughnessy, Ph.D, Eugene B. Zechmeister, Ph.D, & Jeanne S. Zechmeister, Ph.D, *Research Methods in Psychology*, 8th ed. (McGraw-Hill 2008).

Although the Draft Report specifically acknowledges that these sample results were not “statistically projected to the respective populations from which the samples were drawn,”⁹ the Comptroller violates his own rule, and concludes that DHS lacks sufficient controls to ensure consistent application of its Eligibility Guidelines in determining applications for shelter.

IV. PATH STAFF RECEIVES COMPREHENSIVE TRAINING ON THE ELIGIBILITY PROCESS AND ELIGIBILITY GUIDELINES

In concluding that “DHS does not ensure that all PATH employees are familiar with procedures relating to determining eligibility,”¹⁰ the Comptroller relies in part on an auditor’s rushed and incomplete inquiry of seven PATH employees — out of an intake staff of more than 220. As these seven employees confirm in their affidavits (annexed under Exhibit A), the auditor did not fully identify herself, disclose that she worked for the Comptroller’s Office, or identify herself as an auditor. She showed two PATH staffers a few pages extracted from the 141-page PATH Manual and apparently concluded that “PATH staff may not be familiar with procedures relating to determining eligibility”¹¹ because the two employees who were interrupted in the course of their busy work did not identify the source of these pages. Had the auditor appropriately identified who she was and properly interviewed these employees, she could have more fully assessed staff knowledge and placed these findings in the proper context. She also would have obtained a full picture of DHS’ comprehensive training program regarding the Eligibility Process.

The Draft Report states that “[n]one of the seven staff were able to produce a copy of the PATH Manual, and only one was able to produce a copy of the [Eligibility] Guidelines.”¹² According to seven PATH staffers whom the auditor questioned, this is not true. While one staffer responded that she did not have a copy of the Manual and another one replied she was not sure but it did not sound familiar, five other employees state in their affidavits that the auditor never asked them whether they had a copy of the Manual. Of these five, four of them (two supervisors and two Family Workers) did receive a copy of the PATH Manual as part of their initial training upon commencement of their employment with DHS. Moreover, as stated in the affidavits of two supervisors, the PATH Manual contains information on all aspects of the Eligibility Process, and is a resource used primarily by supervisory staff. As it contains some information not applicable to the jobs performed by Family Workers, the Manual is not always provided to them. However all Family Workers receive training on those sections of the PATH Manual which are applicable to their specific job functions.¹³ Although the Draft Report states that only one PATH employee was “able to produce a copy of the Guidelines,”¹⁴ five other employees state in their affidavits that the

⁹ Draft Report, p. 7.

¹⁰ Draft Report, p. 16.

¹¹ *Id*

¹² *Id*, p. 17.

¹³ It should be noted that this auditor requested a copy of the entire PATH Manual on May 13, 2009, and a copy was provided to the Comptroller’s Office on May 14, 2009. (Sæ DHS’ May 15, 2009 and May 27, 2009 letters to the Comptroller’s Office)

¹⁴ *Id*

auditor did not ask them whether they had a copy of them. Moreover, all seven employees were provided with a copy of the Eligibility Guidelines as part of their initial training at PATH.

Indeed, the Draft Report does not mention the training materials or other training program documentation that DHS produced to the Comptroller's auditors upon their request. All DHS personnel who are involved in the Eligibility Process, including reception workers, family workers, team leaders, managers, field investigators, attorneys, client advocates, and the Resource Room's clinical social workers, receive extensive training upon hire as well as periodic refresher training and training on new initiatives, policies and procedures. One of the key topics of training is the nature and structure of the Eligibility Process and Guidelines. In particular, workers are trained to probe thoroughly for and elicit all information regarding the availability of alternative housing. This includes comprehensive training on the Eligibility Guidelines' requirements concerning non-cooperation such as: factors to consider in determining failure to cooperate, assessing credibility of applicants and primary tenants, and what constitutes reasonable assistance of applicants to verify their housing history. PATH staff is trained on many other issues, including domestic violence and child welfare. While much of this training is provided by DHS staff, ACS and HRA NoVA staff also provides training in their areas of expertise.

In response to the auditors' numerous requests for documents and information, DHS also provided training documentation including: (1) a description of the type of training DHS provides to line staff, supervisors and PATH attorneys; (2) a detailed description of training geared towards new employees, including the duration of the training as well as the type and frequency of refresher training provided to more seasoned employees; (3) power point presentations and other training materials; and (4) copies of attendance sheets that indicate the training classes PATH employees attended for FY 06-FY 08.

As demonstrated above, DHS' training of PATH staff "ensure[s] that training, both initial and ongoing is adequate so that employees are thoroughly familiar with and adhere to all DHS policies and procedures when processing applications and determining eligibility."¹⁵ Accordingly, there is not a reasonable basis to support the Comptroller's findings, conclusions and recommendation concerning the Agency's comprehensive and ongoing training program.

V. THE COMPTROLLER MISUNDERSTANDS DHS' ELIGIBILITY PROCESS AND GUIDELINES

A. The Applicant's Responsibility to Cooperate

Based on 4 of the 7 cases that the Comptroller's auditors reviewed, they concluded that PATH staff fails to comply with the Eligibility Guidelines regarding applicants' cooperation with the Agency's eligibility investigation. According to the auditors, DHS should not have found these 4 families ineligible for failure to cooperate because they did not intentionally fail to provide DHS with information necessary to verify where they had resided in the two

¹⁵ Draft Report, Recommendation No. 3, p. 18.

years prior to their seeking shelter (i.e., their “two-year housing history”). In reaching this conclusion, the Comptroller’s auditors gave insufficient weight to the provision of the Eligibility Guidelines which requires that applicants make a “reasonable effort” to obtain documentation and information to verify their eligibility for shelter,¹⁶ as well as the provision which states that “applicants who cannot provide a reasonable explanation why they cannot produce documentation... should be denied assistance for failure to cooperate.”¹⁷ More specifically, State regulations mandate that applicants for shelter “are required to cooperate with... eligibility verification efforts by providing all information and documentation relevant to determining the applicant’s eligibility for such assistance,” adding that the City (and other localities throughout the State) “must make reasonable efforts to verify an applicant’s eligibility for assistance.”¹⁸

Verification of the information provided by applicants regarding their two-year housing history is in many cases essential to DHS’ investigation, as it directly informs the Agency’s determination of whether or not an applicant has housing options other than emergency shelter. For instance, documentation verifying an applicant’s claimed period of stay at a given location may be essential to the investigation even if DHS has otherwise verified that the reported location is not a viable housing option, because a discrepancy between the length of stay at this location reported by the applicant and that revealed by the Agency’s investigation may indicate the existence of an additional prior housing resource which the applicant failed to report.

Contrary to the Comptroller’s assertion, whether or not the applicant deliberately withheld information from or misled DHS about his/her prior housing is therefore not the sole factor in determining whether the applicant has been non-cooperative. Rather, a finding of ineligibility for non-cooperation is also justified where the applicant fails to make a reasonable effort to provide documentation, the applicant does not provide a reasonable excuse for this failure, and where the lack of documentation inhibits the Agency’s investigation of the availability of alternative housing options.

The Guidelines also require DHS to distinguish between applicants who are unable to recall information or provide requested documentation from those who knowingly provide false or misleading information or deliberately refuse to cooperate in providing significant information.¹⁹ Since this distinction is partly premised on determining the applicant’s *intent*, the applicant’s credibility as well as that of the primary tenant and other collateral sources must be considered.²⁰ In weighing credibility, various factors must be taken into account such as (1) the manner in which the applicant, primary tenant and other collateral sources respond to questions; (2) the existence and extent of inconsistencies between information reported by the applicant, primary tenant and others; and (3) the extent of the non-cooperation, i.e., whether there are several instances of non-cooperation or non-cooperation

¹⁶ Eligibility Guidelines, p. 37.

¹⁷ *Id.*, p. 38.

¹⁸ NYS Administrative Directive 94-ADM-20, Section V.D.

¹⁹ Eligibility Guidelines, pp. 21-22.

²⁰ *Id.*, pp. 24-25.

with respect to a single but significant issue.²¹ In determining, in hindsight, that DHS' finding of non-cooperation in 4 cases "appears to be incorrect,"²² the Comptroller's auditors did not interview the applicants, their landlords or primary tenants or their collateral sources and, therefore, could not assess their credibility. Therefore, their second-guessing of DHS' determinations was made without weighing factors crucial to rendering a determination of non-cooperation.

A correct understanding of the facts and circumstances underlying the Agency's determination that these four families were ineligible for their failure to cooperate with DHS' investigation is set forth below. At the outset we note that, in addition to a 10-day conditional placement that all families are afforded the first time they apply for shelter, families who are found ineligible for non-cooperation and re-apply are automatically given another 10-day conditional placement.

Family One

In the case of Family One,²³ the Comptroller contends that the Applicant cooperated during the investigation and should have been made eligible following DHS' verification that all addresses in the Family's two-year housing history were no longer available; instead, they were found eligible on their 23rd and last application as opposed to an earlier one. In arriving at this conclusion, the Comptroller's auditors do not address certain relevant facts.

First, it is important to note that Family One failed to complete several applications, choosing instead to leave PATH on their own accord. Except for these occasions, the family remained in conditional shelter without interruption during the Agency's investigation of their completed applications.

Before coming to New York, the family had resided in Pennsylvania for almost two years and prior to that, had resided in Puerto Rico. Given the length of time the family had resided in Pennsylvania (including in their own apartment for six months), it was important to verify that all the prior residences in Pennsylvania (of which there were 7 out of 9 addresses listed on the two-year housing history) were no longer available. As with all applicants seeking a public benefit, DHS cannot simply accept on face value the family's claim that they have no other available housing option.

Even though family workers issued multiple appointment slips to the Applicant on each application indicating dates on which she should return to PATH with information such as names of neighbors, proof of residence, bills, mail, etc., she failed to produce a single piece of information or documentation to verify her family's length of stay at two Pennsylvania addresses through her first five applications. When the Applicant provided contact numbers for the landlords of these locations, the Agency promptly contacted these individuals in an attempt to verify her claimed length of stay. While one landlord verified the Applicant's claims, the landlord of the second location (where the Applicant claimed to have resided for five months) stated he had never heard of her. This information was sufficient to preclude

²¹ *Id.*, pp. 25-26.

²² Draft Report, p. 10.

²³ The families in the seven cases at issue are referred to as "Family One," "Family Two," etc. This connotation is used interchangeably with the "Applicant."

the second location as a viable housing option, but it also meant that the family's housing history for a five-month period only six months prior to their application at PATH was entirely unverified. It was therefore especially important that DHS verify this portion of the Applicant's housing history, as this discrepancy may have indicated the existence of an additional housing resource which the Applicant had failed to report.

Despite being issued over 30 appointment slips over the course of her 23 applications, the Applicant failed to provide any documentation to support her claimed length of stay at the second location. She also failed to return to PATH on any of these occasions or to call her family worker to say she could not locate any such documentation/information or to request the Agency's assistance in obtaining it. This behavior was unreasonable, and therefore supported DHS' finding of non-cooperation. The Agency's eventual conclusion that Family One was cooperating did not come until their 23 application, and was based upon the totality of the circumstances.

Even assuming DHS should have found Family One eligible on an earlier application, the controls built into the Eligibility Process worked. There was no limit on the number of times Family One could apply for shelter; each time they reapplied they were given a 10-day conditional placement; and they had the opportunity — although they did not take it — to request a State Fair Hearing to challenge each finding of ineligibility.

Family Two

In the case of Family Two, the Comptroller erroneously concludes that both DHS' initial determination that the Applicant was ineligible for non-cooperation and the later determination that the Applicant had an available housing option, were incorrect. This conclusion is not supported by the facts. The initial finding of non-cooperation was based on Family Two's failure to submit any documentation to support their claimed length of stay at a Residential Treatment Facility ("RTC") for one year, despite being issued multiple appointment slips requesting such documentation. This behavior was unreasonable given the significant length of stay at this location, and therefore the Agency's finding of non-cooperation was supported.²⁴

DHS' later finding that Family Two had an available housing option with the Applicant's mother (the primary tenant, or "PT") was based upon an interview with the PT, who stated that she owned a 5-bedroom home which currently had two empty bedrooms. Though the PT had custody of the Applicant's children, the Custody Order itself, which DHS thoroughly reviewed and considered, granted the Applicant visitation rights and did not preclude the Applicant from living with her children. Further, prior to recommending this as a housing option, DHS referred the case to ACS and was informed that no active ACS case existed. Later, after Family Two had submitted the Custody Order, DHS again referred

²⁴ While Family Two provided a contact number for the RTC on their third application, DHS could not access information contained on the RTC's automated phone line without additional information not yet provided. Once the Family provided this information on their fourth application, the Agency was able to verify their housing history.

the case to ACS both on site at PATH and in Nassau County, and was informed by both that no active case existed. While the Comptroller contends that these efforts were insufficient, citing other cases in which DHS staff placed calls to ACS workers following referrals, this conclusion is baseless. DHS staff places calls to ACS workers when informed that the family has an active ACS case. With no active ACS involvement confirmed by multiple ACS offices, an additional call to ACS staff was unnecessary.

Family Three

In the case of Family Three, the Comptroller concludes that DHS did not assist the family to verify their claimed length of stay in Virginia until their fourth application. Again, this conclusion is not supported by the facts. First, it is important to note that Family Three left the system on their own during their first application, and were diverted on their second application. It was therefore not until the family's third application that DHS was required to conduct an investigation into their eligibility for shelter.

Family Three reported on their third application that they resided in Virginia for almost two years prior to applying for shelter. Despite this significant length of time, however, and despite being issued two appointment slips requesting information and documentation to support this claimed length of stay, the family provided only an incorrect contact number for the landlord and a single letter addressed to the location. This single letter was not alone sufficient to verify the entire claimed period of stay, and without any additional information DHS had no way to further assist the Applicant to verify her claimed period of stay at this location. The Family's failure to produce any additional documentation was unreasonable given the length of their claimed stay at this location, and therefore the finding of non-cooperation was supported.

On Family Three's fourth application, they provided, *for the very first time*, contact information for their child's school in Virginia. The Agency contacted the school, verified the family's claimed length of stay, and shortly thereafter found Family Three eligible for shelter.

Family Four

In the case of Family Four, the Comptroller concludes that DHS failed to provide the family with notice as to the types of documents they could produce to verify a three-week length of stay, failed to assist the family in obtaining verifying information, and incorrectly determined the family ineligible due to non-cooperation. Again, these conclusions are not supported by the facts.

Not mentioned in the Draft Report is the fact that the three-week period in question occurred immediately prior to the family's application at PATH. Further, the Applicant's sister, with whom the family claimed to have resided in her Brooklyn home during this period of time, remained in the home while the family applied for shelter. Under these circumstances, the sister's failure to answer the phone or door during the Agency's multiple attempts to contact her raises the suspicion of collusion between the Applicant and her sister.²⁵ Moreover, given that the primary tenant was the Applicant's own sister and that

²⁵ The Eligibility Guidelines speak to the issue of collusion specifically in the case of applicants who claim that the PT told the family to leave because they cannot remain in shared or doubled-up housing. The Guidelines

Family Four had stayed with her right before seeking shelter, their failure to produce any documentation placing them at this location despite receiving multiple appointment slips on each application was unreasonable, and therefore supported the Agency's determination of non-cooperation.

In addition, Family Four was given notice regarding the types of documentation they could submit to verify their claimed length of stay at this location. Like all other families applying at PATH, upon their initial application, Family Four was provided a copy of the "Welcome to PATH" packet. Section 10 of this packet, titled "What Documents Do I Need?" provides specific examples of documents applicants may provide to assist the Agency's investigation such as eviction papers, letters from landlords or people they used to live with, ACS documents, and orders of protection.

DHS provided Family Four with a copy of the Welcome packet as well as multiple appointment slips on each application requesting they provide proof of staying with the Applicant's sister. Moreover, on each application the Family was provided with the name and telephone number of their assigned family worker, whom they could have called if they required any additional assistance. Despite this notice, the Family never provided a single piece of documentation supporting their claimed length of stay.

As demonstrated above, each of these four families were found ineligible for failure to cooperate only after they were given multiple opportunities to comply with DHS' reasonable requests for documentation/information to verify their prior residences. Accordingly, there is not a reasonable basis for concluding that DHS' controls are insufficient to ensure that its Eligibility Guidelines are followed by staff in a "consistent manner."²⁶ Nor is there any basis for the Comptroller's recommendations that DHS should "[i]mprove its oversight of the eligibility determination process and ensure that the Team Leaders and quality review staff diligently review the case files and assess eligibility in accordance with the guidelines"²⁷ or ensure that training is adequate to achieve this result.²⁸

B. Primary Tenant Statements

Based on the auditors' review of 3 of the 7 families' case records, they conclude that DHS does not ensure that its staff adheres to Eligibility Guidelines regarding primary tenant statements and, therefore, the Agency's "belief that [these 3] applicants had other housing options *may* have been incorrect."²⁹ The Comptroller's auditors erroneously concluded that in each of these three cases, DHS failed to give presumptive validity to the primary tenants' opposition to the applicants' return to the residence and failed to obtain evidence rebutting this presumption. However, in accordance with State regulations and as a result of the settlement of the *McCain* litigation, DHS is no longer required to — and does not — give

state: "Because of the potential for collusion between the applicant and the primary tenant of such housing ... a mere statement by the primary tenant, written or otherwise, that the applicant can no longer stay is not sufficient to establish eligibility." (Guidelines, p. 30)

²⁶ Draft Report, p. 8.

²⁷ Draft Report, Recommendation No. 1, p. 18.

²⁸ See Draft Report, Recommendation, No. 3, p. 18.

²⁹ Draft Report, p. 13 (emphasis added).

presumptive validity to primary tenants' statements about whether or not their housing is available to the applicant.³⁰ Nevertheless, the Draft Report focuses on adherence to this Guideline which has not been in effect for almost a year.

Moreover, as illustrated by the three cases below, the Comptroller's interpretation of this expired standard is incorrect. In claiming that "[t]he primary tenant has no legal responsibility for the homeless family and is not required to take a family back into the residence,"³¹ the auditors' interpretation of this Guideline would impose a virtually impossible burden on DHS to rebut this presumption — a burden not contemplated even under the expired standard. Whether or not a primary tenant has a "legal responsibility" to take the family back is not a standard by which DHS is required to determine an applicant's eligibility for shelter. Nor is the Agency required to rebut a primary tenant's statement that they do not want the family back or they "strongly oppose[]" the applicant's return.³² Such a bald statement — unlike a primary tenant's statement that is based on alleged facts (e.g., his apartment is overcrowded) which can be investigated — is incapable of rebuttal.

Family Five

In the case of Family Five, the Comptroller alleges that DHS ignored the PT's statement that the Family, who had been residing with the PT for nine months prior to applying for shelter, could no longer live with her because her apartment was overcrowded. To the contrary, on the Family's first application, DHS conducted a field investigation of the PT's home and determined that the residence was not overcrowded. Also on this first application, the PT did not claim overcrowding as the reason the Family left; rather, the Family left after the applicant had lost her job and could no longer contribute to rent. Upon re-application, when DHS investigators made an additional field attempt to verify the applicant's claim that the PT's husband had since moved into the apartment, the PT was uncooperative and refused to answer any questions beyond stating that her husband was now living with her. Although the Family successfully challenged the Agency's second ineligibility determination at Fair Hearing, the reversal was not based upon a finding that DHS had failed to consider the PT's objections to the Family's return but upon the Administrative Law Judge's ("ALJ") finding that the PT's claim of overcrowding was credible.

Family Six

In the case of Family Six, the Comptroller alleges that DHS failed to take into account the PT's claim that the Applicant could not return to the recommended housing option due to overcrowding. The Comptroller further alleges that DHS failed to obtain any evidence to refute this claim. These allegations are not supported by the facts.

³⁰ NYS Administrative Directive 94-ADM-20 (section V.D) states: "A primary tenant's claim, oral or written, that the family can no longer reside in the shared housing is not, by itself, sufficient to establish that the housing is no longer available." Pursuant to a January 12, 1999 Order in *McCain*, the Court directed DHS to afford presumptive validity to statements by primary tenants, owners or landlords as to the unavailability of the location to the applicant. Upon the Court's approval of the settlement of *McCain* on December 12, 2008, all of the orders entered during the 25-year history of the litigation were dismissed, including this 1999 Order.

³¹ Draft Report, p. 14.

³² Draft Report, p. 15.

DHS found the Family ineligible for shelter over the course of multiple applications on the ground that the Applicant could return to the home of her child's paternal grandmother — a 3-bedroom apartment in the Bronx where the Family had resided for one year immediately before seeking shelter. Though the PT stated that the location was overcrowded, the Agency's investigation refuted this claim, revealing that adequate space and bedding for Family Six in fact existed at the home.³³ It was not until the Applicant's final application that she alleged, *for the first time*, that she had domestic violence issues with the current girlfriend of her child's father.³⁴ DHS immediately referred the applicant to NoVA for an assessment and found her eligible for shelter upon NoVA's preclusion of the grandmother's home.³⁵

Family Seven

In the case of Family Seven, contrary to the Comptroller's assertion, DHS did consider the PT's claim that her sister and her son could no longer reside with her in Puerto Rico — where the Family had resided for almost two years before relocating to New York City and applying for shelter — because of the Applicant's son's "uncontrollable behavior." However, given the close familial ties, the Family's prior length of stay, and the absence of a medical opinion attesting to a substantial medical issue with the PT's home or a substantial risk to the PT's health or safety were the Family to return there, DHS concluded that the PT's home was an available housing option.³⁶ Notably, after Family Seven was last deemed ineligible over one year ago, they have not reapplied for shelter.

As demonstrated above, there is not a reasonable basis for the Comptroller's findings and conclusions regarding primary tenant statements or for his recommendations that DHS improve its oversight over the Eligibility Process or ensure that its training of PATH staff is adequate so that eligibility determinations are consistently rendered in accordance with the Eligibility Guidelines.³⁷

C. The Comptroller Misconstrues the Eligibility Process Regarding Investigation of Prior Residences

The Comptroller concludes that in three of the seven cases, DHS should have investigated all the residences listed on the applicant's two-year housing history before determining that the family was ineligible either because they had an available housing option or had failed to

³³ It is worth noting that the Agency's determination was upheld by Fair Hearing Decision wherein the presiding ALJ found that the claim of overcrowded conditions was not supported by the record. Decision After Fair Hearing, Case No. 6597369, dated March 20, 2008.

³⁴ In contending that Family Six was not found eligible until their 16th application, the Draft Report misstates the facts. On her first application for shelter, the applicant exited shelter the same day she applied and was to repeat this pattern on six more applications. DHS also diverted the Family on another subsequent application.

³⁵ Contrary to the Comptroller's claim, DHS did consider whether there were any child welfare concerns about the Family's return to the grandmother's home, including obtaining an ACS clearance indicating the absence of any child welfare issues in the home.

³⁶ The Comptroller's claim that DHS found the family ineligible contrary to the recommendation of the Team Leader and Family Worker is inaccurate. While the Family Worker initially recommended that the sister's home be precluded, this recommendation was reversed by the Team Leader who correctly noted that the child's behavior was not a reason for homelessness.

³⁷ See Draft Report, Recommendation Nos. 1 and 3, p. 18.

cooperate with the investigation. This is not required under DHS' Eligibility Process or Guidelines; nor is it operationally practical or sound.

Based on information DHS solicits from applicants, the Agency commences an investigation of all residences reported by an applicant in her two-year housing history as well as possible locations that are discovered in the course of an applicant's ten-day stay in conditional shelter. It is not always possible to investigate and verify all of a family's prior residences within a 10-day period. If the Agency is unable to determine within that timeframe whether the family has any available housing options, the family remains in shelter until completion of the Agency's investigation.

However, if by the tenth day, the investigation reveals that the applicant has an available housing resource but has not determined the availability of all remaining addresses, the Agency will find the family ineligible for shelter and reserve judgment with respect to other as-yet-unexplored housing options. To "reserve judgment" means that in the event the family re-applies, DHS will investigate those locations upon which it previously reserved judgment. The Agency also will investigate the prior recommended housing option to the extent a re-investigation is warranted, i.e., as a result of new information or changed circumstances.

Requiring investigation of all prior residences prior to rendering an eligibility determination would lengthen applicants' stay in shelter notwithstanding that they have an available housing option. This would be a misuse of limited shelter capacity at the potential expense of families who truly have no other place to go and a drain on financial resources necessary to pay for a costly yet critical benefit. By way of illustration, assume that an applicant lists six addresses on her two-year housing history. Upon investigation, DHS determines that the family can return to one of the six addresses, the home of a close relative where they resided for a year immediately prior to seeking shelter. By the tenth day of the family's conditional shelter stay, the Agency has determined that three of the remaining five residences are no longer available. It would be a significant waste of the Agency's resources and taxpayer dollars to keep the family in shelter while it investigates the two other residences including those that are, for example, in another state or another country.

Similarly, if DHS determines that the applicant failed to make reasonable efforts to verify one of her prior residences, DHS will find the family ineligible for failure to cooperate with the Agency's investigation. If, as the Comptroller suggests, the Agency were to allow non-cooperative applicants to remain in their conditional shelter placement while DHS investigated all of their prior addresses, applicants, particularly those who are not being truthful about where they previously resided, would not have any incentive to cooperate with DHS' investigation. However, if through no fault of the applicant, a prior address cannot be verified, the Agency will investigate the other addresses listed on the family's two-year housing history even if that results in an extension of the applicant's stay in conditional shelter past the ten-day period.

The Comptroller contends that PATH family workers and team leaders whom his auditors interviewed "confirmed that an investigation of all residences was required under these

circumstances.”³⁸ It is unclear what “circumstances” the Comptroller is referencing. In any event, the auditors did not discuss this issue with all those whom they interviewed and even when they did raise this issue, they rarely framed their inquiry in the context of any particular circumstances. When they did provide some context, they received more nuanced responses. For example, when the auditors asked two Family Workers how DHS would proceed if an applicant provided five addresses and the Agency was able to verify all but one of them, the Family Workers responded that DHS’ course of action would depend on the information obtained at other locations. They also stated that depending on the circumstances, the Agency could proceed with an eligibility determination as to the investigated locations while reserving judgment with respect to the one that had not yet been verified. The Comptroller recommends that DHS “[m]odify its guidelines to reflect further action that investigators are required to take when one of the multiple prior residences cannot be verified, so as not to delay the eligibility process.”³⁹ As explained above, far greater delay would be caused if DHS were required to investigate all of an applicant’s prior residences before rendering an eligibility determination.

The Comptroller also claims that such modification is required because the Eligibility Guidelines are unclear as to what constitutes an “adequate” investigation.⁴⁰ This is perplexing given that DHS provided a detailed description of what constitutes an “adequate” investigation in its previous written responses to the auditors’ specific questions.⁴¹ Moreover, pursuant to a 1999 *McCain* order, DHS drafted the Eligibility Guidelines in consultation with a court-appointed special master who shared the final draft with plaintiffs’ counsel. Given that the Guidelines have not changed in any substantive way since their implementation over a decade ago, it is fair to assume that the *McCain* court, the special master and plaintiffs’ counsel determined that the Guidelines provide sufficient guidance as to what constitutes an “adequate” investigation. For this and the other reasons discussed above, there is not a reasonable basis for the Comptroller’s findings, conclusions or recommendation on this issue.⁴²

VI. DHS ACCURATELY REPORTS THE REASONS FOR INELIGIBILITY

The Comptroller concluded that DHS inaccurately reports the reasons for ineligibility. Specifically, the Draft Report asserts that in its Client Tracking System (CTS), DHS incorrectly classifies as ineligible due to non-cooperation applicants who through no fault of their own are unable to provide documentation or information verifying their eligibility. This conclusion is based on the auditors’ misinterpretation of certain computer codes used to denote reasons why applicants are found ineligible for shelter. Families who are unable to provide documentation through no fault of their own are not assigned code “XA,” which is

³⁸ Draft Report, p. 16. This is a reference to the auditors’ interviews of PATH employees on July 30, 2009 during which they were asked what eligibility determination they would make under certain hypothetical scenarios.

³⁹ Draft Report, Recommendation No. 2, p. 18.

⁴⁰ Draft Report, p. 16.

⁴¹ DHS’ Response to the July 9, 2009 Questions of the Office of the Comptroller Regarding the Eligibility Process, pp. 6-8.

⁴² Draft Report, Recommendation No. 2, p. 18.

the code for “failure to cooperate” in CTS. Rather, code XA is assigned only when there is a valid basis for indicating non-cooperation, *eg*, the family failed to appear for appointments or provide a reasonable explanation as to why they could not provide documentation verifying their eligibility, or there were significant inconsistencies between what the applicant and the primary tenant reported concerning the applicant’s length of stay or the reason the applicant left the primary tenant’s residence. Detailed reasons for the XA determination are also included in the final written determination of ineligibility, which is placed in the applicant’s case record. For these reasons, there is not a reasonable basis for the Comptroller’s findings, conclusions or recommendation that “DHS should ensure that it reviews the reasons for determining ineligibility and accurately reports detailed reasons families are found not eligible for services.”⁴³

VII. CONCLUSION

The City has worked enormously hard to reform its Eligibility Process while at the same time expanding its mission to prevent homelessness. These efforts have resulted in a Process that is both respectful and fair and ensures to the greatest extent possible the accuracy of DHS’ eligibility determinations. These efforts also have resulted in record-breaking numbers of families with children being diverted from shelter — 5,810 families with children in FY 09, an increase of 27 percent over FY 08. Moreover, from 2002 to date DHS has assisted more than 210,000 individuals (including individuals in families and single adults) to move out of shelter and into homes of their own. While DHS takes issue with the findings and conclusions in the Draft Report, the Agency and the Comptroller undoubtedly share a common goal: that all homeless families with children receive emergency, temporary shelter. Toward this end, DHS will continue its efforts, day in and day out, to ensure that its staff has the proper supervision and training to render eligibility determinations in conformity with its Eligibility Process and Eligibility Guidelines.

⁴³ Draft Report, Recommendation No. 4, p. 20.

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DHS' RESPONSE TO THE COMPTROLLER'S FINAL :
DRAFT AUDIT REPORT RE THE ELIGIBILITY :
PROCESS FOR FAMILIES WITH CHILDREN :
(MG09-058A) :
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AFFIDAVIT OF
[REDACTED]
WORKER # 1

STATE OF NEW YORK)
 ss:
COUNTY OF BRONX)

[REDACTED], being duly sworn, deposes and states:

1. For over seven years, I worked as a Senior Team Leader first at the Emergency Assistance Unit (EAU), DHS' former intake center for families with children, and then at PATH. In this position I oversaw the work of fifteen Family Workers and seven Team Leaders. In August of 2009, I was promoted to Manager. Currently I supervise four Team Leaders and one Senior Team Leader. I submit this affidavit to describe my interaction with Ms. [REDACTED] on May 14, 2009, which lasted approximately two minutes. I begin, however, by briefly describing the training I received in connection with my work at PATH as well as the training I myself have provided to PATH employees.

2. Upon my hire as a Senior Team Leader, I received extensive training on the Eligibility Process and Eligibility Guidelines as well as management training. Over the years, I have received regular refresher trainings on the Process and Guidelines from my supervisors and DHS Legal staff. I have also received training on NoVA procedures and referrals, ACS referrals and clearances, and PATH policies and procedures. In addition, I

frequently train my staff on the Eligibility Process and the Eligibility Guidelines. I believe both the initial and subsequent training that I received thoroughly prepared me to carry out my duties and responsibilities as a Senior Team Leader and Manager. I also believe that the Family Workers, Team Leaders, and Senior Team Leaders whom I supervise receive training necessary to perform their jobs effectively.

3. During my initial training, I received a copy of both the PATH Manual and the Eligibility Guidelines. The PATH Manual contains information on all aspects of the Eligibility Process, and is a resource used primarily by Team Leaders, Senior Team Leaders and Managers. As it contains some information not applicable to the jobs performed by Family Workers, the PATH Manual is not always provided to them. However, all Family Workers receive training on those sections of the PATH Manual which are applicable to their specific job functions.

4. On May 14, 2009, while working in my office on the second floor of PATH, I received a call from a Family Worker, [REDACTED] who said that an unidentified woman was questioning staff in Room 108. As I walked down the stairs toward Room 108, I saw [REDACTED], also a Family Worker, walking with a woman whom I did not recognize. I later learned that this individual was [REDACTED]

5. When I approached [REDACTED], she did not introduce herself but said she was walking to the office of [REDACTED], a PATH Deputy Director. [REDACTED] asked me my name and said she wanted to ask me a few questions. I gave her my name and stated that since she was headed to [REDACTED]'s office, [REDACTED] could answer her questions. That was the end of our conversation.

6. At no point during this exchange did [REDACTED] indicate that she worked for the Comptroller's Office or identify herself as an auditor. Since I directed her to [REDACTED], [REDACTED] did not ask me about the training I had received, my training of staff, or whether I had a copy of the Eligibility Guidelines or the PATH Manual. Nor did she show me any documents.

[REDACTED]
Sworn to before me this
2nd day of October 2009.

[REDACTED]

Notary Public

County of Bronx
State of New York

[REDACTED]
NOTARY PUBLIC-STATE OF NEW YORK

[REDACTED]
Qualified in Bronx County

My Commission Expires July 10, 2010

DHS' RESPONSE TO THE COMPTROLLER'S FINAL
DRAFT AUDIT REPORT RE THE ELIGIBILITY
PROCESS FOR FAMILIES WITH CHILDREN
(MG09-058A)

AFFIDAVIT OF

WORKER # 2

STATE OF NEW YORK)
 ss:
COUNTY OF BRONX)

being duly sworn, deposes and states:

1. From 2004 to August 2009, I worked as a Team Leader at PATH. As a Team Leader, I oversaw the work of twelve Family Workers. In August 2009, I was promoted to Manager. In this position I currently oversee the work of one Senior Team Leader and two Team Leaders. I submit this affidavit to describe my interaction with [REDACTED] on May 14, 2009, which lasted approximately three minutes. I begin, however, by briefly describing the training I received in connection with my work at PATH as well as the training I myself have provided to PATH employees.

2. Upon my hire as a Team Leader, I received extensive training on the Eligibility Process and Eligibility Guidelines as well as management training. Over the years, I have received regular refresher trainings on the Process and Guidelines from my supervisors and DHS Legal staff. I have also received training on NoVA procedures and referrals, ACS referrals and clearances, and PATH policies and procedures. In addition, I frequently train my staff on the Eligibility Process and the Eligibility Guidelines. I believe both the initial and subsequent

training that I received has thoroughly prepared me to carry out my duties and responsibilities as a Team Leader and Manager. I also believe that the Family Workers, Team Leaders, and Senior Team Leaders whom I supervise receive training necessary to perform their jobs effectively.

3. As a Team Leader, I reviewed hundreds of eligibility determinations of PATH staff whom I supervised.

4. During my initial training, I received a copy of both the PATH Manual and the Eligibility Guidelines. The PATH Manual contains information on all aspects of the Eligibility Process, and is a resource used primarily by Team Leaders, Senior Team Leaders and Managers. As it contains some information not applicable to the jobs performed by Family Workers, the PATH Manual is not always provided to them. However, all Family Workers receive training on those sections of the PATH Manual which are applicable to their specific job functions.

5. On May 14, 2009, while walking through the hallway on the first floor of PATH near room 125, I was stopped by a woman I did not recognize. I later learned that this person was [REDACTED], an auditor with the New York City Comptroller's Office. She did not provide her name, but showed a DHS identification card and identified herself as a DHS employee. At no point did she indicate that she worked for the Comptroller's Office, nor did she identify herself as an auditor. I had no prior notice that [REDACTED] would be questioning me or other PATH employees that day.

6. [REDACTED] showed me what appeared to be a copy of the Guidelines, and asked me if I recognized it. Although I was not given an opportunity to read it, I stated that the document appeared to be the Guidelines. She then asked me if I had ever received training on the Guidelines. In response, I asked her who she was. [REDACTED] again stated that she worked

for DHS, and that she knew [REDACTED] a senior team leader at PATH, and had just finished talking to him. She then asked me if I had heard that [REDACTED] (a PATH Deputy Director) received a promotion." I found this statement odd, as [REDACTED] promotion had not occurred recently, but rather had occurred months earlier. I did not respond, and [REDACTED] stated that she was going to "find the Family Workers." I also found this remark strange, as a DHS employee would generally be aware of where the Family Workers were located. She then walked away.

7. [REDACTED] did not ask me about training I received as a Team Leader, and she did not show me any additional documents. She did not ask me whether I had a copy of the PATH Manual or the Eligibility Guidelines, nor did not ask me to produce them.

[REDACTED]

Sworn to before me this
1st day of October 2009.

[REDACTED]

Notary Public

County of Bronx

State of New York

NOTARY PUBLIC-STATE OF NEW YORK

Commission Expires July 10, 2010

3. I record the information obtained through my interview of the family on the eligibility determination questionnaire (EDQ), which includes questions regarding the family's current living situation, the type of housing in which the family resides, the number of rooms and the sleeping arrangements of those residing there, and whether the apartment contains

hazardous conditions, as well as questions regarding domestic violence, child welfare and medical issues that confront the family.

4. In the course of the interview, I explain the Eligibility Process to the family and answer any questions they may have about it. I also discuss the kinds of information or documentation they need to provide in order for DHS to investigate and determine their eligibility for shelter. At the end of the interview, I give the family an appointment slip to return to PATH with the requested information/documentation and also schedule an eligibility assessment conference (EAC) to discuss the status of their application. The EAC also provides the family with a further opportunity to provide additional information or documentation to ensure that a correct eligibility determination is made.

5. At the completion of the investigation of the family's eligibility for shelter, I render an eligibility recommendation which is then reviewed at various supervisory and quality assurance levels. Since commencing my employment as a Family Worker, I have interviewed hundreds of families and rendered hundreds of eligibility recommendations.

6. Upon my hire as a Family Worker, I received extensive training on the Eligibility Process and the Eligibility Guidelines. During my initial training, I was provided a copy of the Guidelines. Since that time, I have received regular refresher trainings on the Eligibility Process and the Eligibility Guidelines. I have also received training on NoVA procedures and referrals, ACS referrals and clearances, and PATH policies and procedures. I believe the trainings I received have thoroughly prepared me to carry out my job as a Family Worker.

7. On May 14, 2009, I was working at my desk in room 108 at PATH. A woman I did not recognize entered the room. I later learned that this woman was [REDACTED]

[REDACTED] an auditor with the New York City Comptroller's Office. She did not provide her name, but displayed a DHS identification card. She stated that she was a DHS employee at Beaver Street, who was at PATH to ask questions and observe. At no point did she indicate that she worked for the Comptroller's Office, nor did she identify herself as an auditor. I had no prior notice that [REDACTED] would be questioning me or other PATH employees that day.

8. [REDACTED] approached me and asked my name, which I provided. She did not ask whether I had a copy of the PATH Manual or the Eligibility Guidelines, or to produce a copy of them, nor did she ask me any other questions. Shortly after we spoke, I left the room.

[REDACTED]

Sworn to before me this
15th day of October 2009.

[REDACTED]

Notary Public

County of Bronx
State of New York

[REDACTED]
NOTARY PUBLIC - STATE OF NEW YORK
[REDACTED]
Qualified in Bronx County
My Commission Expires July 10, 2010

[illegible]

1. Since July 2008, I have worked as a Family Worker at PATH. I submit this affidavit to describe my interaction [REDACTED] on May 14, 2009, which lasted approximately five minutes. I begin, however, by briefly describing what I do as a Family Worker and the training I have received in that position.

2. As a Family Worker, my duties and responsibilities include conducting a face-to-face assessment of families applying for shelter to determine, among other things, the family's two-year housing history, the reasons why they are seeking shelter, and whether they have any other housing where they can live.

3. I record the information obtained through my interview of the family on the eligibility determination questionnaire (EDQ), which includes questions regarding the family's current living situation, the type of housing in which the family resides, the number of rooms and the sleeping arrangements of those residing there, and whether the apartment contains

hazardous conditions, as well as questions regarding domestic violence, child welfare and medical issues that confront the family.

4. In the course of the interview, I explain the Eligibility Process to the family and answer any questions they may have about it. I also discuss the kinds of information or documentation they need to provide in order for DHS to investigate and determine their eligibility for shelter. At the end of the interview, I give the family an appointment slip to return to PATH with the requested information/documentation and also schedule an eligibility assessment conference (EAC) to discuss the status of their application. The EAC also provides the family with a further opportunity to provide additional information or documentation to ensure that a correct eligibility determination is made.

5. At the completion of the investigation of the family's eligibility for shelter, I render an eligibility recommendation which is then reviewed at various supervisory and quality assurance levels. Since commencing my employment as a Family Worker, I have interviewed hundreds of families and rendered hundreds of eligibility recommendations.

6. Upon my hire as a Family Worker, I received training on the Eligibility Process and the Eligibility Guidelines for approximately one week in a classroom setting. Before interviewing families on my own, I also spent a day shadowing an experienced Family Worker. As part of my initial training I was issued a copy of the Eligibility Guidelines. Since that time I have received additional training on the Guidelines, the ACS and NOVA referral processes and other policies and procedures regarding the determination of families' eligibility for shelter. Throughout my initial training and thereafter, my supervisor was available to provide me with guidance and answer my questions.

7. Prior to becoming a Family Worker, I worked for three years as a Field Investigator. In that position, I toured applicants' housing locations including those listed in the family's two-year housing history to determine whether the family could stay there, interviewed primary tenants (and others on site who may have relevant information), and recorded my findings.

8. On May 14, 2009, [REDACTED], whom I later learned was an auditor with the Comptroller's Office, approached me at my desk at PATH. She stated that she was from 33 Beaver Street, DHS' main office location. Based on this representation, I agreed to answer her questions. At no point did she indicate that she worked for the Comptroller's Office or identify herself as an auditor. I had no prior notice that [REDACTED] would be questioning me or other PATH employees that day.

9. [REDACTED] asked me to describe my initial training as a Family Worker, but did not ask me about any subsequent training or supervision I had received. She asked whether I had received a copy of the Eligibility Guidelines during my initial training, but did not ask me to show her my copy of the Guidelines. She also asked whether I had a copy of the PATH Manual and I responded that I did not. [REDACTED] showed me some documents but I do not recall what they were or if I was able to identify them.

[REDACTED]

Sworn to before me this
15th day of October 2009.

[REDACTED]

NOTARY PUBLIC-STATE OF NEW YORK

[REDACTED]

Subscribed in Bronx County

My Commission Expires July 19, 2016

3. I record the information obtained through my interview of the family on the eligibility determination questionnaire (EDQ), which includes questions regarding the family's current living situation, the type of housing in which the family resides, the number of rooms and the sleeping arrangements of those residing there, and whether the apartment contains

hazardous conditions, as well as questions regarding domestic violence, child welfare and medical issues that confront the family.

4. In the course of the interview, I explain the Eligibility Process to the family and answer any questions they may have about it. I also discuss the kinds of information or documentation they need to provide in order for DHS to investigate and determine their eligibility for shelter. At the end of the interview, I give the family an appointment slip to return to PATH with the requested information/documentation and also schedule an eligibility assessment conference (EAC) to discuss the status of their application. The EAC also provides the family with a further opportunity to provide additional information or documentation to ensure that a correct eligibility determination is made.

5. At the completion of the investigation of the family's eligibility for shelter, I render an eligibility recommendation which is then reviewed at various supervisory and quality assurance levels. Since commencing my employment as a Family Worker, I have interviewed hundreds of families and rendered hundreds of eligibility recommendations.

6. Upon my hire as a Family Worker I received extensive training on the Eligibility Process and the Eligibility Guidelines, and I was provided a copy of both the PATH Manual and the Guidelines. These trainings were conducted by PATH managers and senior attorneys. Since that time, I have received regular refresher trainings on the Eligibility Process and the Eligibility Guidelines. I have also received training on NoVA procedures and referrals, ACS referrals and clearances, and many additional topics. I believe the trainings I received have thoroughly prepared me to carry out my job as a Family Worker.

7. On May 14, 2009, I was sitting at my desk in room 108 at PATH. A woman I did not recognize entered the room, where she remained for approximately ten to

fifteen minutes. I later learned that this woman was [REDACTED], an auditor with the New York City Comptroller's Office. She did not provide her name, but displayed a DHS identification card, and stated she was from 33 Beaver Street, DHS' main office location. She also stated she was friends with [REDACTED], a PATH Legal Manager, and [REDACTED] [REDACTED] a PATH Deputy Director. At no point did she disclose that she worked for the Comptroller's Office, nor did she identify herself as an auditor. I had no prior notice that [REDACTED] [REDACTED] would be questioning me or other PATH employees that day.

8. [REDACTED] stated she was at PATH to speak with [REDACTED]. Another Family Worker in the room told her that [REDACTED] was not present. She then approached me with a packet of papers, held them up to my face, and asked if I could identify them. I told her that I could not answer any of her questions without the approval of my supervisor. [REDACTED] said that she knew [REDACTED], and threatened to inform her that I was not being cooperative. I then attempted to call [REDACTED] to tell her that [REDACTED] was in our office questioning staff, but I was unable to reach her.

9. [REDACTED] did not ask me about training I had received as a Family Worker. She did not ask me whether I had a copy of the PATH Manual or the Guidelines, nor did she ask me to produce them.

10. After approximately 10 minutes, [REDACTED] left room 108 and began walking through the hallway, questioning people randomly as she walked by them. At one point she encountered [REDACTED], a Senior Team Leader, and asked him questions, but I did not overhear their conversation.

[REDACTED]

Sworn to before me this
1st day of October 2009.

[REDACTED]

Notary Public

County OF Bronx
State OF New York

[REDACTED]

NOTARY PUBLIC - STATE OF NEW YORK

[REDACTED]

Qualified in Bronx County
My Commission Expires July 10, 2010

AFFIDAVIT OF
[REDACTED]
WORKER # 6

[REDACTED], being duly sworn, deposes and states:

2. As a Family Worker, my duties and responsibilities include conducting a face-to-face assessment of families applying for shelter to determine, among other things, the family's two-year housing history, the reasons why they are seeking shelter, and whether they have any other housing where they can live.

3. I record the information obtained through my interview of the family on the eligibility determination questionnaire (EDQ), which includes questions regarding the family's current living situation, the type of housing in which the family resides, the number of rooms and the sleeping arrangements of those residing there, and whether the apartment contains

hazardous conditions, as well as questions regarding domestic violence, child welfare and medical issues that confront the family.

4. In the course of the interview, I explain the Eligibility Process to the family and answer any questions they may have about it. I also discuss the kinds of information or documentation they need to provide in order for DHS to investigate and determine their eligibility for shelter. At the end of the interview, I give the family an appointment slip to return to PATH with the requested information/documentation and also schedule an eligibility assessment conference (EAC) to discuss the status of their application. The EAC also provides the family with a further opportunity to provide additional information or documentation to ensure that a correct eligibility determination is made.

5. At the completion of the investigation of the family's eligibility for shelter, I render an eligibility recommendation which is then reviewed at various supervisory and quality assurance levels. Since commencing my employment as a Family Worker, I have interviewed hundreds of families and rendered hundreds of eligibility recommendations.

6. Upon my hire as a Family Worker, I received extensive training on the Eligibility Process and the Eligibility Guidelines, and I was provided a copy of both the PATH Manual and the Guidelines. Since that time, I have received regular refresher trainings on the Eligibility Process and the Eligibility Guidelines. These trainings were conducted by PATH managers and senior attorneys. I have also received training on NoVA procedures and referrals, ACS referrals and clearances, and PATH policies and procedures. I believe the trainings I received have thoroughly prepared me to carry out my job as a Family Worker.

7. On May 14, 2009, I was working at my desk in room 108 at PATH. A woman I did not recognize entered the room, where she remained for approximately ten to

fifteen minutes. I later learned that this woman was [REDACTED] an auditor with the Comptroller's Office. She did not provide her name, but displayed a DHS identification card and said that she worked for DHS. Several minutes later she stated that she was "contracted out," however she did not explain this comment further. At no point did she indicate that she worked for the Comptroller's Office, nor did she identify herself as an auditor. I had no prior notice that [REDACTED] would be questioning me or other PATH employees that day.

8. [REDACTED] asked to speak with [REDACTED], a PATH Legal Manager, or [REDACTED] who also worked for the PATH Legal Unit. One of the other Family Workers present told her that neither [REDACTED] nor [REDACTED] was in the room. [REDACTED] then held up a packet of papers, and asked each Family Worker in the room whether they recognized them.

9. [REDACTED] approached me with the packet of papers, held the papers up to my face, and asked if I recognized the documents. There appeared to be several pages in the packet; however I was not given an adequate opportunity to review each page. Instead I skimmed the first page. I responded that the documents appeared to describe our application process for shelter.

10. [REDACTED] did not ask me any other questions, nor did she show me any other documents. She did not ask me whether I have a copy of the PATH Manual or the Eligibility Guidelines, or to produce my copies.

[REDACTED]

Sworn to before me this
15th day of October 2009.

[REDACTED]

Notary Public

County of Bronx
State of New York

[REDACTED]
NOTARY PUBLIC - STATE OF NEW YORK
[REDACTED]
Qualified in Bronx County
My Commission Expires July 18, 2010

3. I record the information obtained through my interview of the family on the eligibility determination questionnaire (EDQ), which includes questions regarding the family's current living situation, the type of housing in which the family resides, the number of rooms and the sleeping arrangements of those residing there, and whether the apartment contains

hazardous conditions, as well as questions regarding domestic violence, child welfare and medical issues that confront the family.

4. In the course of the interview, I explain the Eligibility Process to the family and answer any questions they may have about it. I also discuss the kinds of information or documentation they need to provide in order for DHS to investigate and determine their eligibility for shelter. At the end of the interview, I give the family an appointment slip to return to PATH with the requested information/documentation and also schedule an eligibility assessment conference (EAC) to discuss the status of their application. The EAC also provides the family with a further opportunity to provide additional information or documentation to ensure that a correct eligibility determination is made.

5. At the completion of the investigation of the family's eligibility for shelter, I render an eligibility recommendation which is then reviewed at various supervisory and quality assurance levels. Since commencing my employment as a Family Worker, I have interviewed hundreds of families and rendered hundreds of eligibility recommendations.

6. Upon my hire as a Family Worker, I received training on the Eligibility Process and the Eligibility Guidelines for approximately one week in a classroom setting. At the training, I also was issued a copy of the Eligibility Guidelines. Since that time I have received additional training on the Guidelines, the ACS and NOVA referral process and other policies and procedures regarding determination of families' eligibility for shelter. Throughout my initial training and thereafter, my supervisor was available to provide me with guidance and answer my questions.

7. On May 14, 2009, [REDACTED], whom I later learned was an auditor with the Comptroller's Office, approached me at my desk at PATH. She showed me a DHS

identification card but never informed me that she worked for Comptroller's Office; nor did she identify herself as an auditor. [REDACTED] stated that she had been given my name by [REDACTED] a PATH Team Leader who supervises Family Workers. This statement coupled with her showing me her DHS identification card led me to believe she was an employee of DHS. Therefore, I agreed to answer her questions. I had no prior notice that [REDACTED] would be questioning me or other PATH employees that day.

8. [REDACTED] asked me to describe my initial training. However, she did not ask me about subsequent training or supervision I had received. She also asked me whether I had received a copy of the Eligibility Guidelines during my initial training and asked me to show her my copy of the Guidelines, which I did. [REDACTED] asked me whether I had a copy of the PATH Manual. I responded that I was not sure, but it did not sound familiar. [REDACTED] did not show me any documents or ask me to identify them.

Sworn to before me this
1st day of October 2009.

[REDACTED]
Notary Public

County of Bronx
State of New York

[REDACTED]
NOTARY PUBLIC - STATE OF NEW YORK

[REDACTED]
Qualified in Bronx County
My Commission Expires July 12, 2010