



# City of New York

## OFFICE OF THE COMPTROLLER

John C. Liu  
COMPTROLLER



### **MANAGEMENT AUDIT**

**Tina Kim**

Deputy Comptroller for Audit

Follow-up Audit Report on the  
Department of Building's  
Elevator Inspections and Follow-up  
Activities

MJ12-128F

**May 9, 2013**

<http://comptroller.nyc.gov>



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

John C. Liu  
COMPTROLLER

May 9, 2013

**Dear Residents of the City of New York:**

My office has audited the Department of Buildings' (DOB) efforts to implement the nine recommendations made in a prior audit, *Audit Report on the Department of Buildings Elevator Inspections and Follow-up Activities* (#MJ10-063A), issued October 21, 2010. We perform follow-up audits of City operations as a means of increasing accountability and ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

Of the nine recommendations made in the previous audit, DOB implemented three, partially implemented four, and did not implement two. Although DOB made some progress in addressing weaknesses in its elevator inspection and follow-up activities, certain weaknesses remain. For example, during the audit scope period, DOB made no appreciable changes to its procedures to ensure that periodic inspections of elevators are carried out promptly each year. Also, DOB did not establish benchmarks to effectively manage the backlog of elevators overdue for a periodic inspection and had not taken action to address open DOB violations issued by private inspectors under contract with DOB (PVT violations) after January 2004. Finally, DOB still had not established clear time requirements and procedures for property owners to submit to DOB proof of the correction of deficient conditions cited on PVT violations.

To address these weaknesses, the audit made six recommendations, including that DOB should: (1) strengthen existing procedures and consider increasing resources as needed to provide greater assurance that periodic inspections are carried out in a timely manner each year and (2) establish and implement procedures to improve its follow-up of open PVT violations, particularly those issued since January 2004, and ensure property owners' compliance in remediating defective conditions.

The results of the audit have been discussed with DOB officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,



John C. Liu

# TABLE OF CONTENTS

<b>AUDIT REPORT IN BRIEF</b> .....	1
Audit Findings and Conclusions .....	2
Audit Recommendations .....	2
DOB Response .....	2
<b>INTRODUCTION</b> .....	<b>3</b>
Background .....	3
Objective .....	4
Scope and Methodology.....	4
Discussion of Audit Results.....	4
<b>RESULTS OF FOLLOW-UP AUDIT</b> .....	<b>6</b>
Recommendations .....	15
<b>DETAILED SCOPE AND METHODOLOGY</b> .....	<b>18</b>
<b>ADDENDUM</b>	

# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

## Follow-up Audit Report on the Department of Buildings' Elevator Inspections and Follow-up Activities

**MJ12-128F**

---

### AUDIT REPORT IN BRIEF

This follow-up audit determined whether the Department of Buildings (DOB) had implemented the recommendations made in the previous audit, *Audit Report on the Department of Buildings Elevator Inspections and Follow-up Activities* (#MJ10-063A), issued October 21, 2010.

DOB promotes the safe and lawful use of more than 975,000 buildings and properties throughout the five boroughs. The DOB Elevator Division's mission is to ensure the operational safety, reliable service, and lawful use of elevators, escalators, amusement rides, and related devices (i.e., lifts, conveyors, personnel hoists, wheelchair lifts, and moving walks) throughout the City. To carry out its mission, the division performs approximately 90,000 inspections and tests each year.

With certain exceptions, elevators in New York City under DOB jurisdiction<sup>1</sup> must undergo an annual (periodic) inspection within one year (between six and 12 months) of the last periodic inspection, a "no-load" safety (Category 1) test once each calendar year, and a "full-load" (Category 5) safety test once every five years. Periodic inspections involve the visual inspection of all elevator components, and Category 1 tests involve the visual inspection of systems and tests of safeties (braking systems) while the elevator is running unloaded. Category 5 tests involve inspections of systems and tests of safeties while running the elevator at its full-load capacity. The Elevator Division's efforts are primarily focused on more than 60,000 active passenger and freight elevators in approximately 28,000 buildings citywide under DOB's jurisdiction and are subject to periodic inspections and safety tests.

---

<sup>1</sup> According to DOB officials, properties owned by New York State, the U.S. Federal government, and foreign governments that are located within the boundaries of New York City are generally not under DOB's jurisdiction. Buildings owned by the New York City Housing Authority (NYCHA) are under DOB's jurisdiction. However, NYCHA's own inspectors perform inspections and tests of approximately 3,300 elevators installed in its developments citywide under agreement with DOB.

The prior audit found that DOB's enforcement and follow-up activities did not adequately ensure the performance of mandated elevator safety inspections and tests and the correction of cited deficiencies. It also found that DOB had a persistent backlog of elevators requiring a periodic inspection and did not adequately follow up on inspection attempts in which contract inspectors could not gain access to the property (no access inspections). Further, DOB needed to improve the timeliness of its re-inspection of elevators issued cease-use orders and improve its procedures to address DOB violations issued by private inspectors under contract with DOB (PVT violations). In this report, we discuss the recommendations from the prior audit as well as the current implementation status of each of those recommendations.

## **Audit Findings and Conclusions**

The audit determined that of the nine recommendations made in the previous audit, DOB implemented three (#7, #8, and #9), partially implemented four (#2, #3, #4, and #6), and did not implement two (#1 and #5).

Overall, DOB has made some progress since the prior audit in addressing weaknesses in its elevator inspection and follow-up activities. However, certain weaknesses remain. Specifically, we found that during the audit scope period, DOB made no appreciable changes to its procedures to ensure that periodic inspections of elevators are carried out promptly each year. Also, DOB did not establish benchmarks to effectively manage the backlog of elevators overdue for a periodic inspection. Although DOB has taken action to address open PVT violations that were issued prior to January 2004, the agency took no similar action for open PVT violations that were issued after January 2004. Finally, DOB has still not established clear time requirements and procedures for property owners to submit to DOB proof of the correction of deficient conditions cited on PVT violations.

## **Audit Recommendations**

To address these weaknesses, this current audit made six recommendations, including that DOB should:

- Strengthen existing procedures and consider increasing resources as needed to provide greater assurance that periodic inspections are carried out in a timely manner each year.
- Establish and implement procedures to improve its follow-up of open PVT violations, particularly those issued since January 2004, and ensure property owners' compliance in remediating defective conditions.

## **DOB Response**

DOB generally agreed with five of the recommendations made in this current audit report and disagreed with one recommendation that addresses the agency's failure to establish a time period for property owners to submit documentation certifying the correction of conditions cited in a violation.

# INTRODUCTION

## Background

The Department of Buildings (DOB) promotes the safe and lawful use of more than 975,000 buildings and properties throughout the five boroughs by enforcing the City's Building Code, Electrical Code, Zoning Resolution, and other laws and regulations governing the construction, maintenance, use, occupancy, safety, mechanical equipment, and inspection of buildings in the City.<sup>2</sup> DOB's main enforcement activities include examining building plans, inspecting properties, licensing the construction trades, and issuing related permits.

The DOB Elevator Division's mission is to ensure the operational safety, reliable service, and lawful use of elevators, escalators, amusement rides, and related devices throughout the City. To carry out its mission, the division performs approximately 90,000 inspections and tests each year.

With certain exceptions, elevators in New York City under DOB's jurisdiction must undergo an annual (periodic) inspection within one year (between six and 12 months) of the last periodic inspection, a "no-load" safety (Category 1) test once each calendar year, and a "full-load" (Category 5) safety test once every five years.<sup>3</sup> Periodic inspections involve the visual inspection of all elevator components, and Category 1 tests involve the visual inspection of systems and tests of safeties while the elevator is running unloaded. Category 5 tests involve inspections of systems and tests of safeties while running the elevator at its full-load capacity. The Elevator Division's efforts are primarily focused on more than 60,000 active passenger and freight elevators in approximately 28,000 buildings citywide under DOB jurisdiction and are subject to periodic inspections and safety tests.

Periodic inspections are generally unscheduled and performed on behalf of DOB by its contract inspectors, who also issue violations (PVT violations) and cease-use orders. Category 1 and Category 5 tests are performed by private, DOB-licensed inspection companies hired by property owners and must be witnessed by an independent, third-party inspector (also hired by the property owners) licensed by DOB.

Elevator Division inspectors perform acceptance tests of elevator installations, alterations, modifications, removals, and dismantles. They also conduct surveys, perform violation re-inspections, respond to complaints, investigate incidents and accidents, spot check and audit Category 5 elevator tests, and issue violations and cease-use orders when serious deficient conditions are found.

The Elevator Division uses DOB's Building Information System (BIS) to process elevator applications, administer PVT violations, track complaints and cease use orders, and record information (i.e., safety test results) submitted by property owners. DOB also uses its Building Strategic Metrics and Reporting Tool (B-Smart) to analyze related BIS data and generate ad hoc reports.

---

<sup>2</sup> Chapter 26, §643 of the New York City Charter

<sup>3</sup> New York City Administrative Code, Title 28 Article 304 and Appendix K of the Building Code

This report is based on a follow-up audit we conducted to determine whether DOB had implemented the recommendations made in the previous audit, *Audit Report on the Department of Buildings Elevator Inspections and Follow-up Activities* (#MJ10-063A), issued October 21, 2010. In this report, we discuss the recommendations from the prior audit as well as the current implementation status of each of those recommendations. The prior audit found that DOB's enforcement and follow-up activities did not adequately ensure the performance of mandated elevator safety inspections and tests and the correction of cited deficiencies. It also found that DOB had a persistent backlog of elevators requiring a periodic inspection and did not adequately follow up on inspection attempts in which contract inspectors could not gain access to the property (no access inspections). Further, DOB needed to improve the timeliness of its re-inspection of elevators issued cease-use orders and improve its procedures to address PVT violations.

## Objective

The objective of this follow-up audit was to determine whether DOB implemented the nine recommendations made in the prior audit.

## 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 audit scope primarily covered January 1, 2010, through December 31, 2012. However, to carry out certain test procedures involving Category 5 safety tests and the aging of open PVT violations and elevators overdue for safety tests and inspections, the audit scope was expanded. Please refer to the Detailed Scope and Methodology section at the end of this report for the specific procedures and tests that were conducted.

## Discussion of Audit Results

The matters covered in this report were discussed with DOB officials during and at the conclusion of this audit. A preliminary draft report was sent to DOB officials on February 19, 2013, and discussed at an exit conference held on March 12, 2013. We submitted a draft report to DOB officials with a request for comments on March 26, 2013. We received a written response from DOB officials on April 8, 2013. In their response, DOB officials, although not fully agreeing with the need for some of the recommendations, generally agreed to implement five of the six recommendations made in this current audit. DOB officials disagreed with the remaining recommendation that addresses the agency's failure to establish a time period for property owners to submit documentation certifying the correction of conditions cited in a violation.

Despite agreeing to implement most of the audit's recommendations, DOB officials in their response attempted to diminish key audit findings regarding the performance of periodic inspections and related backlogs, discussed herein. DOB officials stated:

“During the audit process, the Department informed your audit team that the New York City Construction Codes General Administrative Provision states, ‘The required periodic inspection shall be made by the Department, except that one inspection and test for elevators and escalators shall be made between January first and December thirty-first of each year on behalf of the owner by an approved agency in accordance with the code and with rules promulgated by the commissioner.’ (Article 304, Periodic Inspection of Elevators, § 28-304.6.6) [Auditors note: the correct citation is § 28-304.6.1] Your audit team refused to acknowledge the Department’s interpretation of one inspection each calendar year, and this distorted the findings described in the audit report.”

We disagree with DOB’s position. In arguing its opinion, DOB appears to intentionally sidestep other sections of the regulations that set forth time intervals in which elevator inspections and tests must be carried out. Citing the Administrative Code, DOB argues that periodic inspections need to be performed once each calendar year, any time between January 1 and December 31. According to this logic, however, DOB implies that periodic inspections can be performed at a time interval ranging from as little as one month (i.e., in December of Year 1 and then in January of Year 2) up to nearly two years (January of Year 1 and then in December of Year 2) apart.

Furthermore, this time interval is in violation of §28-304.2 of the Administrative Code and §3012.1 of the Building Code, which clearly state that the inspection and testing of elevators, escalators, conveyor systems, etc., shall be in accordance with Appendix K of the Building Code. Appendix K establishes a required time interval of six to 12 months for periodic elevator inspections, 12 months for Category 1 tests, and 60 months for Category 5 tests. Accordingly, periodic inspections must be performed once each calendar year at intervals of between six months but not exceeding 12 months after the date of the last periodic inspection. Category 1 tests must be performed at least once every 12 months and Category 5 tests must be performed at least once every 60 months.

In addition, DOB stated, “With more than 60,000 freight and passenger devices to inspect, there might be discrepancies on what has been inspected in the last 365 days. This is why it is after each calendar year, once all data entry backlogs have been handled, that the Elevator Unit computes its backlog.” It appears that DOB is suggesting that a backlog exists in data entry rather than in the actual performance of periodic inspections. We found no evidence to support this assertion. However, in making this statement, DOB raises questions about potential weaknesses in its administrative and data entry procedures as well as the reliability of BIS data –areas that were outside the current audit scope.

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



## RESULTS OF FOLLOW-UP AUDIT

We determined that of the nine recommendations made in the previous audit, DOB implemented three (#7, #8, and #9), partially implemented four (#2, #3, #4, and #6), and did not implement two others (#1 and #5).

**Previous Finding:** “Weaknesses in Annual (Periodic) Inspections”

The City’s Administrative Code requires that all active elevators undergo an annual (periodic) inspection. Periodic inspections can be performed from six months but not later than 12 months after the date of the last periodic inspection. Periodic inspections are generally unscheduled and performed on behalf of DOB by its contract inspectors.

The previous audit found that DOB: (1) did not carry out required periodic inspections (through its contract inspectors) for nearly one-fifth of all sampled elevators in 2009; (2) had a persistent backlog of elevators that were past due for a periodic inspection; (3) did not adequately dispatch a DOB inspector after two unsuccessful (no access) inspection attempts by contract inspectors as established in its procedures; and (4) did not have a procedure to flag those elevators for which a DOB inspector should be dispatched to perform an inspection or establish a time frame to trigger such follow-up action.

***Previous Recommendation #1:*** “Review and strengthen its procedures to ensure that periodic inspections of elevators are carried out promptly each year.”

***Previous DOB Response:*** “DOB generally agreed, stating: ‘The Department has identified the cause of the backlog; a previous contract with two private companies expiring during Fiscal Year 2009. In Fiscal Year 2010 the Department awarded three new contracts, allowing, increasing the number of inspections to be performed beyond the contract limit to achieve the goal of having all periodic inspections performed promptly. As of March 2010, our private contract inspectors are performing over 7,000 inspections per month, an increase of at least 1,600 more inspections per month are being performed over the stipulated levels in the contract.’”

**Current Status:** NOT IMPLEMENTED

Despite representations to the contrary, we found that DOB made no appreciable changes to its administrative and operational procedures to ensure that periodic inspections of elevators are carried out promptly each year.

Our evaluation of periodic inspections for 96 sampled elevators found conditions similar to those noted in the prior audit. Specifically, we found that as of July 19, 2012 (audit test date), of the 96 sampled elevators, 21 (22 percent) were overdue one year or more for a periodic inspection. Four of those 21 elevators had not been inspected because DOB’s contract inspectors were unable to gain access to the properties. The remaining 75 (78 percent) sampled elevators had been inspected; however, only 37 (49 percent) of those inspections were performed within one year of the elevators’ last periodic inspections. The other 38 (51 percent) devices were inspected more than one year after the last periodic inspections had been performed.

According to officials, DOB's goal is for its contracted elevator inspection firms to perform a total of 4,998.2 periodic inspections per month. However, officials also stated that reaching this goal is difficult to achieve due to a combination of "underperforming and new contractors." We noted that even if this monthly goal were reached, whereby the contract inspectors gained access and were successful at performing all assigned elevators on their routes (e.g., inspectors gain access to the buildings, no second attempt, etc.), a shortfall of about 1,690 elevators would remain uninspected in a 12-month period.

Backlogs occur when periodic inspections are not performed promptly. As discussed later, based on DOB statistics, as of November 26, 2012, a backlog of 10,385 elevators existed that DOB's contract inspectors did not inspect and, therefore, the devices were overdue for a periodic inspection by one year or more.

At the exit conference on March 12, 2013, DOB officials stated that since some time in 2011, they had been working on developing a "clustering program," which consists of using B-Smart reports to identify all elevators requiring a periodic inspection by community board, and then assigning those devices to contract inspectors. (In its Audit Implementation Plan [AIP] for the prior audit, DOB referred to clustering. During the audit, we inquired about this policy with DOB officials, but they provided no additional information to us.) According to DOB officials, the new policy was implemented in January 2013 – after the end of audit fieldwork and outside the scope of this audit. Further, there was insufficient information detailing the particulars of the program. Consequently, we did not evaluate or opine on the "clustering program."

**Previous Recommendation #2:** "Establish benchmarks to identify inspection backlogs as they occur and design procedures to address them promptly to prevent the backlog from growing too large."

**Previous DOB Response:** "DOB generally agreed, stating: 'The Department has implemented standard quarterly reports using our automated Building Strategic Metrics and Reporting Technology (B-Smart) tool for workload analysis. These reports will be reviewed by the Elevator Division management in order to identify periodic inspection backlog in advance. Elevator Division Management will take necessary steps to ensure the periodic inspections are being performed as required by the code.'"

**Current Status:** PARTIALLY IMPLEMENTED

We consider this recommendation partly implemented because, although DOB did not establish benchmarks as recommended, the agency did implement a new procedure during this audit to address elevators that remain uninspected due to no-access attempts (discussed under previous recommendation #3).

During this follow-up audit and in the AIP that DOB submitted in response to the previous audit, DOB officials stated that the agency generated reports to identify and manage the backlog of elevators overdue for a periodic inspection. We found no evidence, however, that DOB had either generated those reports or had implemented effective strategies for managing the persistent backlog of periodic elevator inspections.

Regarding DOB's assertions about other corrective actions — such as incorporating overdue inspections into DOB's contract inspectors' workload — we found that the agency was referring

to the same routine for assigning routes to contract inspectors that was followed at the time of the prior audit. Basically, DOB generates a quarterly report (once every three months) that captures the elevators that are coming due or are past due for a periodic inspection, and these elevators are, in turn, assigned to the contract inspection companies. Elevators that remain uninspected, including those showing no-access attempts, will appear in the next quarterly report and, once again, will be assigned to contract inspectors.

Based on DOB data, of the 61,668 elevators recorded in BIS that were subject to annual periodic inspections, 10,385 (17 percent) were overdue by one year or more as of November 26, 2012. The number of days since the previous periodic inspection for these elevators as recorded in BIS ranged from 366 days (one day late) to 8,881 days (more than 24 years late). Nearly 12 percent, or 1,210 of the 10,385 elevators, were overdue by two years or more. DOB's new procedure to address properties with repeated no-access inspections (discussed later) indirectly will address a certain level of elevators overdue for a periodic inspection. Notwithstanding, to properly address this ongoing challenge, DOB needs to strategically address the problem, develop effective and meaningful approaches to managing the backlog of periodic inspections, and follow through with applying those strategies on a consistent basis.

***Previous Recommendation #3:*** “Develop reports, procedures, and processes to flag and identify elevators that receive two no-access inspection attempts by contract inspectors, and dispatch a DOB inspector to follow up in accordance with procedure. If a property remains inaccessible, DOB should design and apply stronger enforcement actions to encourage the property owner’s compliance.”

***Previous DOB Response:*** “DOB generally agreed, stating: ‘The Department has created reports using B-Smart technology to perform risk analysis-based inspections and report monitoring. The private contract inspectors are experiencing ‘no access’ conditions, in part, to the unscheduled nature of the periodic inspections. Under the new private contracts, the private contract inspectors’ are required to post a ‘no access’ form (LS-4) at the site after each visit. The building owner or management is now required to make an appointment with the Elevator Division to have the device inspected. The Department is also exploring other options such as gaining access through the court system.’”

**Current Status:** PARTIALLY IMPLEMENTED

DOB has not commenced routinely identifying elevators with two no-access inspection attempts and subsequently dispatching a DOB inspector to follow up on those elevators in accordance with DOB procedures. However, we learned that during audit fieldwork, DOB implemented a new procedure leading to stronger enforcement actions being taken against owners of properties that persistently remain inaccessible to DOB to perform periodic inspections.

In December 2012, towards the end of the fieldwork for this audit, DOB officials told us that in approximately June 2012, they began designing a new procedure, which was implemented in mid-August 2012 to take stronger enforcement action against non-compliant property owners. Specifically, when a property has three consecutive no-access inspection attempts, DOB will issue Environmental Control Board (ECB) violations to the non-compliant property owners who persistently fail to provide proper access to DOB inspectors (or contract inspectors) to inspect the elevator(s) on their premises.

As of November 26, 2012, there were 585 elevators for which 1,000 days (2.7 years) or more had elapsed since the last periodic inspections were performed. As of January 14, 2013, DOB told us that it had finished reviewing the first 142 devices and was working on the next 100. DOB noted that as the result of its review of the first 142 devices:

- 23 ECB violations were issued to property owners;
- 73 ECB violations were written and prepared by DOB inspectors, but were waiting to be served on the property owners; and
- 46 devices had either been inspected or their status was changed from “Active” to “Removed,” meaning that the devices have been physically removed from the location and the status in BIS changed from “Active” to “Removed.”

We reviewed BIS records for these 142 devices and, based on notations recorded therein, confirmed DOB’s actions on these devices. Further, we verified that most of these 142 elevator devices were among those devices that were overdue for a periodic inspection for the longest amount of time.

DOB officials stated that this new procedure would be ongoing. However, the frequency with which it will be applied still must be decided. Given the unscheduled nature of periodic inspections, it is probable that “no-access” inspection attempts will continue to contribute to the problem of inspections not being carried out promptly and to the backlog of elevators overdue for inspection.

**Previous Finding:** “Weaknesses in Follow-up of PVT Violations”

When deficient conditions are observed, DOB inspectors are empowered to issue violations, referred to as “ECB violations,” which carry a monetary fine and require a property owner to attend an Environmental Control Board (ECB) court hearing. Contract inspectors issue violations for deficient conditions identified during a periodic inspection. These violations are generally referred to as “PVT” violations because they are issued by a private (PVT) contractor hired by DOB. PVT violations do not carry a monetary fine and do not require the property owner to attend an ECB hearing. Instead, PVT violations can be cleared by a property owner hiring a private elevator company to correct deficient conditions and submitting an Affirmation of Correction (Form ELV29) affirming that all violating conditions have been corrected to DOB along with documentary proof (i.e., copies of permits, bills, receipts, photographs, etc.) showing that the cited deficient conditions have been corrected. PVT violations that remain uncorrected can prevent DOB’s approval or renewal of a Certificate of Occupancy.<sup>4</sup>

DOB rules and instructions accompanying PVT violations specifically establish that property owners have 30 days from the violation date to repair the defects. However, if the condition is a “class 1 failure to maintain violation,” the condition must be repaired “immediately,” and the property owner must subsequently submit to DOB an ELV29 Test Correction Report along with supporting documentation.

---

<sup>4</sup> The Certificate of Occupancy is a document that provides authorization from the DOB for a building that is to be a public edifice or a private residence. The purpose of the certificate is to provide verification that the building is in full compliance with current building codes and is safe for occupancy.

The previous audit found that despite these succinct requirements, DOB's instructions and procedures did not establish a time frame within which the property owners must submit the ELV29 and supporting documentation to DOB to remove the PVT violation. Moreover, DOB did not employ adequate follow-up activities to encourage property owners' compliance. For example, DOB employed no follow-up activities like phone calls or letters to property owners to remind them of their responsibilities to address the open PVT violations.

***Previous Recommendation #4:*** "Establish procedures to improve its follow-up of open PVT violations."

***Previous DOB Response:*** "DOB generally agreed, stating: 'The Department will strengthen its efforts in this area. Open PVT violating conditions on a device are being addressed in the following manner: during the next periodic inspection cycle by the private contract inspector, during the Category 1 and Category 5 inspection and test done by a licensed performing and witnessing approved agency, and/or during the Elevator Division inspections on complaints or other types of inspections, if the condition still exists.'"

**Current Status:** PARTIALLY IMPLEMENTED

DOB has taken action to address open PVT violations that were issued prior to January 2004. However, the agency has made no appreciable changes to its operational procedures focused on improving its follow-up of the remaining open PVT violations.

As approved by the DOB Commissioner, effective August 14, 2010, DOB promulgated Elevator Rule 103-02 (RCNY§103-02)<sup>5</sup> to address elevator inspections and tests, filing requirements, penalties, and waivers. Regarding PVT violations, those changes modified property owners' documentary filing requirements to remove a PVT violation. Specifically, for PVT violations issued prior to January 1, 2004, the property owner is only required to submit a request to have the PVT violations dismissed along with a copy of a subsequent, satisfactory Category 1 or 5 test/inspection report. For PVT violations issued between January 1, 2004, and December 31, 2009, the property owner must submit a copy of the PVT violation along with an ELV29 and supporting documentation. If the property owner does not have the PVT violation and DOB does not have a copy either, the PVT violation can still be dismissed with a request from the owner submitted along with a copy of a subsequent satisfactory Category 1 or 5 test inspection report and supporting documentation. While these changes assist property owners who seek to have older PVT violations dismissed, as noted by DOB officials during this audit, they primarily address weaknesses noted in the prior audit of DOB's lack of effective records retention.

When we met with DOB officials on December 10, 2012, the new Director of Central Inspections Administration stated that since sometime in August 2012, he has implemented the use of B-Smart reports to identify open PVT violations issued prior to January 1, 2004, and assigned administrative staff to research whether subsequent satisfactory Category 1 or 5 inspection tests reports had been filed on those elevators. If so, he was working to have the old PVT violations rescinded without property owners needing to submit a request of dismissal. He stated that from August 2012 through our meeting date of December 10, 2012, approximately 70 of 12,328 open PVT violations, issued prior to January 1, 2004, had been dismissed based on this new procedure.

---

<sup>5</sup> Implemented in Title 28, Article 304 of the New York City Administrative Code.

As reflected in Table I, our evaluation of DOB data for open PVT violations showed that as of July 25, 2012, there were 124,747 PVT violations open for an average 3.7 years (ranging from 1 day to 14.6 years), dating back as early as January 6, 1998. More than half or 63,383 of the open PVT violations were aged 2.6 years or older with issue dates of December 31, 2009, and prior.

**Table I**

Aging of Open PVT Violations as of July 25, 2012

<b>PVT Violation Issue Date</b>	<b>Number of Open PVT Violations</b>	<b>Age Range in Days (in Years) as of July 25, 2012</b>	<b>Average Time Open in Days (in Years) as of July 25, 2012</b>
Prior to 1/1/2004	12,328 (9.9%)	3,129 days to 5,314 days (8.6 years to 14.6 years)	3,957 days (10.8 years)
1/1/2004 to 12/31/2009	51,055 (40.9%)	937 days to 3,127 days (2.6 years to 8.6 years)	1,833 days (5.0 years)
1/1/2010 to 7/25/2012	61,364 (49.2%)	1 to 935 days (1 day to 2.6 yrs)	410 days (1.1 years)
<b>Total:</b>	<b>124,747 (100%)</b>		<b>1,343 days (3.7 years)</b>

Although it appears that DOB has taken some action to address open PVT violations, based on the vast quantity of open PVT violations, it is clear that DOB needs to do more to improve its follow-up of open PVT violations and ensure property owners' compliance in remediating defective conditions.

**Previous Recommendation #5:** "Establish clear time requirements and procedures for property owners to submit to DOB proof of the correction of deficient conditions cited on PVT violations."

**Previous DOB Response:** "In response to recommendations #5 and #6, DOB stated: 'There are instances where most PVT violating conditions are corrected, but owners fail to file the appropriate form that certifies correction in order to dismiss a violation from the Department's Building Information System. In order to obtain notification of correction from building owners the Department requires Legislation/Rule so that Elevator Division is able to enforce compliance.'"

**Current Status:** NOT IMPLEMENTED

Despite developing and issuing Elevator Rule 103-02, DOB has not established clear time requirements and procedures for property owners to submit to DOB proof of the correction of deficient conditions cited on PVT violations. Prior recommendation #5 addresses procedural matters for property owners to communicate with DOB. However, DOB officials reiterated sentiments expressed in the prior audit. Specifically, DOB officials stressed that the agency is prevented from establishing time requirements with regard to PVT violations because it lacks the authority to do so.

We find DOB's position untenable considering that DOB is empowered to establish rules governing areas under the agency's jurisdiction and to enforce those rules. However, if indeed DOB needs to officially establish and implement rule provisions to enable it to establish time requirements for property owners to submit proof of the correction of deficient conditions cited on PVT violations, then the Elevator Division should consult with DOB's legal department and follow the agency's usual protocols for establishing such rules.

***Previous Recommendation #6:*** "Run a periodic report to identify open PVTs for which no ELV 29 or request for re-inspection has been made, notify property owners of their obligation to make timely repairs, and appropriately follow up to ensure compliance."

***Previous DOB Response:*** "In response to recommendations #5 and #6, DOB stated: 'There are instances where most PVT violating conditions are corrected, but owners fail to file the appropriate form that certifies correction in order to dismiss a violation from the Department's Building Information System. In order to obtain notification of correction from building owners the Department requires Legislation/Rule so that Elevator Division is able to enforce compliance.'"

**Current Status:** PARTIALLY IMPLEMENTED

As a result of action that DOB is taking to address older, open PVT violations, we consider prior recommendation #6 to be partially implemented. As noted earlier, DOB's new Director of Central Inspections Administration stated that since taking over the position in August 2012, he has implemented the use of B-Smart reports to identify open PVT violations issued prior to January 1, 2004, and assigned administrative staff to dismiss those for which property owners submitted evidence of subsequent satisfactory Category 1 or 5 inspection tests. However, DOB has *not* made substantive changes with respect to notifying property owners of their obligation to make timely repairs and following up with the property owners to ensure their compliance.

**Previous Finding:** "Weaknesses in DOB Efforts to Ensure Compliance with Safety Test Requirements"

The City's Administrative Code requires that each elevator undergo a Category 1 test once each calendar year and a Category 5 test once every five years. To evidence the tests, the inspector (hired by the building owner and licensed by DOB) must submit an inspection or test results form (ELV3) to DOB within 45 days of the inspection date. When building owners fail to perform an annual Category 1 elevator inspection/test or do not submit evidence of their elevator inspection/test in a timely manner, DOB required them to pay a fine plus a filing fee for each elevator on the property to clear the violation.

The prior audit found that the owners of buildings with sampled elevators did not perform all required safety tests or file required documentation with DOB reflecting the performance of safety tests and correction of cited deficiencies, when applicable. Moreover, the audit disclosed that DOB:

- Did not adequately ensure property owners' compliance with Category 1 and Category 5 safety test requirements or follow up with non-compliant property owners;

- Did not provide for any penalties to be assessed against property owners for the non-performance of Category 5 tests; and
- Did not establish follow-up and/or enforcement actions (e.g., issuing violations) to be taken when property owners failed to take prompt and appropriate action to correct deficiencies cited in an unsatisfactory Category 1 test.

**Previous Recommendation #7:** “Implement and consistently enforce appropriate procedures and follow-up activities to encourage building owners to comply with Category 1 and Category 5 test requirements. These procedures should explicitly establish the actions to be taken when property owners fail to take prompt and appropriate action to correct defects cited in an unsatisfactory Category 1 test.”

**Previous DOB Response:** “DOB generally agreed, stating: ‘The Department of Buildings Commissioner has already established and signed the ‘Elevator inspections and tests, filing requirements, penalties and waivers’ Rule. This became effective September 13, 2010. It penalizes building owners who do not comply with Category 1 and Category 5 test requirements as per code. The Elevator Division inspectors are performing audits on Category 1 and Category 5 tests.’”

**Current Status: IMPLEMENTED**

DOB has taken steps to encourage building owners to comply with Category 1 and Category 5 test requirements. Elevator Rule 103-02 increased penalties for non-performance of Category 1 test inspections, established penalties for non-performance of Category 5 test inspections, and established as major violations property owners’ failure to file and late filing of ELV29 Affirmation of Correction. Subsequently, DOB adopted some administrative operational changes related to the new rule. This was supported by DOB’s web-posted presentation dated February 2011. DOB periodically generates reports from BIS to identify buildings and the elevators situated therein out of compliance with Category 1 and Category 5 test inspection requirements. It forwards the report(s) to a third party vendor, Vanguard Direct, Inc., to prepare and mail violations to property owners. We found evidence to indicate that Vanguard sent out violations to owners of 4,713 properties with 7,638 elevators that were cited for non-performance of Category 1 test inspections for Calendar Year 2010. Vanguard also sent violations to 806 property owners of buildings (with 1,246 elevators) that had failed to file ELV 29 Affirmations of Correction that were due between September 13, 2010,<sup>6</sup> and December 31, 2010, showing that defects cited in an unsatisfactory Category 1 test inspection had been remedied.

Elevator Rule 103-02 also establishes penalties of \$5,000 to be levied against property owners for non-performance of Category 5 tests and associated late filing penalties.

**Previous Recommendation #8:** “Ensure that documentation, including ELV3 test reports and other related documentation [i.e., PVT violations] that are submitted by inspectors and/or property owners, are appropriately retained as evidence that Category 1 and Category 5 tests are completed as reported. These submitted

---

<sup>6</sup> As of September 13, 2010, DOB initiated enforcing the provision of Elevator Rule 103-02 regarding violations issued to property owners for failure to file the Elevator Affirmation of Correction (ELV29) within 12 months from the date the affirmation was due.



documents should be maintained in accordance with the agency's records retention schedule."

**Previous DOB Response:** "DOB generally agreed, stating: 'The Department has established as a high priority, the development and introduction of electronic data entry of ELV3 forms in order to maintain and retrieve these documents in a more efficient manner.'"

**Current Status:** IMPLEMENTED

DOB has improved its filing and tracking practices to ensure that documentation is appropriately stored and maintained. Specifically, we found that the Elevator Unit now uses locked file cabinets to store hard-copy documentation. Further, it electronically scans hard-copy documents and stores the electronic images on a shared drive within the department. Of the 65 violations (63 PVT and 2 ECB) that were issued on 65 of the 96 elevators in our sample between May 2009 and June 2012, we found that DOB had hard-copy and/or electronic documents for all but one of the violations.

In addition to the manner in which documentation is maintained, DOB officials stated that the Unit Manager performs an informal weekly check of random documentation submitted by inspectors as a means to be assured that the documentation is appropriately filed and stored both physically and electronically, in accordance with DOB's record retention policy.

**Previous Finding:** "Follow-up of Cease-Use Orders Needs Improvement"

If an elevator inspection reveals an imminently hazardous condition, a cease-use order will be issued to the property owner and the elevator will be put out of service and tagged as unsafe. The elevator cannot be placed back into service until it is re-inspected by a DOB inspector and found to be safe. DOB's policy requires that an elevator in a single-elevator building that is put out of service by a cease-use order must be re-inspected by a DOB inspector within 10 working days of the order being issued. If the building has more than one elevator, DOB's policy is to re-inspect the device within 30 days of the order being issued (10/30 day rule).

The prior audit determined that DOB generally followed up on cease-use orders and performed re-inspections of the subject elevators; however, it needed to improve the timeliness of its response.

**Previous Recommendation #9:** "DOB should ensure that all inspections required to lift a cease-use order are expedited and carried out promptly."

**Previous DOB Response:** "DOB generally agreed, stating: 'The Department implemented the use of B-Smart management reports in November 2009 to address this issue and has further strengthened its procedures to have these report[s] reviewed and monitored by area chiefs and the Deputy Director of Field Operations on a daily basis.'"

**Current Status:** IMPLEMENTED

We found that DOB improved its timely response to cease-use order re-inspections. Our review of 30 sampled (out of 244) cease-use orders issued by either DOB inspectors or contract

inspectors between January 1, 2012, and August 17, 2012, found the following conditions as of August 17, 2012:

- 27 (90 percent) elevators had been re-inspected (24 were re-inspected within the required time period and three were re-inspected beyond the required time period) and
- the three remaining elevators had not yet been re-inspected. However, they were still within DOB's 10/30 day rule.

## Recommendations

To address the issues that still exist, we recommend that DOB should:

1. Strengthen existing procedures and consider increasing resources as needed to provide greater assurance that periodic inspections are carried out in a timely manner each year.

**DOB Response:** DOB, although not fully agreeing with the need for the recommendation, indicated that it had taken steps to implement it. DOB stated: "... We have established a new routing procedure whereby the prior routes performed by our IT unit are eliminated and the newly created B-SMART system would be used to generate routes on a consistent basis year-to-year in clusters throughout the City. This is known as the Elevator Clustering Program. . ."

**Auditor Comment:** We are encouraged that DOB is working to implement the recommendation and strategically address the underlying issues. However, we disagree with its position regarding the need for the recommendation. Many of DOB's assertions about the actions it either has taken or plans to take are prospective in nature and not yet fully in force. Therefore, they remain untested and outside the scope of this current audit. Accordingly, our findings and recommendation remain unchanged.

2. Strategically address and develop effective and meaningful approaches to managing the backlog of periodic inspections and follow through with applying those strategies on a consistent basis. For example, one measure would be to use benchmarking techniques to identify a maximum level of elevators overdue for a periodic inspection, which would trigger actions to address the backlog and prevent it from growing too large.

**DOB Response:** DOB, although not fully agreeing with the need for the recommendation, indicated that it had taken steps to implement it. DOB stated: "... the Department has established a benchmark where the Elevator Unit will issue Environmental Control Board (ECB) Notices of Violation to property owners after three consecutive years of no-access inspection attempts. This duration takes into account that elevators may not be available for inspection at the time that the Department arrives to inspect."

**Auditor Comment:** See Auditor Comment to recommendation #1.

3. Finalize protocols for identifying elevators with multiple no-access inspection attempts, assigning inspectors to investigate those properties, and issuing ECB violations to persistently non-compliant property owners.

**DOB Response:** DOB, although not fully agreeing with the need for the recommendation, indicated that it had taken steps to implement it. DOB stated: "... We have targeted the oldest devices that are not in compliance and are issuing ECB violations to property owners. The Elevator unit is preparing to work with the Emergency Response Team (ERT) and other construction inspectors to verify vacant lots, sealed properties and buildings awaiting demolition. These device numbers will be removed from the Department's database. Again, we have set a goal (December 2013) to inspect and issue ECB Notices of Violation for three consecutive years of no-access inspection dispositions. These efforts will significantly eliminate or reduce the numbers reported as 'backlog'."

**Auditor Comment:** See Auditor Comment to recommendation #1.

4. Establish and implement procedures to improve its follow-up of open PVT violations, particularly those issued since January 2004, and ensure property owners' compliance in remediating defective conditions.

**DOB Response:** DOB, although not fully agreeing with the need for the recommendation, indicated that it had taken steps to implement it. DOB stated:

"... The Elevator Unit is working to satisfy open PVT violations with the submission of any of the following documents (documents that can only be obtained if these past deficiencies have been corrected):

- Satisfactory Category 1 Inspection/Test report performed after the PVT violation was issued
- Category 1 – Affirmation of Correction submitted for defects recorded on Category 1 inspection/test performed

"The Department has identified more than 50,000 open PVT violations that can be satisfied pending the implementation of this initiative in June 2013. This will improve the Department's ability to effectively perform required inspections and safety tests and encourage compliance by property owners."

**Auditor Comment:** See Auditor Comment to recommendation #1.

5. Establish and implement rule provisions to enable it to establish time requirements for property owners to communicate with and submit to DOB required information about the remediation of conditions cited in PVT violations.

**DOB Response:** "The Department disagrees with your recommendation. The Department contends that the times required to correct deficiencies are stated on the violations when they are issued."

**Auditor Comments:** We find DOB's position regarding the recommendation untenable. The PVT violation notice and the ELV29 form do, in fact, specify the time that a property owner has to *correct deficiencies* cited in a PVT violation. However, neither of these documents contains language establishing time requirements for property owners to *submit to DOB* required information certifying and supporting the correction of cited violating deficiencies. The instructions on the ELV29 specifically state, "[T]his certification must be filed within 15 days following the completion of repairs. **These rules are not applicable when certifying corrections of a PVT violation.**" Without establishing a time period for property owners to communicate the correction of PVT violating conditions to the agency,

DOB is limited in gaining assurance that property owners will correct deficient elevator conditions promptly. Accordingly, we hope that DOB will reexamine the issue and take appropriate steps to implement the recommendation.

6. Update its procedures manual to include newly implemented procedures and ensure that all established procedures are applied promptly and consistently.

**DOB Response:** “The Department agrees with your recommendation. We have taken steps to update the manuals and have targeted May 2013 as our date of completion.”

## DETAILED 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 audit scope primarily covered January 1, 2010, through December 31, 2012. However, to carry out certain test procedures involving Category 5 safety tests and the aging of open PVT violations and elevators overdue for safety tests and inspections, the audit scope was expanded. To accomplish our objective, we carried out various audit procedures detailed below.

To ascertain any changes to the DOB Elevator Division's organization, internal controls, and procedures since the prior audit and to assess the implementation status of the prior audit recommendations, we interviewed key officials from the Division's Technical Services Unit and Central Inspections Administration Unit. In addition, we reviewed DOB's Audit Implementation Plan (AIP), dated November 2, 2011, submitted to the Comptroller's Office in response to a request for an update on the prior audit recommendations.<sup>7</sup> During the audit, DOB officials told us that the AIP contained DOB's plans for addressing the prior audit recommendations. Accordingly, those representations were considered in our audit tests. Further, we reviewed DOB procedural documents pertaining to elevator inspections and enforcement activities, which were used as audit criteria, including: Elevator Division's Operational Manual dated August 2009); "Central Inspections Administrative Procedures for Elevator Division" (dated January 2009); and related amendments, if available.

In addition, we reviewed key provisions of applicable rules and regulations, including:

- New York City Administrative Code, §28-701.2c30 "Elevators and Conveying Systems" and Appendix K, "Modified Industry Standards for Elevators and Conveying Systems"
- Rules of the City of New York (RCNY), Title 1, Chapter 11, "Elevators, Escalators, Personnel Hoists and Moving Walks"
- RCNY §103-02, "Elevator inspections and tests, filing requirements, penalties and waivers," effective August 14, 2010, and
- Comptroller's Directive #1, "Principles of Internal Control."

DOB provided us with an electronic file containing data extracted from BIS, which it represented as the population of all 73,811 elevators in eight status classifications<sup>8</sup> as of May 23, 2012. To assess the reliability of BIS data and the data copy, we sorted the file and randomly selected a sample of 64 elevators from among the eight different classifications contained therein. We

---

<sup>7</sup> Office of the New York City Comptroller, "Audit Report on the Department of Buildings Elevator Inspections and Follow-up Activities" (#MJ10-063A issued October 21, 2010).

<sup>8</sup>The eight classifications include Active, Dismantled, NYCHA, No Jurisdiction, Deleted, Sealed, Work-in-Progress, and Removed. Elevators classified as Active and Dismantled are subject to periodic inspections by DOB. Only active elevators are subject to Category 1 and 5 safety tests

compared the property and building information appearing on the City's Geographic Information System for the 64 sampled elevators to the data recorded in BIS and in the data extract. In addition, we judgmentally selected 30 property addresses (15 elevator buildings and 15 non-elevator buildings) from neighborhoods in Brooklyn and Queens and determined whether each building's address and type (elevator or non-elevator) was the same as recorded in BIS.

As discussed below, we obtained additional data extracts and integrated data reliability tests of those extracts into the substantive tests designed to accomplish our audit objective. To obtain additional assurance about the completeness of the BIS data copies provided by DOB, we reviewed the criteria DOB used to query and subsequently extract the data and write the copies provided to the auditors. We also compared various sampled records in the live BIS database to the data copies. Results of these tests provided reasonable assurance that the data was reliable for audit test purposes.

From the population of 60,722 elevators classified as active that were subject to periodic inspections and safety tests<sup>9</sup> as of May 23, 2012, we randomly selected a sample of 96 elevators to evaluate the performance of inspections and tests and DOB's related follow-up activities since the prior audit. Further, to evaluate DOB's follow-up on cease-use orders, we randomly selected 30 of the 244 cease-use orders issued during the period January 1, 2012 – August 17, 2012.

As part of our assessment of DOB's actions to implement the prior audit recommendations, we reviewed the history of each of the 96 sampled elevators in BIS and determined whether periodic inspections and Category 1 and 5 safety tests were performed on the elevators and timeliness of those inspections as of July 19, 2012 (for periodic inspections) and August 24, 2012 (for Category 1 and 5 tests). In addition, using an updated file of BIS data listing 61,668 (active and dismantled) elevators subject to periodic inspections, we evaluated the time elapsed from the date the last periodic inspection was performed through November 26, 2012, and determined the overall number of elevators that had been inspected within one year and those inspected beyond one year from the last inspection date. Further, we assessed DOB officials' representations regarding monthly periodic inspection goals and determined their viability. Regarding the backlog of elevators overdue one year or more for a periodic inspection, we evaluated DOB's actions and procedures to address and manage the backlog.

To assess DOB's efforts to address open PVT violations, we obtained a data copy from BIS of elevators with open PVT violations as of July 25, 2012, and evaluated the age of those violations. In addition, using the 96 sampled elevators, we accessed BIS and determined the number and status of PVT violations issued on the sampled elevators from May 20, 2009 – July 19, 2012 (test date). For those PVT violations that we found had been dismissed, we retrieved copies of completed form ELV29-Affirmation of Correction (submitted by the property owners) to ensure that a valid basis existed to dismiss those violations in accordance with DOB's new procedure.

To assess DOB officials' assertions concerning the level of personnel resources available to the Elevator Division, we obtained reports from the City's Payroll Management System (PMS) listing employees of DOB's Elevator Division as of October 31, 2010, and December 14, 2012,

---

<sup>9</sup> Elevators classified as "dismantled" are considered "out of service," but are still operational. Therefore, they remain subject to periodic inspections, but not Category 1 or 5 safety tests.

respectively, along with a list of new employees hired since that time to assess changes in personnel that occurred between the end of the prior audit and this current audit.

We determined whether DOB appropriately assigns a DOB inspector to follow up after two no-access inspection attempts by contract inspectors, according to its procedures. Further, we assessed DOB's enforcement actions against owners of properties that remain inaccessible to DOB to perform periodic inspections.

We determined whether DOB established procedures to improve its follow-up of open PVT violations and, if so, it had implemented such procedures. We also met with DOB officials to determine whether requirements and procedures had been established for property owners to submit proof of correction of deficient conditions cited in PVT violations to DOB. Further, we evaluated DOB efforts to identify, advise, and act to encourage property owners with open PVT violations.

Regarding DOB's procedural changes to encourage building owners to comply with Category 1 and Category 5 test requirements, we determined whether DOB began enforcing issuing violations to property owners for failure to file the Elevator Affirmation of Correction (ELV29) within 12 months from the date the affirmation was due. Further, we reviewed documentation (i.e., purchase documents from Vanguard) and spreadsheet files to confirm DOB's correspondence with property owners after failed inspection attempts by contract inspectors (LS-4 form letter) and violations for failure to comply with Category 1 test requirements.

To assess DOB's efforts to ensure that documentation is appropriately stored and maintained, we interviewed Central Inspection Administration personnel, conducted a walk-through of procedures, and toured the records storage area. We also attempted to locate hard-copy and/or electronic documents for 65 violations (63 PVT and 2 ECB) that were issued on 65 of the 96 elevators in our sample between May 2009 and June 2012.

To assess whether DOB had taken action to ensure that re-inspections required to lift cease-use orders are expedited and carried out promptly, we reviewed 30 sampled cease-use orders issued by either DOB inspectors or contract inspectors from January 1, 2012 – August 17, 2012, and determined whether the associated elevators had been re-inspected within the required time period.

The results of audit tests involving sampled elevators and related documentation were not projected to the population of elevators under DOB's jurisdiction. Nevertheless, they provided a reasonable basis for us to assess DOB's enforcement and follow-up activities related to mandated elevator safety inspections and tests.



Robert D. LiMandri  
Commissioner  
rlimandri@buildings.nyc.gov

280 Broadway  
7th Floor  
New York, NY 10007  
www.nyc.gov/buildings

+1 212 393-2001 tel  
+1 212 566 3785 fax

April 8, 2013

Ms. Tina Kim  
Deputy Comptroller for Audits  
The City of New York Office of the Comptroller  
1 Centre Street, Room 1100  
New York, NY 10007-2341

**Re: Final Audit Report Draft (MJ12-128F)**  
Follow-up Audit Report on the Elevator Inspections and Follow-up  
Activities of the Department of Buildings

Dear Ms. Kim:

Thank you for the opportunity to respond to the findings and recommendations of the above-captioned final audit report. While your input can help further our commitment to providing quality public service and maximizing our resources, we disagree with some of your findings and recommendations.

As your report indicates, the objective of the follow-up audit was to determine whether the Department of Buildings implemented the nine recommendations made in the prior audit. The Department is in agreement with some of your findings and is already making the necessary improvements to existing procedures. We appreciate the opportunity to address your audit findings and concerns and will use it as a guide to further improve our policies and procedures.

Following are the Department's responses to the six (6) recommendations, as well as clarifying comments in reference to points that were addressed during the audit process and during the exit conference with your team.

**Clarifying comments:**

**Code Interpretation**

During the audit process, the Department informed your audit team that the New York City Construction Codes General Administrative Provisions states, "The required periodic inspection shall be made by the Department, except that one inspection and test for elevators and escalators shall be made between January first and December thirty-first of each year on behalf of the owner by an approved agency in accordance with the code and with rules promulgated by the commissioner." (Article 304: Periodic Inspection of Elevators, § 28-304.6.6) Your audit team refused to acknowledge the Department's interpretation of one inspection each calendar year, and this distorted the findings described in the audit report. With more than 60,000 freight and passenger devices to inspect, there might be discrepancies on what has been inspected in the last 365 days. This is why it is after each calendar year, once all data entry backlogs have been handled, that the Elevator Unit computes its backlog.





Ms. Tina Kim  
April 8, 2013 (MJ12-128F)  
Page Two

Improving the Department's elevator inspections and follow-up activities is vital to public safety. During the audit, the Department took the initiative to introduce, and/or propose, various programs to better monitor workload, eliminate backlog and conduct inspections in a timelier manner by using Buildings Strategic Metrics & Reporting Technology (B-SMART). This comprehensive, integrated reporting system allows management to access reliable, accurate information that can identify uninspected devices, dismantles, no-access and periodic inspections that are not inspected.

**Recommendation 1:**                    ***Strengthen existing procedures and consider increasing resources as needed to provide greater assurance that periodic inspections are carried out in a timely manner each year.***

***Agency Response:***                    The Department does not fully agree with the need for this recommendation. We have established a new routing procedure whereby the prior routes performed by our IT unit are eliminated and the newly created B-SMART system would be used to generate routes on a consistent basis year-to-year in clusters throughout the City. This is known as the Elevator Clustering Program. The Department outlined the details of this program to industry members in September 2011, and the program was implemented in January 2013 to coincide with periodic inspection requirements. The city elevator universe has been divided by block and lot into 12 equally sized clusters (later modified to 26), and each cluster will receive a periodic inspection the same month each calendar year, hereafter. As mentioned in the Audit Implementation Plan, dated November 3, 2011, and addressed to you, "A proposal for a PVT contract is currently under review. The contract will include better distribution of work; for example, dividing total number of devices per contract into 26 clusters using community board or block and lot methods to minimize travel time. Each month, a cluster should be completed." The clustering program was developed and programmed throughout 2012, and was implemented in January 2013. Currently, the Department routes inspections by clustering.

In addition, through the course of our internal review the PVT Contract was completely re-written in 2012 to eliminate current deficiencies and will be re-bid in 2013, incorporating the new routing and record submission requirements. These initiatives are effective, particularly concerning any previous backlogs.

**Recommendation 2:**                    ***Strategically address and develop effective and meaningful approaches to managing the backlog of periodic inspections and follow through with applying those strategies on a consistent basis. For example, one measure would be to use benchmarking techniques to identify a maximum level of elevators overdue for a periodic inspection, which would trigger actions to address the backlog and prevent it from growing too large.***

***Agency Response:***                    The Department does not fully agree with the need for this recommendation. The Elevator Unit continues to use real-time B-SMART reports to perform risk analysis-based inspection monitoring and identify backlogs. In addition, the Department has established a benchmark where the Elevator Unit will issue Environmental Control Board (ECB) Notices of Violation to property owners after three consecutive years of no-access inspection attempts. This duration takes



Ms. Tina Kim  
April 8, 2013 (MJ12-128F)  
Page Three

into account that elevators may not be available for inspection at the time that the Department arrives to inspect.

Additionally, we have set a goal (December 2013) to inspect and issue ECB Notices of Violation for those visits that are dispositioned as no-access after three consecutive years of no-access inspection attempts. We will expect to successfully inspect all backlogs by January 2014.

Also, as of 2011, the Elevator Unit has been coordinating with the Buildings Enforcement Safety Team (BEST) for sign offs of demolition building applications. Whenever a building is removed from active category to remove category, the Elevator Unit inspects and removes devices from system records that they are no longer viewed as active.

It should also be noted that the Department leaves an LS-4 form for all no-access inspection attempts, and an elevator inspection is no exception. Property owners have the responsibility to call for an inspection upon receiving the LS-4.

The Clustering Program will also address any current, and/or potential backlog.

**Recommendation 3:**

***Finalize protocols for identifying elevators with multiple no-access inspection attempts, assigning inspectors to investigate those properties, and issuing ECB violations to persistently non-compliant property owners.***

***Agency Response:***

The Department does not fully agree with the need for this recommendation as it uses aforementioned B-SMART reports to perform risk analysis-based inspection monitoring. Examples are PVT no access and periodic inspections, active elevator complaints with last periodic inspection and other elevator status tracking reports, in order to identify elevators with multiple no-access inspection attempts. We have targeted the oldest devices that are not in compliance and are issuing ECB violations to property owners. The Elevator unit is preparing to work with the Emergency Response Team (ERT) and other construction inspectors to verify vacant lots, sealed properties and buildings awaiting demolition. These device numbers will be removed from the Department's database. Again, we have set a goal (December 2013) to inspect and issue ECB Notices of Violation for three consecutive years of no-access inspection dispositions. These efforts will significantly eliminate or reduce the numbers reported as "backlog."

**Recommendation 4:**

***Establish and implement procedures to improve its follow-up of open PVT violations, particularly those issued since January 2004, and ensure property owners' compliance in remediating defective conditions.***

***Agency Response:***

The Department does not fully agree with the need for this recommendation. The Elevator Unit is working to satisfy open PVT violations with the submission of any of the following documents (documents that can only be obtained if these past deficiencies have been corrected):

- Satisfactory Category 1 Inspection/Test report performed after the PVT violation was issued
- Category 1 – Affirmation of Correction submitted for defects recorded on Category 1 inspection/test performed



Ms. Tina Kim  
April 8, 2013 (MJ12-128F)  
Page Four

The Department has identified more than 50,000 open PVT violations that can be satisfied pending the implementation of this initiative in June 2013. This will improve the Department's ability to effectively perform required inspections and safety tests and encourage compliance by property owners.

**Recommendation 5:**

***Establish and implement rule provisions to enable it to establish time requirements for property owners to communicate with and submit to DOB required information about the remediation of conditions cited in PVT violations.***

***Agency Response:***

The Department disagrees with your recommendation. The Department contends that the times required to correct deficiencies are stated on the violations when they are issued.

**Recommendation 6:**

***Update its procedures manual to include newly implemented procedures and ensure that all established procedures are applied promptly and consistently.***

***Agency Response:***

The Department agrees with your recommendation. We have taken steps to update the manuals and have targeted May 2013 as our date of completion.

Thank you, again, for giving us the opportunity to respond to the draft audit report. We look forward to receiving your final version.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. LiMandri".

Robert D. LiMandri  
Commissioner

cc: George Davis III  
Christopher Santulli  
Donald Ranshte  
Joshua Florsheim  
Richard Bernard  
Harry Vyas  
Kerry Castro