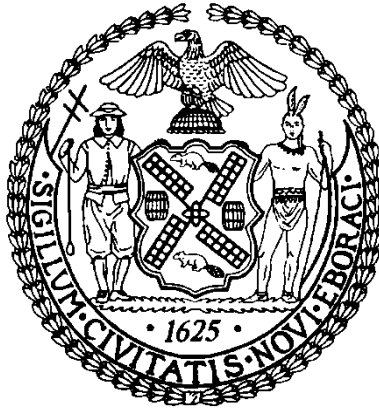


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

BUREAU OF FINANCIAL AUDIT

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Deputy Comptroller for Audit**



**Audit Report on the Compliance of the
Department of Homeless Services with City
Procurement Rules and Controls Over Payments
To Non-Contracted Providers**

FK09-069A

March 25, 2010

<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

To the Residents of the City of New York:

My office has audited the compliance of the Department of Homeless Services (DHS) with City procurement rules and controls over payments to non-contracted providers. We audit City agencies as a means of ensuring that they provide required services and do so in accordance with applicable rules and regulations.

DHS provides temporary emergency shelter and social services to eligible homeless families and individuals through approximately 150 providers of shelter and social services. In Fiscal Year 2008, DHS failed to contract with 107 of them. DHS used unwritten or handshake agreements for non-contracted providers, relying on an honor system to calculate payments to them and neither checking the claimed lodging days nor adequately monitoring the performance of services. Until November 2008, DHS did not account for or process provider payments through the City's Financial Management System, but paid providers from an agency bank account. In addition, DHS lacked sound and effective internal controls and made unjustified payments using duplicate client lists and service dates and invented rates, then provided that data to support and justify the payments.

The results of our audit, which are presented in this report, have been discussed with DHS 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 e-mail my audit bureau at audit@Comptroller.nyc.gov or telephone my office at 212-669-3747.

Sincerely,

A handwritten signature in black ink that reads "John C. Liu".

John C. Liu

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

**Audit Report on the Compliance of the
Department of Homeless Services with City Procurement
Rules and Controls over Payments to Non-Contracted
Providers**

FK09-069A

AUDIT REPORT IN BRIEF

The Department of Homeless Services (DHS) is responsible for providing temporary emergency shelter and social services to eligible homeless families and individuals in a safe and supportive environment. Services for homeless families are primarily delivered by approximately 150 providers under both formal written contracts and unwritten or handshake agreements with DHS. DHS pays non-contracted providers for services based upon mutually-agreed-upon daily rates and provider-reported lodging data.

We conducted this audit to determine DHS compliance with regulations for contracting and paying providers of shelter and social services to homeless families and to assess DHS's monitoring of those services. In Fiscal Year 2008, DHS made payments totaling \$152.7 million to 107 non-contracted providers.

Audit Findings and Conclusions

In Fiscal Year 2008, DHS failed to contract with providers of shelter and social services and did not account for and process provider payments through the City's Financial Management System (FMS) as required by the New York City Administrative Code, the City Charter, the Procurement Policy Board (PPB) rules, and Comptroller's Directive #24. Instead, DHS operated using unwritten agreements and paid providers from an agency bank account.

Previous Comptroller's Office audits and letters in June 1998, October 2003, June 2007, and June 2008 cited DHS for its failure to contract formally for shelter services. Although DHS stated in October 2003 that it would make "every effort to convert to contract," it failed to do so. As of February 2008, DHS did not have contracts with 91 of 154 providers. These 91 providers accounted for 5,150 of 9,649 units—more than 53 percent—used to house homeless families. During the course of our audit, DHS made progress towards contracting with providers. As of January 2010, DHS contracts for 60 percent of units, and DHS provided documentation that it is

in the process of contracting for an additional 8 percent of units used to house homeless families.¹ However, DHS needs to make additional progress and should do so expeditiously.

In November 2008, DHS began to account for and process all provider payments through FMS. However, DHS continues to violate Comptroller's Directive #24 because it is improperly using Purchase Orders to process payments to non-contracted providers. Purchase Order Documents should be used only for special, non-procurement expenditures for which a contract is not required.

DHS failed to institute sound and effective internal controls and did not monitor providers to ensure that they accurately recorded and reported client-lodging days. Therefore, when DHS calculates payments to providers, it relies on an honor system and simply uses the unchecked client-lodging days submitted by providers.

Additionally, DHS made unjustified payments to a provider totaling \$953,635. DHS maintained that these payments were for expenses, such as real estate taxes, prior year close-out payments, start-up budget costs, and interest on start-up budget costs. However, DHS is not obligated to reimburse providers for expenses in addition to paying them substantial rates of between \$810 and \$4,836² per family per month. Moreover, since the DHS billing system did not allow lump-sum payments to be made to providers, DHS generated the unjustified payments using duplicate lists of clients and service dates and invented rates and provided this data to support and justify the payments.

DHS also failed to adequately monitor providers to ensure that they provided safe and sanitary shelter to homeless families and transitioned them to permanent housing in a timely manner.

Audit Recommendations

To address these issues, we make 15 recommendations, including that DHS should:

- Enter into contracts with all providers of shelter and social services that delineate services to be provided, establish performance standards, and provide termination clauses and remedies.
- Comply with the New York City Administrative Code, the City Charter, and PPB rules regarding contracting.

¹ These figures are based on the number of facility units and provider contract status indicated on the DHS Family Shelter Listing dated January 12, 2010, as well as DHS emails regarding contract proposal eligibility determinations and Mayor's Office of Contract Services Calendars of Public Hearings on Contract Awards.

² Daily rates ranged from \$27 to \$161.20 per family per day and averaged \$88.53 per family per day. We calculated monthly rates based upon a 30-day month.

- Comply with Comptroller's Directive #24 and record contracts and associated payments in FMS and use prescribed purchasing documents to process payments.
- Immediately institute a sound and effective system of internal controls and monitor providers to ensure that they accurately record and report client-lodging days. These controls should include, but not be limited to, conducting random, periodic inspections of client sign-in logs.
- Pay providers only for shelter and social services and calculate provider payments based on accurate client-lodging data and mutually-agreed-upon daily rates.
- Conduct unannounced periodic site inspections and interviews with clients and staff.
- Work with providers that consistently fail to meet placement targets to improve their performance.

INTRODUCTION

Background

DHS is responsible for providing temporary emergency shelter and social services to eligible homeless families and individuals in a safe and supportive environment. Services for homeless families are primarily delivered by approximately 150 for-profit and non-profit providers under both formal written contracts and unwritten or handshake agreements with DHS. Upon entering the shelter system, DHS refers homeless families to providers who in turn house them in various types of transitional residences. Families entering the system during business hours are placed directly with conditional housing providers. Conditional housing consists of hotels, cluster site apartments, Tier II facilities³, and adult family shelters. Conditional housing providers deliver both shelter and social services to homeless families to help them transition to permanent housing. Families entering the shelter system after business hours are placed with late arrival family shelter providers. These providers offer only one night lodging and no social services. Subsequently, DHS places families with conditional housing providers.

DHS pays non-contracted providers for shelter and social services based upon mutually-agreed-upon daily rates and provider-reported lodging data. In Fiscal Year 2008, DHS paid non-contracted providers between \$810 and \$4,836 per family per month, with an average payment of \$2,656 per family per month. Non-contracted providers report client-lodging data daily to the DHS Vacancy Control Unit, which in turn enters the data in the DHS Client Tracking System (CTS). Non-contracted providers then submit monthly invoices to the DHS Billing Unit. The Billing Unit compares provider-reported lodging data on invoices to provider-reported lodging data in CTS. Should this information differ, DHS uses provider-reported lodging data in CTS to calculate non-contracted provider payments unless the non-contracted provider submits documentation evidencing that CTS data is incorrect.

This audit was prompted by previous Comptroller's Office audits and letters in June 1998, October 2003, June 2007,⁴ and June 2008 that cited DHS for its failure to contract formally for shelter services. Although DHS stated it would make "every effort to convert to contract" in October 2003, it did not do so. Rather, DHS continued to operate under unwritten or handshake agreements and pay non-contracted providers from an agency bank account. In Fiscal Year 2008, DHS made payments totaling \$152.7 million to 107 non-contracted providers from this account. The term "providers" hereafter refers only to non-contracted providers of shelter and social services for homeless families.

³ Tier II facilities provide private rooms or apartment style units and offer on-site social services in accordance with Title 18, Part 900 of the Rules and Regulations of the State of New York.

⁴ Comptroller's reports entitled *Audit Report on the Department of Homeless Services' Payment Procedure for Clients Housed in Privately Owned Hotels* (ME97-184A), *Audit Report on Department of Homeless Services Controls Over Payment to Hotel and Scatter Site Housing Operators July 1, 2001–June 30, 2002* (FM03-123A), and *Audit Report on the Department of Homeless Services Administration of Its Billing System and Miscellaneous Expense Accounts* (ME07-073A) cited DHS for its failure to contract formally for shelter services.

Objective

The objectives of this audit were to determine whether DHS:

- Complied with Title 6 of the New York City Administrative Code, Chapter 13 of the New York City Charter, PPB rules, and the *New York City Comptroller's Internal Control and Accountability Directives*, Directive #24, "Agency Purchasing Procedures and Controls," when procuring and paying for shelter and social services,
- Maintained adequate controls over payments made to providers for shelter and social services to homeless families, and
- Adequately monitored providers to ensure that they satisfactorily provided shelter and social services for which they were paid.

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.

This audit covered the period July 2007 through October 2009.

To obtain an understanding of the policies, procedures, and regulations governing payments to providers, we reviewed the following DHS documents:

- Housing Emergency Referral Operations, "A Procedural Manual for Family Shelter Placements and Vacancy Control,"
- Billing Unit for Family Shelters, "A Procedural Manual for Processing Billing Submissions from Contracted & Non-Contracted Family Shelter Providers in Conjunction with the CTS/Homes Unit and the OIT Unit,"
- Billing Unit (Billing and Imprest Accounting Services/Finance), "Fiscal Billing Policy,"
- Hotel Family Program Billing Unit, Procedure No. 00-503, "Procedure for Verifying Client Occupancy at Hotels," and
- DHS, "Guidelines for Expansion of Capacity Prior to Finalization of the Contract in Order to Meet an Emergency Need."

We interviewed DHS officials responsible for client placement, processing clients exiting the shelter system, collecting and recording client-lodging data, CTS maintenance, audit and payment of provider invoices, bank account custodians, authorizing provider facilities, and

inspecting provider facilities. We also reviewed Title 6 of the New York City Administrative Code, Chapter 13, of the New York City Charter, PPB rules, and the *New York City Comptroller's Internal Control and Accountability Directives*, Directive #24, "Agency Purchasing Procedures and Controls." These regulations were used as criteria in evaluating DHS compliance with and controls over its procurement and payment procedures.

We obtained a schedule of all payments made from the agency bank account to providers during Fiscal Year 2008. This list included monthly payments to 107 providers and totaled approximately \$152.7 million. To assess the accuracy and completeness of this listing, we traced monthly provider payments from this list to corresponding bank statements. We then sorted this list and identified providers paid \$10,000–\$1 million, providers paid \$1 million–\$3 million, and providers paid more than \$3 million. There were 101 providers paid at least \$10,000 that received payments totaling \$152.6 million. From these, we selected a sample of 15 providers that received payments totaling \$42 million as follows:

- Of the 52 providers paid \$10,000–\$1 million, we randomly selected 5 providers,
- Of the 33 providers paid \$1 million–\$3 million, we randomly selected 5 providers, and,
- Of the 16 providers paid more than \$3 million, we judgmentally selected the 3 highest paid providers and randomly selected 2 of the remaining 13 providers.

To determine whether the payments made to sampled providers were accurately calculated based on CTS client-lodging data, we obtained and reviewed the providers' monthly invoices and monthly CTS Pre-Payment Registers for Fiscal Year 2008. We compared the number of client-lodging days indicated on provider invoices to the number of client-lodging days indicated on CTS registers. We also determined whether provider invoices were certified by the providers.

We judgmentally selected 2 of the 15 sampled providers and tested their CTS client-lodging data for accuracy and adequate support as follows. We reviewed supporting documentation, including client sign-in logs, social service workshop attendance records, and unit inspection reports maintained by providers to determine whether clients listed by providers on the monthly invoices for June 2008 were in fact residing in provider facilities. We reviewed the "Request for Voluntary Direct Payment for Emergency Housing" forms which clients fill out on entry to check clients' intake dates, and we reviewed exit reconciliation forms and related supporting documentation to check each client's exit date. When we noted discrepancies, we calculated duplicate and unsupported payments.

During the course of our audit, DHS informed us that it closed its agency bank account and that it accounted for and processed provider payments through FMS. We obtained a letter from JP Morgan Chase dated November 18, 2009 confirming that the agency bank account was closed on August 17, 2009. To determine whether provider payments were accounted for and processed through FMS, we obtained a report from FMS detailing DHS's Other than Personal Service expenditures made from July 2008 through July 2009 and identified payments made to

providers. We then determined whether all providers were paid through FMS and whether the appropriate purchase documents were used to make the payments.

DHS further informed us that it contracted with additional providers. To determine whether DHS did so, we requested a current DHS Family Shelter Listing indicating provider contract status and associated contract numbers. We then obtained newly contracted providers' agreements from the Comptroller's Omnibus Automated Image Storage and Information System. Additionally, we compared the number of contracted providers and units on October 19, 2007, February 11, 2008, December 21, 2009, and January 12, 2010.

To determine whether DHS adequately monitored providers to ensure that they satisfactorily provided shelter to clients, we inspected facilities, determined whether facilities were issued violations for unsafe and unsanitary conditions, and reviewed DHS Facilities Maintenance and Development Division (FMD) inspection reports. We judgmentally selected 2 of the 15 sampled providers and inspected their facilities to determine whether they housed clients in safe and sanitary conditions. We inspected the Aladdin Hotel on July 16, 2009, and 6 of 59 cluster site facilities operated by Pilgrim Icahn on July 21, 2009. We noted numerous hazardous and unsanitary conditions at all the facilities and documented these conditions with photographs, video, and memoranda. On July 22, 2009 and July 27, 2009, we sent letters concerning each of the two providers' facilities to DHS notifying it of the results of our observations.

We also searched the Department of Housing Preservation and Development's (HPD) publicly available Web site for open violations issued by HPD inspectors for unsafe and unsanitary conditions at the Aladdin Hotel and the 59 Pilgrim Icahn facilities. We then quantified the number of open violations and determined whether there was litigation pending against these facilities for open HPD violations as of October 2009. In addition, we requested and reviewed FMD inspection reports for the seven facilities we inspected to determine whether the FMD reports had identified and documented follow-up actions on unsafe and unsanitary conditions for which violations were issued.

To determine whether DHS adequately monitored providers to ensure that they transitioned clients to permanent housing in a timely manner, we requested DHS policies and guidelines regarding how long clients should stay in transitional housing. DHS had no such guidelines, but informed us that on average, homeless families stay in transitional housing for nine months. We then requested DHS Family Services Permanent Housing Targets reports for Calendar Years 2007 and 2008 and quantified the number of providers that met annual placement targets in Fiscal Year 2008. We reviewed the June 2008 invoices of the two judgmentally selected providers (the Aladdin Hotel and Pilgrim Icahn), determined the number of clients who resided in transitional housing for more than the nine-month average, and calculated the cost of housing these clients beyond the average nine-month stay.

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 January 5, 2010. On February 2, 2010, we submitted a draft report to DHS officials with a request for comments. We received a written response from DHS on February 19, 2010, in which DHS strongly disagreed with the report's findings and generally disagreed with or stated that it was already in compliance with the report's recommendations.

Specific DHS comments and our rebuttals are contained in the relevant sections of this report. The full text of the response received from DHS is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

In Fiscal Year 2008, DHS failed to contract with providers of shelter and social services and did not account for and process provider payments through FMS as required by the New York City Administrative Code, the City Charter, PPB rules, and Comptroller's Directive #24. Instead, DHS operated using unwritten agreements and paid providers from an agency bank account.

The City's contracting process provides safeguards to ensure that potential contractors are capable of satisfactorily and fully delivering services to clients and that contracts are fair, competitive, transparent, and in the best interest of the City. This process also requires City agencies to evaluate contractors' performance and report performance evaluation ratings and cautionary information in the City's Vendor Information Exchange System (VENDEX) so that other agencies can make informed decisions when considering providers for additional City contracts. The proper recording and reporting of contractor payments in FMS also establishes transparency, accountability, and oversight for contractor payments.

Previous Comptroller's Office audits and letters in June 1998, October 2003, June 2007, and June 2008 cited DHS for its failure to contract formally for shelter services. Although DHS stated in October 2003 that it would make "every effort to convert to contract," it failed to do so. As of February 2008, DHS did not have contracts with 91 of 154 providers. These 91 providers accounted for 5,150 of 9,649 units—more than 53 percent—used to house homeless families. During the course of our audit, DHS made progress towards contracting with providers. As of January 2010, DHS contracts for 60 percent of units and DHS provided documentation that it is in the process of contracting for an additional 8 percent of units used to house homeless families. However, DHS needs to make additional progress and should do so expeditiously.

Additionally in November 2008, DHS began to account for and process all provider payments through FMS. However, DHS continues to violate Comptroller's Directive #24 because it is improperly using Purchase Orders to process payments to non-contracted providers. Purchase Order Documents should be used only for special, non-procurement expenditures for which a contract is not required.

DHS failed to institute sound and effective internal controls and did not monitor providers to ensure that they accurately recorded and reported client-lodging days. Therefore, when DHS calculates payments to providers, it relies on an honor system and simply uses the unchecked client-lodging days submitted by providers. Consequently, we found that DHS made duplicate payments totaling \$25,918 to a provider and made payments to a provider totaling \$23,866 that were not supported by client sign-in logs or other supporting documentation.

Additionally, DHS made unjustified payments to a provider totaling \$953,635. DHS maintained that these payments were for expenses, such as real estate taxes, prior year close-out payments, start-up budget costs, and interest on start-up budget costs. However, DHS is not obligated to reimburse providers for expenses in addition to paying them substantial rates of—between \$810 and \$4,836 per family per month. Moreover, since the DHS billing system did not allow lump-sum payments to be made to providers, DHS generated the unjustified payments

using duplicate lists of clients and service dates and invented rates and provided this data to support and justify the payments.

DHS also failed to adequately monitor providers to ensure that they provided safe and sanitary shelter to homeless families and transitioned them to permanent housing in a timely manner. HPD, DOB, and FDNY routinely inspected providers' facilities and repeatedly issued them violations for conditions including bedbug, roach, and vermin infestation, peeling lead paint, lacking carbon monoxide detectors, smoke detectors and fire extinguishers, and broken or defective fire doors. However, providers failed to correct unsafe and unsanitary conditions and DHS failed to identify or to follow up on these conditions.

Although DHS set monthly and annual targets regarding the number of clients placed in permanent housing (placement targets), it failed to ensure that providers met these targets and took no substantive measures against the providers that did not do so. Consequently, homeless families are languishing in transitional housing for as long as 6 ½ years, which costs the City up to \$4,836 per family per month.

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

DHS Failed to Contract for Services and Pay for Services through FMS

DHS failed to contract with 107 providers of shelter and social services and did not account for and process provider payments totaling \$152.7 million through FMS in Fiscal Year 2008. Instead, DHS operated using unwritten agreements and paid providers from an agency bank account, in violation of the New York City Administrative Code, the City Charter, PPB rules, and Comptroller's Directive #24. Chapter 13 of the City Charter requires that all services paid from the City treasury be procured in accordance with the Charter and PPB rules. The Charter and PPB rules require that all agreements for such services be in writing. Written contracts bind parties to one another and delineate services to be provided, establish performance standards, and provide termination clauses and remedies. Further, the Administrative Code, the Charter, PPB rules, and Comptroller's Directive #24 require agencies to:

- Vet providers to determine whether they are capable of fulfilling contract requirements, have the business integrity to justify the award of public tax dollars, and do not owe the City money for various fines and taxes.
- Conduct performance evaluations based on contract requirements. These performance evaluations must include the results of periodic unannounced site visits and interviews with clients and staff. Performance evaluation ratings and cautionary information must be entered in VENDEX so that other agencies can make informed decisions when considering providers for additional City contracts.
- Register contracts with the Comptroller's Office. Registration is a key control for ensuring that agencies are in compliance with the City's policies for entering into

agreements with outside parties. Registration also ensures that monies are available to pay contractors upon satisfactory performance and tracks contract expenditures.

- Record contracts and associated payments in FMS. One of the primary objectives of FMS is to provide the Comptroller's Office the ability to report on the financial operations of the City in the Comptroller's "Comprehensive Annual Financial Report."

Since DHS failed to contract with providers and account for and pay providers through FMS:

- DHS paid providers that did not provide safe and sanitary shelter to homeless families and transition them to permanent housing in a timely manner. Facilities were repeatedly cited for code violations, and providers failed to rectify these conditions. Further, providers owe the City significant amounts of money for these code violations and emergency housing repairs (as reported on below).
- DHS did not conduct proper performance evaluations and enter evaluation ratings and cautionary information in VENDEX. DHS inspected and rated providers' facilities and determined whether providers met targets regarding the number of clients placed in permanent housing. However, DHS facility inspections were always announced in advance, and did not include interviews with clients and provider staff. More important, DHS did not review inspection and placement results to determine whether it should continue to do business with providers. Furthermore, since DHS did not enter performance evaluation ratings and cautionary information in VENDEX, other agencies could not make informed decisions when considering providers for additional City contracts.
- DHS is not in compliance with the New York City Administrative Code, the City Charter, or PPB rules.
- DHS payments to providers lack transparency and accountability.

Previous Comptroller's Office audits and letters in June 1998, October 2003, June 2007, and June 2008 cited DHS for its failure to contract for shelter services. Although DHS stated in October 2003 that it would make "every effort to convert to contract," it failed to do so. As of February 2008, DHS did not have contracts with 91 of 154 providers. These 91 providers accounted for 5,150 of 9,649 units—more than 53 percent—used to house homeless families. During the course of our audit, DHS made progress towards contracting with providers. As of January 2010, DHS contracts for 60 percent of units and DHS provided documentation that it is in the process of contracting for an additional 8 percent of units used to house homeless families. However, DHS needs to make additional progress and should do so expeditiously.

Additionally in November 2008, DHS began to account for and process all provider payments through FMS. However, DHS continues to violate Comptroller's Directive #24 because it is improperly using Purchase Orders to process payments to non-contracted providers.

Purchase Order Documents should be used only for special, non-procurement expenditures for which a contract is not required.

Recommendations:

DHS should:

1. Enter into contracts with all providers of shelter and social services that delineate services to be provided, establish performance standards, and provide termination clauses and remedies.
2. Comply with the New York City Administrative Code, the City Charter, and PPB rules regarding contracting.
3. Register contracts with the Comptroller's Office.

DHS Response: "DHS strongly disagrees with the central premise for these Recommendations, namely that DHS' use of shelter facilities pursuant to *per diem* arrangements violates the City Charter, Administrative Code or the Procurement Policy Board (PPB) Rules. . . .

"DHS has been advised by the Law Department that it is the City's long-standing legal position that DHS' *per diem* arrangement with a shelter operator does not constitute a procurement within the meaning of the City Charter, Administrative Code or PPB Rules. Accordingly, DHS is not required to execute or register a contract for the provision of shelter before referring homeless families to facilities operated pursuant to a *per diem* arrangement."

Auditor Comment: Again, Chapter 13 of the City Charter requires that *all* services paid from the City treasury be procured in accordance with the Charter and PPB rules. As *per diem* providers are paid with City funds, their services should be procured in accordance with the Charter and PPB rules. PPB rules contain provisions specific to client service providers and delineate contract processes to be followed when procuring such services. Further, PPB rules expressly cite housing and shelter assistance services and homeless assistance as examples of client services, as follows:

Client Services. Programs contracted for by the City of New York on behalf of third-party clients, including programs to provide social services, health or medical services, **housing and shelter assistance services**, legal services, employment assistance services, and vocational, educational, or recreational programs. . . . Examples of client services include, but are not limited to, day care, foster care, mental health treatment, operation of senior centers, home care, employment training, **homeless assistance**, preventive services, health maintenance organizations, youth services, and the like." (Emphasis added.)

Therefore, we reiterate that DHS should comply with City rules and regulations and enter into and register written contracts with all providers of shelter and social services that delineate services to be provided, establish performance standards, and provide termination clauses and remedies.

DHS Response: “While *per diem* payment arrangements are thus lawful, DHS agrees that, as a matter of sound policy, the Agency should continue moving toward establishing contracts for its facilities to the extent shelter demand, existing capacity, provider willingness and fiscal constraints allow. The Draft Report acknowledges the progress DHS has made towards this end. . . . DHS has worked and will continue to work as expeditiously as possible to convert *per diem* units to contract, but clearly, DHS must also refer families to emergency shelter space as needed, prior to completion of the procurement processes for additional facilities—processes that take, on average, seven to nine months from start to finish.”

Auditor Comment: While we acknowledge that DHS made progress towards contracting with providers and are pleased that DHS considers it a “sound policy” to do so, we repeat that DHS needs to make additional progress and should do so expeditiously. DHS stated in October 2003—six and a half years ago—that it would make “every effort to convert to contract.” Given that non-contracted providers have been serving clients for as long as 22 years and that by DHS’s own estimation, the contracting process takes on average from seven to nine months, DHS should have made more progress towards contracting if it were in fact making every effort to do so.

4. Comply with Comptroller’s Directive #24 and record contracts and associated payments in FMS and use prescribed purchasing documents to process payments.

DHS Response: “Given that DHS’ *per diem* arrangements are in fact non-contractual, it is not possible to use ‘contracts’ as the purchasing documents in FMS. Rather, the only viable alternative is to use purchase orders. In other words, the use of purchase orders by DHS is not an independent audit issue, but rather, is the by-product of the *per diem* arrangement which, as explained above, is completely lawful.”

Auditor Comment: Again, DHS should comply with City rules and regulations, enter into written contracts with all providers, record contracts and associated payments in FMS, and use prescribed purchasing documents to process payments.

DHS Paid Providers on the Honor System and Failed to Institute Sound and Effective Controls and Monitor Providers

DHS failed to institute sound and effective internal controls and monitor providers to ensure that they accurately recorded and reported client-lodging days. The result is that DHS uses what is essentially an honor system when paying its providers. As noted, providers report client-lodging data daily to the Vacancy Control Unit, which in turn enters this data in CTS. Providers then submit monthly invoices to the Billing Unit. The Billing Unit compares provider-

reported lodging data on invoices to provider-reported lodging data in CTS. Should this information differ, DHS uses data in CTS to calculate provider payments, unless the provider submits additional documentation—that is also maintained and reported by providers—as evidence that CTS is incorrect.

DHS requires providers to maintain sign-in logs and ensure that those clients who are sheltered in hotels sign logs daily. Formerly, DHS conducted random, periodic inspections of these logs to ensure the accuracy of provider-reported lodging days. However, DHS discontinued the practice in 2003 and could provide us no rationale for doing so. Moreover, DHS never required clients housed in adult family shelters, Tier II facilities, and cluster sites, such as Pilgrim Icahn, to sign such logs and therefore has never had any data whatsoever to support its payments to providers. We reviewed the Aladdin Hotel monthly invoice and sign-in logs, and the CTS pre-payment register for June 2008 and found that:

- DHS made duplicate payments to the Aladdin Hotel totaling \$25,918. In eight instances, DHS provided families with two hotel rooms.

DHS Response: “These payments were not duplicative; rather they were made for families who, because of their size, occupied two units.

Auditor Comment: DHS should refer large families to providers that can accommodate their size and composition rather than place them in single room occupancy hotels. Since DHS did not do so, it did in fact make duplicate payments to the Aladdin Hotel. Consequently, DHS paid the Aladdin \$6,480 per family per month (\$3,240 per room⁵) to provide these eight families with two hotel rooms. DHS should have placed these families in facilities that could accommodate them in a single unit, which is a more apt family setting and a more effective use of DHS resources.

- DHS paid the Aladdin Hotel for 221 unsupported client-lodging days totaling \$23,866. We reviewed Aladdin Hotel sign-in logs for June 2008 and found that 10 of 159 clients did not sign logs daily as required. Furthermore, 6 of these 10 clients *never* signed in during the month.

DHS Response: “The Agency provided supporting documentation justifying payments to all but three families, for a total of 63 days.”

Auditor Comment: DHS did not provide us client sign-in logs to support lodging days. Instead, DHS proffered provider Apartment Fitness Reports, Progress Notes, or Incident Reports. Such documentation does not evidence that clients were in fact occupying units on the 221 questioned days because they are prepared by the provider and are not signed by clients. Further, these documents refer only to select dates within the month. Again, 6 of the 10 clients *never* signed in during the month. Therefore, we continue to question these 221 unsupported client-lodging days.

⁵ During June 30, 2008, DHS paid the Aladdin a daily rate of \$107.99 per family per day. We calculated the monthly rate of \$3,240 based upon a 30-day month.

Additionally, DHS generally relies on providers to inform DHS when clients have left facilities on either a temporary or permanent basis. DHS officials informed us that providers must submit documentation, such as signed leases, or forms detailing client exit information and certify that such information is accurate. However, DHS could not provide us exit documentation for 6 of 20 clients that left the Aladdin Hotel and 7 of 15 clients that left Pilgrim Icahn facilities during June 2008 according to CTS pre-payment registers.

DHS Response: “DHS disagrees with the Draft Report's finding that the Agency ‘could not provide us exit documentation to DHS for 6 of 20 clients that left the Aladdin Hotel and 7 of 15 clients that left Pilgrim Icahn facilities during June 2008 according to CTS pre-payment registers.’ (Draft Report, p. 12) As reflected in CTS, two of the six families were transferred to other shelter facilities. Two of the remaining three families were found ineligible for shelter and, therefore, were logged out of the system. Thus, the status of only one family could not be determined from CTS.”

Auditor Comment: DHS did not provide us any exit documentation for 6 of 20 clients who left the Aladdin Hotel during June 2008. In its response, DHS stated that CTS reflected that two clients transferred to other facilities and that two clients were found ineligible for shelter. However, DHS did not provide us CTS screens or any other documentation evidencing such activity.

DHS Response: “With regard to the ICAHN cluster (formerly known as the Pilgrim/Icahn Cluster), DHS records indicate that Five of the remaining 8 families exited shelter with an Advantage rental subsidy or an HPD subsidy and these exits were confirmed by DHS and HPD. The remaining 3 families exited shelter to whereabouts unknown; therefore, their exits could not be confirmed by exit documentation.”

Auditor Comment: DHS provided us documentation of a subsidized lease signing, such as lease signing reports or copies of subsidized leases, for only one client and not five as DHS asserts. Therefore we repeat that DHS did not provide us any exit documentation for 7 of 15 clients who left Pilgrim Icahn facilities during June 2008—four of which DHS asserts signed subsidized leases and three of which DHS agrees that “their exits could not be confirmed by exit documentation.”

Given that DHS pays providers on the honor system, does not monitor providers, and pays providers up to \$4,836 per family per month, there is little or no incentive for providers to inform DHS when clients have left facilities on either a temporary or permanent basis. Therefore, we have grave concerns about the accuracy of the client-lodging data and DHS payments to providers.

Recommendations

DHS should:

5. Immediately institute a sound and effective system of internal controls and monitor providers to ensure that they accurately record and report client-lodging days. These

controls should include, but not be limited to, conducting random, periodic inspections of client sign-in logs.

DHS Response: “DHS is already in full compliance with Recommendation Nos. 5 and 7, and disagrees with the findings upon which they are based. DHS’ current billing process for non-contracted providers has multiple safeguards to ensure accuracy in billing and payment for client lodging days (care days). . . .

“DHS processes billing submissions from and makes payments to non-contracted family shelter providers based upon data that the Agency’s Housing Emergency Referral Operations unit (‘HERO’) inputs into the DHS Client Tracking System (‘CTS’) concerning the family’s placement in and departure from the family shelter system. . . HERO’s Vacancy Control Unit contacts every shelter to verify client arrivals and departures as part of a *daily* reconciliation process with CTS data.

“Shelter providers are required to designate a financial officer or agent thereof who must then certify and attest to the accuracy of their monthly billings and all associated documents. Upon receipt of an invoice . . . DHS generates a Pre Payment Register, which is an automated report that lists the shelter’s lodging history for the billing period based on CTS records. DHS compares the Register line by line against the shelter invoice and annotates the invoice for any inconsistencies in dates of residency, family composition, case numbers, unit occupancy and daily rate. DHS investigates all inconsistencies uncovered as a result of this comparison. . . All discrepancies are reconciled in favor of CTS unless the provider submits evidence (*e.g.*, client sign in/out logs) demonstrating that CTS is incorrect. . . .

“In addition, quality assurance checks exist outside the billing process to further reduce the risk of overpayment or unauthorized payments such as (1) bi-weekly health and safety inspections of every unit in the shelter; and (2) weekly inspections of units for families who have an open ACS case or child under 6 months old. If, upon inspection, it appears that the client has permanently vacated the room, shelter staff must notify immediately the DHS Program Analyst with oversight over that facility who, in turn, will notify HERO.

“Commencing in the summer of 2009, DHS implemented a monitoring and evaluation process (‘Monitoring Tool’) for non-contracted shelter facilities for families with children, which is very similar to the Monitoring Tool that the Agency uses to monitor and evaluate the performance of contracted shelters.”

Auditor Comment: As noted, DHS essentially pays providers based on the honor system. Providers report client-lodging data daily to the DHS Vacancy Control Unit, which in turn enters this data in CTS. DHS does not question or check this data prior to entry, and once entered it is recognized as the official DHS record of client lodging. DHS’s purported safeguards do not, as DHS asserts, ensure accuracy in billing and payment for client-lodging days. DHS’s line by line comparison simply compares data reported by the provider during the month to data reported by the provider at the end of the month.

Moreover, DHS's quality assurance checks of bi-weekly and weekly inspections are performed by providers' staff. As we stated, DHS is relying on providers to inform DHS when clients have left facilities on either a temporary or permanent basis. Therefore, we still have grave concerns about the accuracy of the client-lodging data and DHS payments to providers. Nevertheless, we are pleased that DHS implemented a monitoring tool subsequent to our audit.

6. Recoup duplicate and overpayments for unsupported client-lodging days totaling \$49,784 made to the Aladdin Hotel for June 2008.

DHS Response: "DHS disagrees with the Draft Report's finding that DHS made 'duplicate payments to the Aladdin Hotel totaling \$ 25,918' DHS also disagrees with the Draft Report's finding that 'DHS paid the Aladdin Hotel for 221 unsupported client-lodging days totaling 23,866.' (Id., p. 12) Upon investigation, the Agency provided supporting documentation justifying payments to all but three families, for a total of 63 days. Therefore, DHS will recoup a total of \$6,803.37 from the next payment."

Auditor Comment: As noted, DHS did in fact make duplicate payments to the Aladdin Hotel and did not provide us documentation evidencing that clients were in fact occupying units on the 221 questioned days. Therefore, we repeat that DHS should recoup duplicate and overpayments totaling \$49,784 made to the Aladdin Hotel for June 2008.

7. Ensure that providers submit documentation and forms detailing client exit information and certify that such information is accurate.

DHS Response: "DHS verifies client exit information in a variety of ways. Exits by clients into permanent housing through DHS' Advantage rental assistance program are verified by the lease they sign. All lease signings are coordinated by DHS' Office of Rehousing. Other subsidized exits are verified by the appropriate agency (HPD, for example) and tracked by various units within DHS. Non-subsidized exits require that the provider submit documentation, confirming placement addresses. This information is checked against US Postal Service data for accuracy. At times, families exit shelter without informing DHS that they are leaving or where they are going. In these cases, there will not be documentation such as a lease reflecting the exit."

Auditor Comment: During the course of the audit and in its response, DHS claimed that it verifies client exits to subsidized rental assistance programs. DHS maintained that it received copies of signed leases and lease signing reports for its DHS Advantage and other agency-subsidized rental assistance programs. DHS further maintained that these leases and reports were used to verify client exit dates and types. However, when we requested copies of these leases and reports, DHS could not provide us any.

DHS Made Unjustified Payments Totaling \$953,635

DHS made unjustified payments totaling \$953,635 to Tilden Hall Family Residence (Tilden). As noted, we reviewed monthly invoices and monthly CTS Pre-Payment Registers of 15 sampled providers for Fiscal Year 2008 to determine whether provider payments were accurately calculated based on CTS client-lodging data. Tilden was included in this sample because it was one of the highest paid providers. During Fiscal Year 2008, DHS paid Tilden nearly \$6.8 million based on rates of \$4,071 and \$4,836⁶ per family per month. However, payments totaling \$953,635 were not justified.

DHS maintained that these unjustified payments were for expenses, such as real estate taxes, prior year close-out payments, start-up budget costs, and interest on start-up budget costs. As noted, DHS operates under unwritten, handshake agreements. These agreements provide *only* that DHS pay providers mutually-agreed-upon daily rates in exchange for shelter and social services. DHS is not obligated to reimburse providers for expenses in addition to paying them substantial rates of between \$810 and \$4,836 per family per month. Additionally, DHS did not provide proper supporting documentation for these expenses.

Moreover, DHS inputted duplicate client-lodging data and invented rates in order to generate unjustified payments to Tilden. As providers are entitled to receive payments only for shelter and social services that are calculated based on client-lodging data and the provider's daily rates in CTS, the DHS billing system did not allow lump-sum payments to be made to providers. Consequently, DHS generated the unjustified payments using duplicate lists of clients and service dates and invented rates and provided this data to support and justify the payments. Again, we have grave concerns about the integrity and accuracy of client-lodging data and DHS payments to providers as reported by DHS.

Recommendations:

DHS should:

8. Pay providers only for shelter and social services and calculate provider payments based on accurate client-lodging data and mutually-agreed-upon daily rates.
9. Recoup unjustified payments totaling \$953,635 made to Tilden during Fiscal Year 2008.
10. Accurately record data in CTS and maintain supporting documentation for such data.

DHS Response: "DHS is already in full compliance with Recommendation Nos. 8 and 10, and has been in compliance throughout the period encompassed by this Draft Report. As detailed below, Recommendation No. 9 is based on an erroneous finding that DHS'

⁶ For the periods July 1, 2007, to March 31, 2008, and April 1, 2008, to June 30, 2008, DHS paid Tilden daily rates of \$161.20 per family per day and \$135.69 per family per day, respectively. We calculated monthly rates based upon a 30-day month.

payments of \$953,635 to Tilden were ‘unjustified,’ and thus DHS will not implement Recommendation No. 9. . . .

“The Draft Report characterizes as unjustified DHS’ payments to Tilden in the amount of \$953,635 and recommends that DHS ‘pay providers . . . based on mutually agreed upon daily rates.’ (Draft Report, p. 13) However, \$518,097 of the total amount was, in fact, a monthly cycle payment made to Tilden Hall based exclusively on the mutually agreed upon rate. DHS provided documentation to the audit team showing that these payments reflected eligible service dates and the mutually agreed upon rate.

“The balance of the Tilden special payments consists of: \$274,088 as a one-time payment for start-up costs, interest on start-up costs, real estate taxes, and an audit recoupment offset; and \$161,498 as a one-time payment for prior-year closeout costs. These costs are typical for Tier II shelters and are fluctuating or one-time costs that are not part of the initial base budget, but are subject to the appropriate approval process in accordance with our established internal procedures. . . .

“To make a special payment to Tilden Hall, DHS calculated a temporary increase to the rate based on the dollar amount of the special payment divided by the total number of care days. The client-lodging data (number of care days) did not change and was not duplicated. Although there was a temporary change to the rate to accomplish the payment, the Draft Report is misleading when it states that rates were ‘invented.’ This was strictly a technical exercise to ensure the accurate payment of costs that were already approved according to established internal procedures.”

Auditor Comment: The Tilden Fiscal Year 2008 DHS Rate-Based Close-Out Statement, the DHS Special Payments Care Days by Month Report, and the DHS Record of Payments Issued and Payments Rejected all indicate that the \$518,097 was a special payment and not a monthly cycle payment as DHS claims.

With regard to the \$274,088 payment for real estate taxes, start-up costs, and interest on start-up costs, and the \$161,498 payment for prior-year closeout costs, DHS did not provide us procedures for approving special expenses and documentation of DHS approval and justification for these expenses. DHS also did not provide us proper supporting documentation for these expenses including, Department of Finance real estate tax bills, other provider bills and invoices, loan origination documents, or proof of payment. Although DHS claims reimbursement of special expenses is typical, it did not reimburse other providers for such expenses.

Lastly, DHS did in fact enter duplicate client-lodging data and invent rates to generate unjustified payments to Tilden. Instead, DHS couches this action as “a temporary rate increase” and states that the number of care days “did not change and was not duplicated.” However, Tilden submitted and DHS made payment on two separate invoices as follows:

- An invoice totaling \$390,923 for services provided from April 1 through April 30, 2008, to 124 clients. This represented Tilden’s monthly cycle payment. On the invoice, Tilden billed and DHS paid for 2,881 care days at the mutually-agreed-upon rate of \$135.69.
- A second invoice totaling \$274,084⁷ for services provided within the same period— from April 1 through April 15, 2008—to the same 124 clients. On this invoice, Tilden billed and DHS paid for 1,487 duplicate care days at the invented rate of \$184.32.

Since DHS paid two invoices for the same clients and the same dates of service and admittedly “calculated a . . . rate based on the dollar amount of the special payment divided by the total number of care days,” we do not understand how DHS can claim that it did not duplicate client lodging data and invent rates. Since DHS is simply circumventing its system controls, we have grave concerns about the integrity and accuracy of client-lodging data and DHS payments to providers as reported by DHS.

DHS Failed to Adequately Monitor Providers to Ensure Satisfactory Performance

DHS failed to adequately monitor providers to ensure that they satisfactorily provided shelter and social services for which they were paid, as follows:

Providers Did Not House Clients in Safe and Sanitary Conditions

DHS failed to adequately monitor providers to ensure that they housed clients in safe and sanitary conditions. The FMD is responsible for inspecting and reporting on transitional housing facility conditions and ensuring that providers correct reported deficiencies. As noted, these inspections were always announced. More important, DHS failed to identify or to follow up on hazardous and unsanitary conditions including bedbug, roach, and vermin infestation, peeling lead paint, lacking carbon monoxide detectors, smoke detectors, and fire extinguishers, and broken or defective fire doors. HPD, DOB, and FDNY routinely inspected providers’ facilities and issued them violations for these and other hazardous and unsanitary conditions. Additionally, we inspected 6 of 59 cluster site facilities operated by Pilgrim Icahn and the Aladdin Hotel and noted numerous hazardous and unsanitary conditions. We sent letters to DHS detailing the results of our observations of the six Pilgrim Icahn facilities and the Aladdin Hotel. (See Appendix I.) On July 30, 2009, the DHS Commissioner stated that “every item cited in your letter has been addressed” in response to each of these letters. (See Appendix II.) However as of October 2009, Pilgrim Icahn facilities and the Aladdin Hotel still had an excessive number of open violations (see Appendix III) as follows:

- The 59 Pilgrim Icahn cluster site facilities had 2,921 open HPD violations—2,417 of which were for hazardous conditions. These violations were issued as long ago as

⁷ Although Tilden submitted an invoice totaling \$274,084⁷ for services provided from April 1 through April 15, 2008, DHS paid Tilden \$274,088.

April 1979 and remain unresolved. In fact, HPD has lawsuits pending against 20 facilities for their repeated failure to comply with housing code.

- The Aladdin Hotel had 85 open HPD violations—53 of which were for hazardous conditions. These violations were issued as long ago as November 1991 and remain unresolved.

DHS Response: “Based on the auditors’ physical inspection of two non-contracted sites—20 units in the Aladdin Hotel and 36 units in the Pilgrim/Icahn Cluster (now known as the Icahn Cluster)—the Draft Report globally concludes that ‘DHS failed to adequately monitor providers to ensure that they housed clients in safe and sanitary conditions.’ (Draft Report, p. 13) An accurate evaluation of the Agency’s portfolio of non-contracted facilities cannot be made on the basis of a one-time inspection of some of the units in two shelter sites. Nor is it an appropriate basis for a finding that DHS places clients in ‘facilities with unsafe and hazardous conditions’ or a recommendation that DHS ‘cease’ doing so. (*Id.*, pp. 13-14)

“DHS also disagrees with the Comptroller’s finding that the Agency failed to address what the auditors deemed as ‘hazardous and unsanitary conditions’ at these two sites. (*Id.*) In response to the Comptroller's July 2009 letters concerning the conditions his auditors observed at the Aladdin and the Cluster, Commissioner Hess responded that while all items noted by the Comptroller had been addressed, the Commissioner took issue with the auditors’ mischaracterization of conditions as ‘potentially hazardous’ in the units they had visited. (*See* Commissioner Hess’ July 30, 2009 letters to Comptroller Thompson, pp. 1-2 annexed as Appendix II to the Draft Report.) It should also be noted that prior to the Comptroller’s registration of the Icahn Cluster contract on July 8, 2009, the Comptroller’s Office required, and the provider furnished, a plan for remediation of all outstanding building violations. Through its own inspection protocols, and assisted by City agencies charged with enforcing the City’s building codes, DHS ensures a safe physical environment for all clients in shelter.”

Auditor Comment: The audit evaluated DHS’s oversight of providers and concluded that DHS failed to adequately monitor providers to ensure that they housed clients in safe and sanitary conditions. In its response, DHS fails to respond to and acknowledge that it failed to adequately oversee providers and as a result of its lacking oversight, clients were housed in hazardous and unsanitary conditions. DHS responds only to the hazardous and unsanitary conditions cited in the report and, moreover, vehemently disputes the existence of those conditions. The audit’s conclusions were based on FMD’s failure to identify and follow up on long-standing, documented, hazardous and unsanitary conditions cited by HPD, DOB, and FDNY. These oversight agencies routinely inspected providers’ facilities and issued them violations for hazardous and unsanitary conditions. Our observations merely affirmed these conditions.

Although the DHS Commissioner claimed in his response letters that “all items noted by the Comptroller had been addressed,” hazardous and unsanitary conditions persist. In fact, on July 30, 2009—the very day that the DHS Commissioner responded to and took

issue with the auditors' "gross" mischaracterization of conditions at the Aladdin Hotel—NYPD reported that "a piece of sheetrock fell in the 4th floor bathroom, hit a woman in the head" and that the woman was taken to the hospital. Upon subsequent inspection of the Aladdin Hotel, DOB concluded that a water leak caused the ceiling to collapse. Although the Comptroller alerted DHS to such conditions, DHS dismissed and derided the reported conditions rather than act on them and protect clients entrusted it. Furthermore, on August 3, 2009, December 15, 2009, and on March 4, 2010, tenants filed complaints with HPD regarding this same condition. Clearly, DHS continues to fail to adequately monitor providers and continues to place clients in facilities with hazardous and unsanitary conditions. Consequently, we urge DHS to reconsider the validity of the report's findings and to implement its recommendations.

Recommendations:

DHS should:

11. Conduct unannounced periodic site inspections and interviews with clients and staff.

DHS Response: "DHS disagrees with the findings on which these Recommendations are based. However, with respect to Recommendation No. 11, DHS believes that, as a matter of good policy, unannounced periodic site inspections and reviews with clients and shelter staff would be a useful addition to its existing inspection protocols and will develop and implement a plan to conduct unannounced periodic visits beginning in March 2010."

Auditor Comment: While we are pleased that DHS will develop and implement a plan to conduct unannounced periodic visits, we again urge DHS to reconsider the validity of the report's findings.

12. Routinely check whether facilities have open HPD violations and ensure that providers rectify open violations in a timely manner.

DHS Response: "DHS will not implement Recommendation No. 12 because DHS' comprehensive inspection protocols are already sufficient to identify health and safety violations in shelter common areas and in clients' individual units."

Auditor Comment: We do not understand DHS's reluctance to institute recommendations aimed at ensuring that its clients are housed in safe and sanitary conditions. Contrary to DHS's assertion, its inspection protocols are not sufficient to identify health and safety violations. Although DHS generally inspected facilities bi-annually, it failed to identify or to follow up on long-standing, documented, hazardous, and unsanitary conditions including bedbug, roach, and vermin infestation, peeling lead paint, lacking carbon monoxide detectors, smoke detectors, and fire extinguishers, and broken or defective fire doors. HPD, DOB, and FDNY routinely inspected providers' facilities and issued them violations for these and other hazardous and unsanitary conditions, and our observations

affirmed them. Therefore, we urge DHS to routinely check whether facilities have open HPD violations and ensure that providers rectify open violations in a timely manner.

13. Cease placing clients in facilities with hazardous and unsanitary conditions.

DHS Response: “DHS is already in full compliance with Recommendation No. 13, and disagrees with the false premise that DHS ever had a practice of placing clients in facilities with hazardous and unsanitary conditions.”

Auditor Comment: As noted, DHS has in fact placed clients in facilities with hazardous and unsanitary conditions. The Aladdin Hotel and the 59 Pilgrim Icahn facilities had an inordinate number of HPD violations—the majority of which were for hazardous conditions. Additionally, DOB received complaints and issued violations for conditions at the Aladdin Hotel including:

- FDNY reported an electrical explosion at the hotel and requested a structural stability check of the building.
- FDNY also reported that the rooftop water tower was leaking.
- Clients reported that the elevator was inoperable for weeks at a time and that it free-falls at least three floors. Additionally, clients noted that this is the only elevator in the nine story building and that wheelchair-bound, pregnant, elderly, and asthmatic clients reside there.
- Defects in building exterior walls.

DOB also cited the Aladdin Hotel for occupying the building without a valid Certificate of Occupancy since 1984. In May 2002, DOB ordered the Aladdin Hotel to obtain a valid certificate or discontinue use of the building. To date, the Aladdin Hotel did not obtain a valid certificate. Clearly, DHS did in fact place clients in facilities with hazardous and unsanitary conditions and continues to do so. As reported conditions have already caused at least one DHS client injury, we again urge DHS to cease placing clients in facilities with hazardous and unsanitary conditions.

Providers Did Not Transition Clients to Permanent Housing in a Timely Manner

DHS failed to adequately monitor providers to ensure that they transitioned clients to permanent housing in a timely manner. DHS has no goals or guidelines as to how long clients should stay in transitional housing. However DHS informed us that on average, homeless families stay in transitional housing for nine months. DHS set and determined whether providers met monthly and annual placement targets. However, DHS failed to ensure that providers met their placement targets, rendering them meaningless. In fact, 85 of 93⁸—more than 91 percent—

⁸ This figure excludes providers that were paid only for one month during Fiscal Year 2008 and providers of late arrival facilities, which are used only to provide emergency, one-night shelter.

of providers failed to meet their placement targets for Fiscal Year 2008. DHS did not take any substantive measures against providers that consistently failed to meet placement targets. Consequently, homeless families are languishing in transitional housing, which costs the City up to \$4,836 per family per month. For example, we reviewed Pilgrim Icahn and Aladdin invoices and pre-payment registers for June 2008 and found that:

- 106 of 172—nearly 62 percent—Pilgrim Icahn clients resided in transitional housing for more than the nine-month average. In fact, one Pilgrim Icahn client remained in this facility for nearly 6½ years at an estimated cost of \$234,397. Consequently, we estimate that DHS paid Pilgrim Realty \$4.3 million to house these 106 clients beyond the average nine-month stay.⁹
- 34 of 157—approximately 22 percent—Aladdin Hotel clients resided in transitional housing for more than the nine-month average. In fact, one Aladdin Hotel client remained in this facility for nearly 4½ years at an estimated cost of \$118,933. Consequently, we estimate that DHS paid the Aladdin Hotel \$1.4 million to house these 37 clients beyond the average nine-month stay.¹⁰

Recommendations:

DHS should:

14. Work with providers that consistently fail to meet placement targets to improve their performance.
15. Cease placing clients with providers that do not transition clients to permanent housing in a timely manner.

DHS Response: “DHS is already in full compliance with Recommendation No. 14. DHS disagrees with Recommendation No. 15. While the timeliness of client move-outs is an important factor in evaluating shelter providers’ overall performance, it is not the sole determinative factor of the quality of providers’ services. DHS recognizes that factors beyond the provider’s control may affect the timeliness of client move-outs such as individual clients’ compliance with client responsibility rules to, among other things, seek and accept suitable housing, get a job or apply for financial benefits. The Agency also has learned from many years of experience that the most effective way to achieve results is for DHS to work in partnership with its providers toward common goals. All in all, the DHS/provider partnership has led to outstanding results. Notwithstanding the nationwide recession and the 64 percent increase in families applying for shelter in November 2009 as compared to November 2007, DHS moved 7,693 families with children, totaling 23,079 individuals, into permanent housing from January through November of 2009.”

⁹ We estimated client lodging costs based on Pilgrim’s daily rate in effect during Fiscal Year 2008.

¹⁰ We estimated client lodging costs based on Aladdin’s daily rates in effect during Fiscal Year 2008.

Auditor Comment: We understand that there are factors beyond providers’ control that may affect the timeliness of client move-outs. Nevertheless, clients should not remain in “transitional” housing for nearly 6½ years. We agree with and recommended to DHS that it should work with providers. However, we do not agree that DHS providers achieved “outstanding results.” As noted, 85 of 93—more than 91 percent—of providers failed to meet their placement targets for Fiscal Year 2008. Further, these 93 providers moved only 3,664 families into permanent housing, less than half the Fiscal Year 2008 targeted number of 7,625. We reiterate that DHS should work with providers that consistently fail to meet placement targets to improve their performance and cease placing clients with providers that do not transition clients to permanent housing in a timely manner.



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WILLIAM C. THOMPSON, JR.
COMPTROLLER

July 22, 2009

The Honorable Robert V. Hess
Commissioner
Department of Homeless Services
33 Beaver Street
New York, New York 10004

Re: Potentially hazardous conditions and code violations at the Aladdin Hotel

Dear Commissioner Hess:

I am writing to advise you of potentially hazardous conditions and code violations at the Aladdin Hotel. As you know, my office is conducting an audit of the Department of Homeless Services' controls over payments to service providers. In connection with this audit, we inspected the Aladdin Hotel—a residential hotel that houses homeless families located at 317 West 45th Street in Manhattan—and observed the following:

- Numerous wall-mounted hallway smoke detectors were not working,
- Fire extinguishers were not always in place,
- Several fire extinguisher inspection tags were removed,
- Compressed gas tanks were stored in the basement,
- Stairwell doors were improperly held open,
- Roof doors were not self-closing and were open,
- Portions of the roof surface were spongy,
- Significant portion of roof wall was unfinished and uncovered and the paint was cracked and peeling on the remaining portion,
- Hallway walls evidenced water damage including mold, holes, bubbling plaster, peeling paint, and discoloration,
- Hallway light fixtures were broken and missing,
- Exposed wiring,
- Stair rails were broken,
- Bathrooms had a broken sink, no tub spout, no shower head, missing tile, and running faucets and toilets, and

Page 2
Honorable Robert V. Hess
July 22, 2009

- Garbage was not stored in sealed containers.

In addition, tenants informed us that the facility's fire detection and sprinkler systems were not operational and complained of rats. We believe the above-noted conditions warrant further investigation and recommend that your department inspect this facility to ensure that homeless families are provided safe shelter.

Thank you for your attention to these matters.

Yours truly,



William C. Thompson, Jr.

c: Nicholas Scoppetta, Commissioner, Fire Department
Robert LiMandri, Commissioner, Department of Buildings
Thomas A. Farley, Commissioner, Department of Health and Mental Hygiene



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WILLIAM C. THOMPSON, JR.
COMPTROLLER

July 27, 2009

The Honorable Robert V. Hess
Commissioner
Department of Homeless Services
33 Beaver Street
New York, New York 10004

**Re: Potentially Hazardous Conditions and Code Violations at Pilgrim Icahn
Cluster Site Buildings**

Dear Commissioner Hess:

On July 22, 2009, I notified you about deplorable conditions my auditors found at the Aladdin Hotel in Manhattan, which houses homeless families without children. I am now contacting you to advise you of potentially hazardous conditions and code violations at Pilgrim Icahn cluster site buildings in the Bronx. These buildings are used to house homeless families with children. The auditors observed the following:

- Apartment window very loose in its frame,
- Apartments had a rodent, rodent droppings, and roach infestation,
- Apartment bathrooms had leaking pipes, missing wall and floor tiles, sinks separating from walls, stained and chipped tubs, a broken faucet handle, no shower head, and running faucets and toilets,
- Apartment kitchens had leaking faucets and pipes and broken and worn cabinets,
- Apartment and hallway walls evidenced water damage including mold, holes, bubbling and cracked plaster, and discoloration,
- Apartment and hallway floor tiles were missing and cracked,
- A dirty, deteriorated mattress was provided to a client,
- Entrance doors did not have locks, and
- Roof doors did not have emergency exit alarm locks, were not self-closing, and were improperly held open. Further, one building roof wall was very low. This is particularly troubling given that the roof is accessible and that the building houses children.

Honorable Robert V. Hess
July 27 2009
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We believe the above-noted conditions warrant immediate investigation and recommend that your department inspect Pilgrim Icahn cluster site buildings without delay to ensure that homeless families and their children are provided safe and sanitary shelter. Photographs of some of the conditions my staff found are attached.

Thank you for your attention to these matters.

Yours truly,



William C. Thompson, Jr.

Attachments

- c: Nicholas Scoppetta, Commissioner, Fire Department
- Robert LiMandri, Commissioner, Department of Buildings
- Thomas A. Farley, Commissioner, Department of Health and Mental Hygiene
- Jeffrey Kay, Director, Mayor's Office of Operations
- George M. Davis, III, Mayor's Office of Operations

1175 Walton Avenue



2290 Davidson Ave.



1173 Walton Avenue



1175 Walton Avenue



1097 Walton Avenue



2290 Davidson Avenue



1173 Walton Avenue



2344 Davidson Avenue



2290 Davidson Ave.



1175 Walton Avenue



1097 Walton Ave.



1099 Walton Avenue



2290 Davidson Avenue



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Commissioner

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July 30, 2009

William C. Thompson, Jr.
Comptroller of the City of New York
1 Centre Street
New York, NY 10007-2341

Re: Aladdin Hotel

Dear Comptroller Thompson:

I am writing in response to your July 22, 2009 letter regarding conditions at the Aladdin Hotel, a homeless shelter in the Adult Family Services Division of the New York City Department of Homeless Services. In your letter you cite conditions at the Aladdin that you describe as potentially hazardous, and every item cited in your letter has been addressed. Nonetheless, your letter grossly mischaracterizes the conditions at the Aladdin, and I write to correct the record.

During their tour of the Aladdin, your auditors were accompanied every step of the way by high-level DHS staff. In all, auditors viewed 20 units. Every client interviewed indicated that their unit and the building were in good repair, and not one had a complaint that was not being promptly addressed by facility management. This information was not noted in your letter, and is far more relevant than the point-in-time observations of your inspectors which cannot measure or account for the speed with which the facility's management corrects all known defects.

For example, your auditors observed a single sink, in a bathroom with two sinks, that was out of order, a single "running" toilet and a single missing shower head. Sinks, toilets and showers require regular upkeep, which they receive. For example, according to the facility, shower heads frequently go missing. As a result, they keep a supply of them on hand and promptly replace them as needed. That a single shower head was missing at the time of the inspection is indicative of nothing. What is true is that most older buildings in New York City require around-the-clock maintenance which is ably provided by the Aladdin staff.

With respect to your most pressing safety concern, you referenced that some of the wall-mounted hallway smoke detectors were not working and that fire extinguishers were not in place. It is true that some of the battery operated fire alarms were not operational, one fire extinguisher was in fact missing and some extinguisher inspection tags had been ripped off. However, you failed to note or recognize that the Aladdin has a centralized, hard-wired fire alarm system and sprinklers on every floor - a fact that was pointed out to your auditors by DHS staff at the time of the inspection. The safety of our clients is our paramount concern, and the battery operated alarms and fire extinguishers are

redundant safety measures. The conditions cited simply do not create hazardous conditions. Moreover, despite the absence of some inspection tags, all extinguishers were properly charged and maintained.

The other conditions you cite, for example the single missing light fixture in a stairwell that was otherwise well lit, exposed wires hanging from the ceiling in one kitchen area (out of reach to anyone), and one area in the ninth floor hallway that exhibited some signs of water damage, are exceptions that when taken out of context fail to accurately reflect the overall condition of the facility. I invite you to tour the Aladdin with me so that you might better understand the challenges faced by the building's maintenance staff and the extraordinary efforts they make to meet them.

Sincerely,



Robert V. Hess

Cc: Linda Gibbs, Deputy Mayor
Nicholas Scoppetta, Commissioner, Fire Department
Robert LiMandri, Commissioner, Department of Buildings
Thomas A. Farley, Commissioner, Department of Health and Mental Hygiene



Department of
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Robert V. Hess
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July 30, 2009

William C. Thompson, Jr.
Comptroller of the City of New York
1 Centre Street
New York, NY 10007-2341

Re: Icahn Cluster

Dear Comptroller Thompson:

I am writing in response to your July 27, 2009 letter regarding conditions in some Pilgrim Icahn cluster units, a cluster of apartment-style shelter units in the Transitional Family Services Division of the New York City Department of Homeless Services. In your letter you cite conditions in some units that you describe as potentially hazardous. As of today, every item cited in your letter has been addressed.

During their tour of the Pilgrim Icahn cluster, your auditors were accompanied every step of the way by senior DHS staff. In all, auditors viewed 36 units. As you know, most older buildings in New York City require around-the-clock maintenance, and because of the apartment-style nature of cluster units, the property owner, provider and DHS must rely in part on the clients to maintain the cleanliness of their units and report conditions in need of repair. With respect to the 36 units inspected by your auditors, this was not always the case. However, as soon as DHS became aware of the conditions cited in your letter, they were addressed.

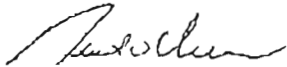
The point-in-time observations of your inspectors cannot fully describe the maintenance history of the units in question. For example, where the shower head was missing, we understand that the client removed the environmentally-efficient low-flow shower head that the building installed. It has since been re-installed. Your letter also refers to leaking plumbing, which is a recurring problem to which our landlords devote significant resources. Likewise, the cosmetic problems you point to in the hallways of the buildings require near constant attention, which they receive. In both cases, the conditions you identified have been addressed.

Your letter also made us aware of some safety issues. Specifically, you indicated that a window was loose in its frame, and that problem has been addressed. I would like to point out, however, that the window in question, and every other window in the cluster, is properly fitted with window guards to protect children living in the units. The other major safety concern cited in your letter, accessibility to the roofs at 1175 Walton Avenue and 2290 Davidson Avenue, has also been corrected. The doors to those roofs are now locked and alarmed.

Finally, concerning complaints of vermin in the units, the owners of the buildings in the cluster have been taking appropriate steps to redress this problem. Specifically, exterminators have been visiting the buildings twice a month. Nonetheless, we will discuss with the landlords increasing the frequency of these visits.

Thank you for bringing your concerns to our attention.

Sincerely,



Robert V. Hess

Cc: Linda Gibbs, Deputy Mayor
Nicholas Scoppetta, Commissioner, Fire Department
Robert LiMandri, Commissioner, Department of Buildings
Thomas A. Farley, Commissioner, Department of Health and Mental Hygiene

Pilgrim Icahn Facility and Aladdin Hotel Open HPD Violations

Pilgrim Ichan Cluster Site Buildings

	ADDRESS	BOROUGH	HPD Open Violations			Total Open HPD Violations
			A	B	C	
1	1857 WALTON AVENUE	Bronx	12	62	24	98
2	2160 WALTON AVENUE	Bronx	8	37	38	83
3	373 EAST 188TH STREET	Bronx	10	46	14	70
4	1085 BRYANT AVENUE	Bronx	35	77	34	146
5	1083 BRYANT AVENUE	Bronx				
6	1208 WESTCHESTER AVENUE	Bronx				
7	1210 WESTCHESTER AVENUE	Bronx				
8	1212 WESTCHESTER AVENUE	Bronx				
9	1097 WALTON AVENUE*	Bronx	29	65	63	157
10	1099 WALTON AVENUE*	Bronx				
11	1173 WALTON AVENUE*	Bronx	7	22	20	49
12	1175 WALTON AVENUE*	Bronx				
13	1230 EAST TREMONT AVENUE	Bronx	31	74	38	143
14	1245 FINDLAY AVENUE	Bronx	12	46	38	96
15	1363 FINDLAY AVENUE	Bronx	1	8	2	11
16	1410 GRAND CONCOURSE	Bronx	3	33	20	56
17	1420 CLAY AVENUE	Bronx	21	36	30	87
18	1436 CLAY AVENUE	Bronx	1	5	15	21
19	1453 WALTON AVENUE	Bronx	25	78	22	125
20	1455 WALTON AVENUE	Bronx				
21	1454 GRAND CONCOURSE	Bronx	11	41	54	106
22	1460 COLLEGE AVENUE	Bronx	8	10	11	29
23	1575 TOWNSEND AVENUE	Bronx	3	36	36	75
24	1670 EAST 174TH STREET	Bronx	0	3	2	5
25	1690 EAST 174TH STREET	Bronx	0	1	1	2
26	1691 EAST 174TH STREET	Bronx	4	22	9	35
27	1691 EASTBURN AVENUE	Bronx	11	21	10	42
28	1815 UNIVERSITY AVENUE	Bronx	5	7	29	41
29	1859 WALTON AVENUE	Bronx	12	62	24	98
30	1881 MORRIS AVENUE	Bronx	10	26	17	53
31	1881 WALTON AVENUE	Bronx	5	22	74	101
32	2200 MORRIS AVENUE	Bronx	57	109	34	200
33	2290 DAVIDSON AVENUE*	Bronx	11	29	48	88
34	2344 DAVIDSON AVENUE*	Bronx	24	74	32	130
35	3320 KOSSUTH AVENUE	Bronx	8	22	7	37
36	3436 CORSA AVENUE	Bronx	40	72	32	144
37	3478 CORSA AVENUE	Bronx				
38	3442 CORSA AVENUE	Bronx				
39	3444 CORSA AVENUE	Bronx				
40	3446 CORSA AVENUE	Bronx				
41	3452 CORSA AVENUE	Bronx				

	ADDRESS	BOROUGH	HPD Open Violations			Total Open HPD Violations
			A	B	C	
42	3438 FISH AVENUE	Bronx	28	60	37	125
43	3448 FISH AVENUE	Bronx				
44	3454 FISH AVENUE	Bronx				
45	3472 FISH AVENUE	Bronx				
46	3439 SEYMOUR AVENUE	Bronx				
47	3463 SEYMOUR AVENUE	Bronx				
48	1758 EASTBURN AVENUE	Bronx	14	28	22	64
49	3438 WILSON AVENUE	Bronx	20	51	39	110
50	3435 FISH AVENUE	Bronx				
51	3439 FISH AVENUE	Bronx				
52	3445 FISH AVENUE	Bronx				
53	3465 FISH AVENUE	Bronx				
54	3440 GATES PLACE	Bronx	1	1	0	2
55	3445 CORSA AVENUE	Bronx	10	19	10	39
56	3459 CORSA AVENUE	Bronx				
57	1805 UNIVERSITY AVENUE	Bronx	15	39	46	100
58	375 EAST 188TH STREET	Bronx	10	46	14	70
59	2325 PROSPECT AVENUE	Bronx	2	56	25	83
Total Open HPD Violations			504	1446	971	2921
Total Hazardous (Type B and C) Violations						2417

Aladdin Hotel

	ADDRESS	BOROUGH	HPD Open Violations			
			A	B	C	
1	317 W. 45th Street*	Manhattan	32	48	5	85
Total Hazardous (Type B and C) Violations						53

NOTE:

* Facility inspected by Comptroller's Office.



Robert V. Hess
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February 18, 2009

BY HAND

Ms. H. Tina Kim
Deputy Comptroller for Audit
Office of the Comptroller
1 Centre Street
New York, NY 10007-2341

Re: Response to Audit Report on the Compliance of the Department of Homeless Services with City Procurement Rules and Controls Over Payments to Non-Contracted Providers (FK09-069A)

Dear Ms. Kim:

This letter is in response to the Draft Report dated February 2, 2010 ("Draft Report"), concerning compliance by the Department of Homeless Services ("DHS" or "Agency") with City procurement rules and controls over payments to non-contracted providers. We begin with a summary of DHS' responses to the Draft Report's five major findings and 15 recommendations and thereafter respond in detail to each of the Report's recommendations and the findings on which they are based.

Executive Summary

Finding No. 1

The Draft Report concludes that DHS' payments to family shelter operators absent a contract that is executed and registered with the Comptroller's Office is a violation of the New York City Charter and Procurement Policy Board Rules ("PPB Rules"). The Draft Report therefore recommends that the Agency enter into contracts, register them with the Comptroller's Office, and record them and payments associated with them in the City's Financial Management System ("FMS").

It is the City's longstanding position that in order to comply with its legal and moral obligations to provide immediate shelter to all homeless families and individuals, it may enter into *per diem* arrangements with non-contracted shelter providers. Such an arrangement is not subject to the requirements of the Charter or PPB Rules and is perfectly legal. The Comptroller has sued the City on this precise issue and the City is vigorously defending its position in court. Notwithstanding this legal dispute, the Draft Report recognizes the significant progress the City has made in converting *per diem* shelter units to contract — as of August 31, 2009, more than two thirds or 77 percent of all units for families with children and adult families were either subject to registered contracts or were in facilities that DHS is in the process of moving

through various stages of the City's procurement process. The Agency will continue its significant progress toward this end. (See pp. 3-6, below)

Finding No. 2

The Draft Report concludes that DHS lacks sufficient internal controls over its *per diem* payments to non-contracted providers and recommends that effective controls be implemented to ensure that providers accurately record and report client-lodging days. DHS strongly disagrees with this finding. As detailed below, the Agency's billing process for non-contracted shelter providers has multiple safeguards and quality control measures to ensure accuracy in billing and payment for residential care days. In addition, as part of the regular monitoring and evaluation of both contracted and non-contracted providers of shelter for families with children, DHS audits a sampling of provider invoices to verify unit occupancy and ensure that shelter providers are accurately billing DHS for residential care days. (See pp. 6-8, below)

Finding No. 3

The Draft Report concludes that DHS made "unjustified" payments totaling \$953,635 to one of its non-contracted providers and recommends that the Agency recoup this amount. During the course of this audit, DHS provided documentation to the auditors that these payments were based on accurate client-lodging data and mutually agreed-upon daily rates. Moreover, DHS conducted thorough reviews to confirm the validity of expenses incurred by this provider. This included an audit conducted by DHS Audit Services and an audit conducted by an independent auditing firm. (See pp. 9-10, below)

Finding No. 4

The Draft Report globally concludes that DHS fails to adequately inspect the physical conditions of non-contracted shelters and recommends that the Agency "cease placing clients in facilities with hazardous and unsanitary conditions." First, DHS places clients only in facilities that are safe, decent and clean. Second, the Draft Report's finding is based upon inspection of 20 units in one shelter and 36 units in another. An accurate evaluation of the Agency's shelter portfolio cannot be made on the basis of a one-time inspection of some of the units in two shelter sites. Third, DHS strongly disagrees with the Comptroller's finding that the Agency failed to address what the auditors deemed as "hazardous and unsanitary conditions" at these two sites and also takes issue with the auditors' mischaracterization of these conditions as "potentially hazardous." Finally, DHS implements a variety of inspection protocols to ensure that all homeless families reside in a physical environment that is safe, respectful and clean. This includes bi-annual shelter inspections in which DHS staff records answers to 346 questions about the physical conditions of a facility's individual living units and common areas. As part of the inspection process, contracted and non-contracted facilities are required to submit corrective action plans in the event repairs have to be made. (See pp. 10-13, below)

Finding No. 5

The Draft Report concludes that DHS fails to adequately monitor the progress of non-contracted shelters in moving families toward permanency as rapidly as possible. It therefore recommends that DHS work with providers that consistently fail to meet placement targets to improve their performance and cease placing clients with providers that do not transition clients to permanent housing in a timely manner. (See pp. 13-15, below)

In partnership with its shelter providers, whether contracted or not, DHS works day in and day out to ensure that all homeless men, women and children receive the services and support they need to move from shelter to permanent housing. This partnership has achieved outstanding results even in the face of a nationwide economic crisis and a 64 percent increase in the number of families applying for shelter in November 2009 as compared to November 2007. Working with its contracted and non-contracted providers, DHS moved 7,693 families with children, totaling 23,079 individuals into permanent housing in an 11-month period from January through November 2009. Through its oversight, monitoring, and evaluation of providers' performance in meeting move-out targets and other goals, the Agency will continue to strive for excellence in meeting shelter demand and in helping homeless families move out of shelter into homes of their own.

In the remainder of this letter, we detail DHS' specific responses to the Draft Report's recommendations.

Recommendation Nos. 1-4 state that DHS should:

1. Enter into contracts with all providers of shelter and social services that delineate services to be provided, establish performance standards, and provide termination clauses and remedies.
2. Comply with New York City Administrative Code, the City Charter, and PPB rules regarding contracting.
3. Register contracts with the Comptroller's Office.
4. Comply with Comptroller's Directive #24 and record contracts and associated payments in FMS and use prescribed purchasing documents to process payments.

Summary of Response

DHS strongly disagrees with the central premise for these Recommendations, namely that DHS' use of shelter facilities pursuant to *per diem* arrangements violates the City Charter, Administrative Code or the Procurement Policy Board (PPB) Rules. While the use of *per diem* arrangements is perfectly lawful, we note that consistent with the Agency's longstanding policies and procedures, since 2003, DHS has made significant progress in converting *per diem* shelter units to contract. As of August 31, 2009, more than two-thirds, or 71 percent, of all units for families with children and adult families were either subject to registered contracts or were in facilities that DHS is in the process of moving through various stages of the City's procurement process.

The City's Legal Position

DHS has been advised by the Law Department that it is the City's long-standing legal position that DHS' *per diem* arrangement with a shelter operator does not constitute a procurement within the meaning of the City Charter, Administrative Code or PPB Rules. Accordingly, DHS is not required to execute or register a contract for the provision of shelter before referring homeless families to facilities operated pursuant to a *per diem* arrangement. As detailed below, the City has repeatedly made known its position to the

Comptroller since 2003, and this precise issue is the subject of pending litigation between the City and the Comptroller. The City's position is reflected in the following:

- **The Law Department's Legal Opinion:** The City's response to the Comptroller's Audit Report on Department of Homeless Services Controls Over Payments to Hotel and Scatter Site Housing Operators, July 1, 2001-June 30, 2002 (FM03-123A), dated October 1, 2003, attached a legal opinion by the Law Department to the effect that under the Agency's *per diem* arrangements with shelter operators, DHS was not procuring any "client services" or other "services" within the meaning of the PPB Rules. As is the case with the current audit, the 2003 audit erroneously concluded that, in entering into *per diem* arrangements, DHS had violated the Charter and PPB Rules.
- **Pending Litigation:** The issue of whether DHS' *per diem* arrangements with shelter operators is a procurement within the meaning of the City Charter and PPB Rules is the subject of pending litigation between the City and the Comptroller. See the City's Verified Answer to the Comptroller's Petition in *Westchester Square/Zeroga Improvement Org., Inc. v. Hess, et al.*, Index No. 260573/09 (Sup. Ct., Bronx Co., 2009, Wright, J.), the affidavit of Commissioner Robert V. Hess, sworn to November 25, 2009, the affirmation of Andrea Feller, Esq., dated November 25, 2009, and Municipal Respondents' Memorandum of Law in Opposition to the Comptroller's Petition and in Support of Municipal Respondents' Verified Answer, dated November 25, 2009.
- **Correspondence between the City and the Comptroller:** DHS' legal position has been fully set forth in the (1) June 25, 2003 letter from then DHS Commissioner Linda Gibbs to Hon. William C. Thompson, Jr., attached as an Addendum to the October 1, 2003 Audit Report referenced above; (2) June 8, 2008 letter from DHS Commissioner Robert V. Hess to Hon. William C. Thompson, Jr., responding to the Comptroller's letter to Deputy Mayor Linda Gibbs, dated June 6, 2008; and (3) September 22, 2009 letter from Commissioner Hess to Hon. William C. Thompson, Jr., in response to the Comptroller's letter to Commissioner Hess, dated September 10, 2009.

Conversion of *Per Diem* Units to Contract

While *per diem* payment arrangements are thus lawful, DHS agrees that, as a matter of sound policy, the Agency should continue moving toward establishing contracts for its facilities to the extent shelter demand, existing capacity, provider willingness and fiscal constraints allow. The Draft Report acknowledges the progress DHS has made toward this end (Report, p. 8), but also states: "Although DHS stated in October 2003 that it would make 'every effort to convert to contract,' it failed to do so." (*Id.*) We disagree. In Commissioner Hess' June 8, 2008 letter to then-Comptroller William C. Thompson, the Commissioner reported that in the years since the Comptroller's October 2003 Audit Report, DHS had closed 16 *per diem* facilities and converted to contract almost 700 units of *per diem* shelter. By September 2009, DHS had made significantly more progress toward converting *per diem* units to contract. In Commissioner Hess' September 22, 2009 letter to then-Comptroller Thompson, the Commissioner reported that as of August 31, 2009, 1,203 family shelter *per diem* units targeted for conversion were now subject to contracts which were in various stages of the

procurement process. These units together with the 6,010 shelter units currently under contract — 7,213 units in total — constitute *over two thirds or 71 percent* of all units within the shelter system for families with children and adult families.

Legal Obligation to Provide Shelter

DHS has worked and will continue to work as expeditiously as possible to convert *per diem* units to contract, but clearly, DHS must also refer families to emergency shelter space as needed, prior to completion of the procurement processes for additional facilities — processes that take, on average, seven to nine months from start to finish. As you know, the City is mandated by law and court order to provide housing to every single eligible homeless family or individual who seeks it.¹ Under state and local law, DHS must place families with children in shelter pending investigation of applications for temporary housing assistance. As a practical matter, this means that the Agency must shelter families the very same day they apply. In sum, DHS must, and does, successfully shelter homeless families 24 hours a day, 7 days a week, 365 days a year.

In addition to meeting its legal obligations to provide shelter to all eligible homeless families on an immediate basis, DHS must also meet fluctuations in shelter demand caused by economic or other factors outside of the Agency's control. For example, as a result of the nationwide recession, the number of families entering DHS' shelter system for homeless families with children increased significantly — 64 percent more families applied for shelter in November 2009 compared to November 2007. Although the City has achieved record number of placements of homeless families with children into permanent housing — notwithstanding unprecedented shelter demand and the economic crisis, DHS moved 7,693 families with children, totaling 23,079 individuals, into permanent housing from January through November of 2009 — the City often must open new shelters as a temporary refuge for families and children who literally have no other place to go. DHS accomplishes this through an open-ended capacity development process allowing providers to submit proposals for shelter space.

The Open-Ended Request for Proposals (RFP) and Development of New Capacity

As the Agency explained and documented during the course of this audit, DHS maintains an Open-ended Request for Proposals ("RFP") process, through which nonprofit organizations offer their services as long-term shelter operators. Upon the Agency's selection of a provider, DHS commences the contracting process, which ends with the Comptroller's registration of an executed contract between DHS and the provider. As already noted, this process optimally takes seven to nine months assuming there are no delays beyond DHS' control. Given the City's legal obligation to meet all eligible homeless families' immediate need for shelter, during that contractual negotiation process, the Agency also seeks to bring on additional capacity by reviewing offers of buildings for use as temporary shelter. If DHS determines that a building is suitable for use as a shelter, it enters into a *per diem* arrangement with the building's operator (*i.e.*, building owner or landlord) pursuant to which the operator receives a fee for shelter (only) in the form of a *per diem* rate per family. Operators of sites in

¹ Pursuant to a class action settlement so ordered in Boston v. City of New York, Index. No. 402295/08 (Sup. Ct. N.Y. Co.) (December 12, 2008), all eligible homeless families with children are entitled to shelter.

use as *per diem* shelters may make arrangements with nonprofit entities to provide incidental services to the homeless families residing there, but they are not legally obligated to do so.²

Use of Purchase Orders

Prior to October 2008, DHS made *per diem* payments to shelter operators by utilizing a bank account that was established through the Department of Finance, in accordance with the Draft Report's recommendation embodied in a June 30, 1998 Audit Report (ME97 184A). As noted in the Draft Report, beginning in October 2008, the Agency commenced making these payments through the City's Financial Management System (FMS). The Draft Report asserts that DHS is "improperly using Purchase Orders to process payments to non-contracted providers" (Draft Report, p. 10). However, given that DHS' *per diem* arrangements are in fact non-contractual, it is not possible to use "contracts" as the purchasing documents in FMS. Rather, the only viable alternative is to use purchase orders. In other words, the use of purchase orders by DHS is not an independent audit issue, but rather, is the by-product of the *per diem* arrangement which, as explained above, is completely lawful.

Recommendation Nos. 5-7 state that DHS should:

5. Immediately institute a sound and effective system of internal controls and monitor providers to ensure that they accurately record and report client lodging days. These controls should include, but not be limited to, conducting random, periodic inspections of client sign-in logs.
6. Recoup duplicate payments and overpayments for unsupported client-lodging days totaling \$49,784 made to the Aladdin Hotel for June 2008.
7. Ensure that providers submit documentation and forms detailing client exit information and certify that such information is accurate.

Summary of Response

DHS is already in full compliance with Recommendation Nos. 5 and 7, and disagrees with the findings upon which they are based. DHS' current billing process for non-contracted providers has multiple safeguards to ensure accuracy in billing and payment for client lodging days (care days). As described in greater detail below, DHS disagrees with most of the findings concerning the Aladdin Hotel, and will implement only a portion of Recommendation No. 6.

The Billing Process

DHS processes billing submissions from and makes payments to non-contracted family shelter providers based upon data that the Agency's Housing Emergency Referral Operations unit ("HERO") inputs into the DHS Client Tracking System ("CTS")

² The Draft Report concludes that because of DHS' "failure" to contract with providers, it paid providers that did not provide safe and sanitary shelter to homeless families and transition them to permanent housing in a timely manner and did not conduct proper performance evaluations of them. As explained in DHS' response to Recommendation Nos. 11-15, this conclusion is also erroneous.

concerning the family's placement in and departure from the family shelter system. HERO operates 24 hours a day, seven days a week (including holidays) and is responsible for the placement of homeless families in shelter, tracking of shelter clients, controlling vacancies in the family shelter system, and reconciling data concerning the exiting of families from shelter. HERO's tracking system documents in CTS, an electronic tracking database, each family's entry into and exit out of the family shelter system, as well as each family's activity from the time of arrival to the time of departure, such as a family's transfer from one shelter to another. HERO's Vacancy Control Unit contacts every shelter to verify client arrivals and departures as part of a *daily* reconciliation process with CTS data.

DHS' Care Day Reconciliation unit is responsible for the reconciliation of care days from non-contracted providers. The Financial Management System (FMS) is used to pay *per diem* family shelter providers through electronic funds transfers (EFT), with payments issued by the Department of Finance to the provider's bank account. The reconciliation procedures are designed to reduce the risk of overpayment or unauthorized payments.

Shelter providers are required to designate a financial officer or agent thereof who must then certify and attest to the accuracy of their monthly billings and all associated documents. Upon receipt of an invoice, a DHS supervisor reviews the submission for completeness, and if it is missing the required certification and/or signatures, the provider is instructed to resend a corrected invoice. Once a correct invoice is received, DHS generates a Pre Payment Register, which is an automated report that lists the shelter's lodging history for the billing period based on CTS records. DHS compares the Register line by line against the shelter invoice and annotates the invoice for any inconsistencies in dates of residency, family composition, case numbers, unit occupancy and daily rate. DHS investigates all inconsistencies uncovered as a result of this comparison; the type of discrepancy determines the action the auditor must take to resolve it. All discrepancies are reconciled in favor of CTS unless the provider submits evidence (e.g., client sign in/out logs) demonstrating that CTS is incorrect.

Quality Assurance

As demonstrated above, the billing process for non-contracted shelter providers has multiple safeguards and quality control measures to ensure accuracy in billing and payment for residential care days. In addition, quality assurance checks exist outside the billing process to further reduce the risk of overpayment or unauthorized payments such as (1) bi-weekly health and safety inspections of every unit in the shelter; and (2) weekly inspections of units for families who have an open ACS case or child under 6 months old. If, upon inspection, it appears that the client has permanently vacated the room, shelter staff must notify immediately the DHS Program Analyst with oversight over that facility who, in turn, will notify HERO.

Commencing in the summer of 2009, DHS implemented a monitoring and evaluation process ("Monitoring Tool") for non-contracted shelter facilities for families with children, which is very similar to the Monitoring Tool that the Agency uses to monitor and evaluate the performance of contracted shelters. DHS program analysts complete an annual Monitoring Tool for cluster-site programs ("Clusters") and Tier II-like facilities and an annual and bi-monthly Monitoring Tool for hotels pursuant to which the analyst conducts an audit to verify unit occupancy and ensure that the shelter provider has accurately billed

DHS for residential care days. Using a monthly billing previously sent to DHS' Finance Department for payment, the analyst compares the shelter's source documents (*i.e.*, daily logbook, attendance records, a client's independent living plan (ILP) biweekly updates) to verify a client's stay. If the Analyst finds errors in billed care days, s/he must notify the Care Day Certification unit in HERO to seek an appropriate withholding or recoupment from the provider for the cost of the client's room for the days in question. This procedure is consistent with and more comprehensive than the Draft Report's recommendation that internal controls "should include, but not be limited to, conducting random, periodic inspections of client sign-in logs." (Draft Report, p. 12)

Aladdin Hotel

DHS disagrees with the Draft Report's finding that DHS made "duplicate payments to the Aladdin Hotel totaling \$ 25,918" and that "[i]n eight instances, DHS provided families with two hotel rooms." (Draft Report, p. 11) Upon investigation, the Agency determined that these payments were not duplicative; rather they were made for families who, because of their size, occupied two units. DHS also disagrees with the Draft Report's finding that "DHS paid the Aladdin Hotel for 221 unsupported client-lodging days totaling \$23,866." (*Id.*, p. 12) Upon investigation, the Agency provided supporting documentation justifying payments to all but three families, for a total of 63 days. Therefore, DHS will recoup a total of \$6,803.37 from the next payment.

Verification of Client Exit Information

DHS verifies client exit information in a variety of ways. Exits by clients into permanent housing through DHS' Advantage rental assistance program are verified by the lease they sign. All lease signings are coordinated by DHS' Office of Rehousing. Other subsidized exits are verified by the appropriate agency (HPD, for example) and tracked by various units within DHS. Non-subsidized exits require that the provider submit documentation, confirming placement addresses. This information is checked against US Postal Service data for accuracy. At times, families exit shelter without informing DHS that they are leaving or where they are going. In these cases, there will not be documentation such as a lease reflecting the exit.

DHS disagrees with the Draft Report's finding that the Agency "could not provide us exit documentation to DHS for 6 of 20 clients that left the Aladdin Hotel and 7 of 15 clients that left Pilgrim Icahn facilities during June 2008 according to CTS pre-payment registers." (Draft Report, p. 12) As reflected in CTS, two of the six families were transferred to other shelter facilities. Two of the remaining three families were found ineligible for shelter and, therefore, were logged out of the system. Thus, the status of only one family could not be determined from CTS.³

With regard to the ICAHN cluster (formerly known as the Pilgrim/Icahn Cluster), DHS records indicate that the Comptroller's auditors requested exit information for 14 families. The Cluster provider submitted reconciliation documentation for 6 of the 14 families that DHS, in turn, provided to the Comptroller. Five of the remaining 8 families exited shelter with an Advantage rental subsidy or an HPD subsidy and these exits were confirmed by

³ It is possible that the name of this family provided by the auditors was misspelled.

DHS and HPD. The remaining 3 families exited shelter to whereabouts unknown; therefore, their exits could not be confirmed by exit documentation.

Recommendation Nos. 8, 9 and 10 state that DHS should:

8. Pay providers only for shelter and social services and calculate provider payments based on accurate client-lodging data and mutually agreed-upon daily rates.
9. Recoup unjustified payments totaling \$953,635 made to Tilden during Fiscal Year 2008.
10. Accurately record data in CTS and maintain supporting documentation for such data.

Summary of Response

DHS is already in full compliance with Recommendation Nos. 8 and 10, and has been in compliance throughout the period encompassed by this Draft Report. As detailed below, Recommendation No. 9 is based on an erroneous finding that DHS' payments of \$953,635 to Tilden were "unjustified," and thus DHS will not implement Recommendation No. 9.

Tier II Payment System and the Tilden Facility

All Tier II shelters with line item budgets are paid based on actual care days with an agreed upon monthly *per diem* rate. DHS has the appropriate internal controls in place to ensure that Tier II shelters do not receive reimbursement in excess of their approved annual line item budget. Tilden Hall was atypical because while awaiting contract registration as a Tier II shelter, it was paid on the billing system for non-contracted providers. DHS has since implemented its Guidelines for Expansion of Capacity (a copy of which was provided to the auditors), which require operators of non-contracted shelters, including non-contracted Tier II facilities, to be paid only pursuant to a *per diem* arrangement until a contract between DHS and a provider is registered.

The Draft Report characterizes as unjustified DHS' payments to Tilden in the amount of \$953,635 and recommends that DHS "pay providers...based on mutually agreed upon daily rates."⁴ (Draft Report, p. 13) However, \$518,097 of the total amount was, in fact, a monthly cycle payment made to Tilden Hall based exclusively on the mutually agreed upon rate. DHS provided documentation to the audit team showing that these payments reflected eligible service dates and the mutually agreed upon rate.

The balance of the Tilden special payments consists of: \$274,088 as a one-time payment for start-up costs, interest on start-up costs, real estate taxes, and an audit recoupment offset; and \$161,498 as a one-time payment for prior-year closeout costs. These costs are typical for Tier II shelters and are fluctuating or one-time costs that are not part of the initial base budget, but are subject to the appropriate approval process in accordance with our established internal procedures. DHS has conducted thorough reviews to confirm the validity of expenses incurred for Tilden Hall. This includes an audit conducted by DHS

⁴ When we add up the various components of the total amount of such payments, we arrive at an amount of \$953,683 and not \$953,635 as referenced in the Draft Report.

Audit Services covering the period November 2006 through June 2007, and an audit conducted by A.F. Paredes & Co. covering the period July 2007 through June 2008.

DHS strongly disagrees with the Draft Report's unsupported assertion that DHS "inputted duplicate client-lodging data and invented rates" in order to generate the special payments to Tilden. (Draft Report, p. 13) Because Tilden Hall was awaiting contract, the only payment mechanism with adequate internal controls at that time was the *per diem* billing system. (See DHS' response to Recommendation Nos. 1-4 regarding the issue of contracting for emergency capacity) The computer application for the *per diem* billing system could only process payments by applying a *per diem* rate against a list of client care days. For necessary special payments, the *per diem* billing system did not have the flexibility of FMS, which allows such payments to be made in a lump sum. Therefore, to make a special payment to Tilden Hall, DHS calculated a temporary increase to the rate based on the dollar amount of the special payment divided by the total number of care days. The client-lodging data (number of care days) did not change and was not duplicated. Although there was a temporary change to the rate to accomplish the payment, the Draft Report is misleading when it states that rates were "invented." This was strictly a technical exercise to ensure the accurate payment of costs that were already approved according to established internal procedures. It should be noted that the *per diem* billing system was the only payment mechanism for non-contracted providers available prior to October 2008. Since then, all payments are made through FMS.⁵

Recommendations 11, 12 and 13 state that DHS should:

11. Conduct unannounced periodic site inspections and reviews with clients and staff.
12. Routinely check whether facilities have open HPD violations and ensure that providers rectify open violations in a timely manner.
13. Cease placing clients in facilities with hazardous and unsanitary conditions.

Summary of Response

DHS disagrees with the findings on which these Recommendations are based. However, with respect to Recommendation No. 11, DHS believes that, as a matter of good policy, unannounced periodic site inspections and reviews with clients and shelter staff would be a useful addition to its existing inspection protocols and will develop and implement a plan to conduct unannounced periodic visits beginning in March 2010. DHS will not implement Recommendation No. 12 because DHS' comprehensive inspection protocols are already sufficient to identify health and safety violations in shelter common areas and in clients' individual units. DHS is already in full compliance with Recommendation No. 13, and

⁵ As described in DHS' response to Recommendation Nos. 1-4, DHS began processing payments through FMS in October 2008. In May 2009, DHS also bifurcated the care day reconciliation process and the accounts payable functions for all of its contracted and non contracted facilities, including Tier II shelters.

disagrees with the false premise that DHS ever had a practice of placing clients in facilities with hazardous and unsanitary conditions.

DHS' Inspection Protocols

DHS' current inspection protocols regarding non-contracted shelter facilities are comprehensive and include:

- **Initial FMD Inspections:** The Agency's Facility Maintenance and Development Division ("FMD") inspects all new shelter facilities, including individual units, prior to occupancy. If FMD determines that repairs must be made or conditions remedied, client occupancy does not occur until such corrective action is taken.
- **RSRI's.** FMD conducts bi-annual routine site review inspections, or "RSRI's," of all contracted and non-contracted facilities except for Clusters (see "FMD Cluster Inspections" below). FMD staff inspects the interior and exterior of each facility, including all common areas and each individual unit. FMD uses a multi-page form (18-19 pages) requiring answers to 346 questions which fall into three main categories: (1) cleanliness (to see if the facility is free of dirt, debris, marks and stains); (2) integrity (identifies broken or worn items throughout the facility such as water faucets, window screens and guards, light switches and fixtures); and (3) management (review of administrative logs and records that include fire drills, facility violations, inspections required by the FDNY, Department of Buildings, New York State and other oversight agencies). FMD calculates a score for the facility based upon an analysis of the 346 questions each of which is ranked into one of five scores (excellent, good, satisfactory, needs improvement and less than satisfactory) and into one of three groups (cleanliness, integrity and management). The RSRI also includes written commentary where necessary to elaborate upon conditions (in specific common areas and individual units and concerning specific fixtures and the like) and discussion of the exit interview between FMD staff and the provider. Within 30 days of receipt of the RSRI, the provider must submit a corrective action plan to FMD for its review and approval, detailing a proposed corrective action for all items rated less than satisfactory.
- **FMD Cluster Inspections:** FMD inspects each Cluster unit prior to the unit being added to the shelter portfolio to ensure the unit is in adequate condition, safe, and free of any hazardous conditions. If repairs must be made, the unit is not brought on line until after corrective action has been taken. FMD also inspects each Cluster unit at least once a year after it has been brought on line for client occupancy.
- **Health and Safety Unit Inspections:** Shelter staff at each contracted and non-contracted facility, including hotels and each building within a particular Cluster, are required to conduct bi-weekly health and safety inspections of each family unit, document their findings on a form, place the document in the client's case record, and ensure that all repairs requiring action by the landlord are made. Shelter staff is also required to conduct weekly health and safety inspections of all units occupied by clients who have an open ACS case, have a child under 6 months old or are long-term stayers.

- **Monitoring Tool for Hotels:** In the summer of 2009, DHS developed and implemented a bi-monthly and annual Monitoring Tool for all hotels for families with children pursuant to which Agency staff monitors and evaluates each shelter's performance in key areas. The bi-monthly Monitoring Tool includes (1) an apartment fitness report, (2) a housing placement target review (see response to Recommendation No. 14), and (3) verification of unit occupancy (see response to Recommendation No. 5). The program analyst prepares the monthly fitness report based upon his or her inspection of 10 percent or at least ten of the individual units in each hotel facility, whichever number is greater, and evaluates housekeeping and safety factors in each unit. In addition to randomly selected units, the analyst must focus on ACS cases, clients who have been residing in shelter for more than nine months, recent entrants and Advantage-certified families. The analyst completes a form rating and commenting upon the condition of 23 items of each selected unit (including window guards, smoke detectors, childproof outlets, crib safety, door locks, vermin, etc.) and noting what corrective action, if any, is required with respect to each item. The provider must submit a corrective action response to the program analyst within two weeks of the date the Monitoring Tool was conducted. The analyst must re-inspect any units deemed unsuitable after a prior Bi-Monthly Monitoring Tool Review.
- **Monitoring Tool for Other Non-Contracted Facilities Including Clusters:** In the summer of 2009, DHS commenced utilization of the annual Tier II Monitoring Tool for all non-contracted Clusters. This comprehensive Monitoring Tool includes the apartment fitness report and reviews/reports documenting cluster performance in meeting placement targets.
- **Quarterly Cluster Unit Inspections:** Commencing in the summer of 2009, DHS program staff commenced quarterly inspections of every single unit in a Cluster for health and safety purposes and to determine whether the unit was actually occupied by a family. Program staff documents its findings on a form and indicates all items requiring repair. The provider is required to submit a corrective action plan within two weeks of its receipt of these findings.
- **Other DHS Visits to Facilities:** In addition to formal inspections and monitoring of contracted and non-contracted facilities (as detailed above), DHS program staff visit shelters for other purposes, such as meetings with individual clients and their case workers concerning client-specific issues, training of shelter staff and facility-related issues.

Response to Specific Findings

Based on the auditors' physical inspection of two non-contracted sites -- 20 units in the Aladdin Hotel and 36 units in the Pilgrim/Icahn Cluster (now known as the Icahn Cluster) -- the Draft Report globally concludes that "DHS failed to adequately monitor providers to ensure that they housed clients in safe and sanitary conditions." (Draft Report, p. 13). An accurate evaluation of the Agency's portfolio of non-contracted facilities cannot be made on the basis of a one-time inspection of some of the units in two shelter sites. Nor is it an

appropriate basis for a finding that DHS places clients in “facilities with unsafe and hazardous conditions” or a recommendation that DHS “cease” doing so. (*Id.*, pp. 13-14)

DHS also disagrees with the Comptroller’s finding that the Agency failed to address what the auditors deemed as “hazardous and unsanitary conditions” at these two sites. (*Id.*) In response to the Comptroller’s July 2009 letters concerning the conditions his auditors observed at the Aladdin and the Cluster, Commissioner Hess responded that while all items noted by the Comptroller had been addressed, the Commissioner took issue with the auditors’ mischaracterization of conditions as “potentially hazardous” in the units they had visited. (See Commissioner Hess’ July 30, 2009 letters to Comptroller Thompson, pp. 1-2 annexed as Appendix II to the Draft Report). It should also be noted that prior to the Comptroller’s registration of the Icahn Cluster contract on July 8, 2009, the Comptroller’s Office required, and the provider furnished, a plan for remediation of all outstanding building violations. Through its own inspection protocols, and assisted by City agencies charged with enforcing the City’s building codes, DHS ensures a safe physical environment for all clients in shelter.

Recommendation Nos. 14 and 15 state that DHS should:

14. Work with providers that consistently fail to meet placement targets to improve their performance.
15. Cease placing clients with providers that do not transition clients to permanent housing in a timely manner.

Summary of Response

DHS is already in full compliance with Recommendation No. 14. DHS disagrees with Recommendation No. 15. While the timeliness of client move-outs is an important factor in evaluating shelter providers’ overall performance, it is not the sole determinative factor of the quality of providers’ services. DHS recognizes that factors beyond the provider’s control may affect the timeliness of client move-outs such as individual clients’ compliance with client responsibility rules to, among other things, seek and accept suitable housing, get a job or apply for financial benefits. The Agency also has learned from many years of experience that the most effective way to achieve results is for DHS to work in partnership with its providers toward common goals. All in all, the DHS/provider partnership has led to outstanding results. Notwithstanding the nationwide recession and the 64 percent increase in families applying for shelter in November 2009 as compared to November 2007, DHS moved 7,693 families with children, totaling 23,079 individuals, into permanent housing from January through November of 2009.

Performance Monitoring and Evaluation

DHS uses varied strategies to monitor and evaluate contracted and non-contracted providers’ performance on an ongoing basis.

- **Performance Investment Program (PIP):** First rolled out in July 2003, DHS’ Performance Investment Program, or PIP, is designed to reward providers that successfully and efficiently place families into permanent housing and reduce clients’

length of stay in shelter. PIP directly links shelter facility performance with the payment for provision of shelter services. In FY 04 through FY 08, DHS increased or decreased the original daily rate by up to 10 percent for the provider based on the provider's performance. DHS ensured the success of PIP through bi-monthly workgroup meetings with providers, consideration of provider feedback, and data sharing with providers regarding their progress in achieving permanency for clients.

- **Graduated Payment System (GPS):** In January 2010, DHS commenced as a State-approved, one-year demonstration project, a new reimbursement system for both its contracted and non-contracted providers of shelter for families with children (except for hotels; see "Rapid Re-Housing Initiative" below). The goals of GPS include cost efficiency, shortened length of shelter stay, and preservation of shelter capacity. Reimbursement under GPS is calculated at a *per diem* rate plus 10 percent for the first 180 days of shelter and the rate minus 20 percent beginning the 181st day of the shelter stay. In no event will reimbursements exceed actual expenditures. Providers will receive client specific reports within 15 business days of the end of the month indicating the positive or negative impact of clients' length of stay on the shelter *per diem* rate for each family. These reports will be monitored by both DHS and its oversight agency, the NYS Office of Temporary and Disability Assistance.
- **Rapid Re-Housing Initiative (Homebase in Hotels):** Beginning in March 2010, DHS will implement a Rapid Re-Housing Initiative in hotels that shelter homeless families with children. Through its existing Homebase preventive service providers, DHS will work with these sites to significantly increase housing placements. This initiative will be based on a 100% performance-based model.
- **Monitoring Tool:** As noted in response to Recommendation Nos. 5, 11, 12 and 13, in summer of 2009, DHS implemented a monitoring and evaluation process ("Monitoring Tool") with respect to non-contracted providers of shelter for families with children, which is very similar to the Monitoring Tool it utilizes for contracted facilities. The annual Monitoring Tool used for non-contracted Tier II-like facilities as well as Clusters includes monitoring and evaluating each shelter in discrete areas including (1) a housing placement target review in which DHS reviews the shelter's monthly placement targets and the actual monthly placements to ensure that the provider is meeting the goal of placing families back to the community; for providers that are not meeting their targets, an improvement plan must be developed; (2) food services; (3) security plans; and (4) compliance with FMD RSRI and prior Monitoring Tools.⁶
- **Multi-Purpose Site Visits, Meetings and Trainings:** DHS always has meetings with its providers on site and at DHS headquarters for a variety of purposes — meetings with specific clients and shelter staff, on-site training, meetings about

⁶ In January 2009, oversight of shelters for adult families was transferred from DHS' Family Services division to its Adult Services division. Adult Services currently uses a different shelter monitoring instrument to document, monitor and evaluate on a biannual basis the performance of hotels for adult families in meeting their placement targets.

facility issues — to assist providers in meeting placement targets and improving overall performance.

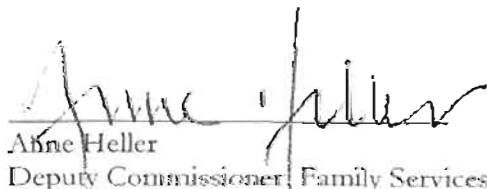
Conclusion

DHS thanks the Comptroller's audit staff members for their efforts in performing this review. We look forward to working with the Comptroller's Office in procuring the necessary additional capacity for the shelter system to meet demand as expeditiously as possible.

Sincerely,



Steve Pock
Deputy Commissioner, Fiscal and
Procurement Operations



Abne Heller
Deputy Commissioner, Family Services

cc: Robert V. Hess/DHS
Fran Winter/DHS
Lula Urquhart/DHS
Erin Villari/DHS
Michael King/DHS
George Davis/Mayor's Office of Operations
Marla Simpson/Mayor's Office of Contracts
Steven Stein Cushman, Esq./Law Department
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