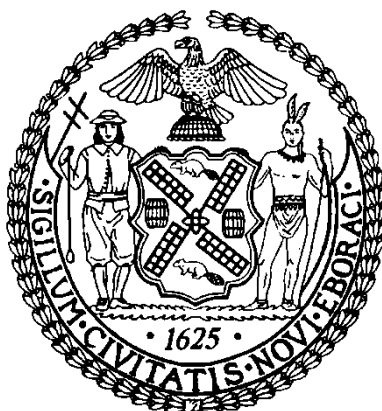


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

MANAGEMENT AUDIT

**H. Tina Kim
Deputy Comptroller for Audit**



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

MJ10-063A

October 21, 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

October 21, 2010

Dear Residents of the City of New York:

My office has audited the adequacy of the enforcement and follow-up activities of the Department of Buildings (DOB) to determine whether they reasonably ensure that mandated elevator safety inspections and tests are performed and cited deficiencies are corrected. We audit entities such as DOB as a means of ensuring that buildings in New York City are operated safely in compliance with City rules and regulations.

The audit determined that DOB's enforcement and follow-up activities are not adequate to ensure the performance of mandated elevator safety inspections and tests and the correction of cited deficiencies. Nearly one-fifth of all 94 sampled elevators were not inspected in 2009. Also, DOB had a persistent backlog of elevators requiring a periodic inspection and did not adequately follow up no-access inspection attempts. Further, DOB's enforcement and follow-up activities did not ensure that property owners carried out required Category 1 (one-year, "no-load") and Category 5 (five-year, "full-load") safety tests or corrected deficient conditions cited in a periodic inspection or Category 1 test.

The audit made nine recommendations to address these issues, including that DOB should: review and strengthen its procedures to ensure that periodic inspections of elevators are carried out promptly each year; establish benchmarks to identify inspection backlogs and address them promptly; implement and consistently enforce appropriate procedures and follow-up activities to encourage building owners to comply with Category 1 and Category 5 test requirements; and establish procedures to improve its follow-up of violations issued during periodic inspections and Category 1 tests.

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

If you have any questions concerning this report, please email my audit bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "JCL".

John C. Liu

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The City of New York
Office of the Comptroller
Management Audit

**Audit Report on the
Department of Buildings
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AUDIT REPORT IN BRIEF

The New York City Department of Buildings (DOB) is responsible for promoting the safe and lawful use of more than 975,000 buildings and properties throughout the five boroughs and enforcing related provisions of the City's Administrative Code, local laws, and Rules of the City of New York (City Rules) governing the construction, alteration, maintenance, use, occupancy, safety, mechanical equipment, and inspection of buildings or structures in the City.

The DOB Elevator Division's mission is to ensure the operational safety, reliable service, and lawful use of elevators, escalators, amusement rides, and related devices throughout the City. It facilitates compliance and fosters safety awareness through outreach programs. This audit focused on the Elevator Division's inspections and related follow-up activities on approximately 59,000 active and available-for-use passenger and freight elevators in approximately 20,000 buildings citywide under DOB jurisdiction.

Audit Findings and Conclusions

DOB's enforcement and follow-up activities are not adequate to ensure the performance of mandated elevator safety inspections and tests and the correction of cited deficiencies. DOB did not ensure that all required periodic inspections were performed for the sampled elevators. We found that periodic inspections were lacking; nearly one-fifth of all sampled elevators were not inspected in 2009. We also found that DOB has a persistent backlog of elevators requiring a periodic inspection and did not adequately follow up on inspection attempts in which inspectors could not gain access to the property.

DOB's enforcement and follow-up activities did not provide sufficient assurance that property owners carried out required Category 1 and Category 5 tests or corrected deficient conditions cited in a periodic inspection or Category 1 test. DOB's procedures do not adequately address violations that were issued during periodic inspections (PVT violations). Further, its procedures to ensure the correction of deficient conditions do not clearly establish the time frame within which property owners must submit proof of the corrections to DOB. We also found that DOB needs to improve the timeliness of its reinspection of elevators issued cease-use orders.

We found that DOB's response to complaints was generally satisfactory and that it met its response goals.

Audit Recommendations

The audit made nine recommendations, including that DOB should:

- Review and strengthen its procedures to ensure that periodic inspections of elevators are carried out promptly each year.
- Establish benchmarks to identify inspection backlogs as they occur and design procedures to address them promptly to prevent the backlog from growing too large.
- Develop reports, procedures, and processes to flag and identify elevators that receive two non-access inspection attempts by contract inspectors, and dispatch a DOB inspector to follow up in accordance with procedure. If a property remains inaccessible, DOB should design and apply stronger enforcement actions to encourage the property owner's compliance.
- Implement and consistently enforce appropriate procedures and follow-up activities to encourage building owners to comply with Category 1 and Category 5 test requirements. These procedures should explicitly establish the actions to be taken when property owners fail to take prompt and appropriate action to correct defects cited in an unsatisfactory Category 1 test.
- Establish procedures to improve its follow-up of open PVT violations.
- Ensure that all inspections required to lift a cease-use order are expedited and carried out promptly.

DOB generally agreed with seven of the audit's nine recommendations and did not address the remaining two.

INTRODUCTION

Background

DOB is responsible for promoting the safe and lawful use of more than 975,000 buildings and properties throughout the five boroughs and enforcing related provisions of the City's Administrative Code, local laws, and City Rules governing the construction, alteration, maintenance, use, occupancy, safety, mechanical equipment, and inspection of buildings or structures in the City.¹

The DOB Elevator Division's mission is to ensure the operational safety, reliable service, and lawful use of elevators, escalators, amusement rides, and related devices throughout the City.² To carry out its mission, the Division reported that it performs approximately 90,000 inspections and tests each year through which it enforces applicable provisions of the Building Code and City Rules. It also facilitates compliance and fosters safety awareness through outreach programs. This audit focused on the Elevator Division's inspections and related follow-up activities on approximately 59,000 active and available-for-use passenger and freight elevators in approximately 20,000 buildings citywide³ under DOB jurisdiction.⁴

All elevator safety inspections and tests are conducted in accordance with the American Society of Mechanical Engineers (ASME) standard A17.1, "Safety Code for Elevators and Escalators," a nationally adopted standard that is incorporated into various sections of the City's Administrative Code.

In accordance with revisions to the City's Administrative Code effective January 1, 2009, elevators in New York City must undergo an annual (periodic) inspection and a "no-load" safety (Category 1) test once each calendar year. In addition, a "full-load" (Category 5) safety test must be performed once every five years. Periodic inspections involve the visual inspection of all elevator components, Category 1 tests involve the visual inspection of systems and tests of safeties⁵, while the elevator is running unloaded, and Category 5 tests involve inspections of systems and tests of safeties, while running the elevator at its full-load capacity. Periodic inspections are generally unscheduled and performed on behalf of DOB by its contract inspectors. Category 1 and Category 5 tests are performed by private, DOB-licensed inspection companies hired by property owners, and must be witnessed by an independent, third-party inspector (also hired by the property owners) that is licensed by DOB or accredited as a Qualified Elevator Inspector (QEI) by an organization recognized by ASME.

¹ According to the New York City Charter, Chapter 26, §643

² Other related devices include man lifts, conveyors, personnel hoists, wheelchair lifts, and moving walks.

³ DOB has a memorandum of understanding with the New York City Housing Authority (NYCHA) that authorizes NYCHA to perform inspections and tests of approximately 3,300 elevators installed in NYCHA developments citywide.

⁴ According to DOB officials, properties owned by New York State, the U.S. Federal government, and foreign governments that are located within the boundaries of New York City are generally not under DOB's jurisdiction.

⁵ Safeties are braking systems on the elevator car that grab onto the rails running up and down the elevator shaft. Some safeties clamp the rails, while others drive a wedge into notches in the rails. Typically, safeties are activated by a mechanical speed governor or pulley that rotates when the elevator moves.

Prior to January 1, 2009, all elevators under DOB jurisdiction had to undergo a basic inspection five times every two years according to City regulations. This audit generally focused on the revised requirements that took effect January 1, 2009.

In Fiscal Year 2009, the Elevator Division's budget totaled \$4.1 million. For the same year, the Division had a staff of 65, including the Assistant Commissioner, Technical Director, Assistant Director, Area Chiefs, supervisors, inspectors, and support staff. In addition, the Division had existing contracts with two private inspection companies, at a total cost of \$4.35 million, to perform periodic inspections. DOB also contracted with another company, at a cost of approximately \$846,000, to monitor and audit elevator inspections and the invoicing of services performed by the contracted inspection agencies.

Elevator Division inspectors' enforcement activities include performing acceptance tests of elevator installations, alterations, modifications, removals, and disassemblies. They also conduct surveys, perform violation reinspections, respond to complaints, investigate incidents and accidents, spot check and audit Category 5 elevator tests, and issue violations and cease-use orders when serious deficient conditions are found. DOB contract inspectors primarily perform periodic inspections and issue violations and cease-use orders.

When deficient conditions are observed, DOB inspectors are empowered to issue violations, referred to as "ECB violations," which carry a monetary fine and require a property owner to attend an Environmental Control Board (ECB) court hearing. Contract inspectors issue violations for deficient conditions identified during a periodic inspection. These violations are generally referred to as "PVT" violations, since they are issued by a private contractor hired by DOB. PVT violations do not carry a monetary fine and do not require the property owner to attend an ECB hearing. Instead, PVT violations can be cleared by a property owner hiring a private elevator company to correct deficient conditions and submitting an Affirmation of Correction (Form ELV29) to DOB along with supporting documentation attesting to the correction of cited deficiencies. PVT violations that remain uncorrected can prevent DOB's approval or renewal of a Certificate of Occupancy.⁶

DOB uses its Building Information System (BIS) to record and track violations, permits, approvals, complaints, licenses, and inspections relevant to its operations. The Elevator Division uses BIS to process elevator applications, process PVT violations, track complaints and cease use orders, and enter into BIS information (i.e., safety test results) recorded on reports submitted by property owners. BIS is a mainframe application that was developed in 1985. It has been further developed to interact with a Web-based BIS portal that responds to inquiries for information. The online portal includes the BIS Web Intranet that is accessible by agency personnel only and the BIS Web Internet that is accessible by the general public.

⁶ The Certificate of Occupancy is a document that provides authorization from the DOB for a building that is to be a public edifice or a private residence. The purpose of the certificate is to provide verification that the building is in full compliance with current building codes, and is safe for occupancy.

Objective

The audit objective was to determine whether DOB's enforcement and follow-up activities reasonably ensure that mandated elevator safety inspections and tests are performed and cited deficiencies corrected.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions, based on our audit objective. However, we lack assurance that DOB provided all relevant information to us during the audit, as discussed below.

During the audit we experienced delays and difficulties that required us to forgo certain tests and design alternative audit strategies. Even though we were provided with much of the information we requested, it frequently took an unreasonable amount of time to do so. In addition, DOB attempted to restrict our direct access with key individuals to clarify various matters. Instead, all requests and responses had to be channeled through DOB's audit liaison group, which in our opinion acted beyond its authority and attempted to manage the audit. Further, we were provided with contrary or ambiguous information on certain matters when we presented DOB our test results. Finally, DOB denied our request for certain other information contending—incorrectly, in our opinion—that it was outside the scope of the audit. Based on these circumstances, we lack assurance that DOB provided all relevant information to us during the audit. Nevertheless, we believe that we obtained sufficient evidence for our audit tests and that the results of those tests form a reasonable basis to support the findings and conclusions detailed in this report.

This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope covered Fiscal Years 2009 and 2010 (through May 12, 2010). However, as discussed herein, the scope period for certain tests was expanded as deemed necessary to obtain sufficient evidence to support audit conclusions about DOB efforts to carry out elevator inspections and related follow-up activities. To achieve our audit objective we performed the following procedures.

To gain an understanding of DOB's general roles and responsibilities pertaining to the area under audit and to identify applicable criteria, we reviewed relevant parts of the City Charter, the City's Administrative Code, local laws, and City Rules. We also reviewed DOB organization charts, and various reports, publications, memoranda, and other relevant materials obtained from DOB officials, the DOB Web site, and other sources. In addition, we reviewed available budget data to ascertain financial and personnel resources available to the Elevator Division.

Evaluation of Controls

We reviewed DOB's self-assessment of its internal controls covering calendar year 2009, performed in compliance with New York City Comptroller's Directive #1. We also reviewed procedures pertaining to elevator inspections and enforcement activities, including the Elevator Division's Operational Manual (dated August 2009) and "Central Inspections Administrative Procedures for Elevator Division" (dated January 2009). Further, we reviewed a previous audit of the DOB Elevator Division conducted by the New York State Comptroller's Office⁷ and noted findings and conditions in that audit that addressed matters relevant to this audit.

To gain an understanding of controls pertaining to the Elevator Division's inspection and enforcement activities, we interviewed key officials, supervisory and support personnel from the Division's Technical Unit, Audit and Quality Assurance Unit, and Administrative Unit, and conducted walkthroughs of each unit. We also interviewed DOB inspectors and accompanied each Area Chief for one day while in the course of performing their duties. We tested compliance with the Division's operating procedures and determined whether supervisory oversight and segregation of duties were adequate.

In addition to reviewing available operating procedures, we reviewed key provisions of applicable rules and regulations, which were also used as criteria, including:

- New York City Administrative Code, Title 27, Chapter 1, Subchapter 18 and Reference Standard 18, "Elevators and Conveyors."
- New York City Building Code, Chapter 30 "Elevators and Conveying Systems" and Appendix K, "Modified Industry Standards for Elevators and Conveying Systems."
- Rules of the City of New York, Title 1, Chapter 11, "Elevators, Escalators, Personnel Hoists and Moving Walks."
- Local Law 10 of 1981.
- Comptroller's Directive #1, "Principles of Internal Control."

We reviewed key provisions of DOB contracts with private inspection companies. On a limited basis, we reviewed controls over the assignment of elevators to contract inspectors to perform periodic inspections and reviewed a sample of DOB route sheets assigned to the contractors every two weeks. We also attended a biweekly meeting between DOB officials and representatives from the contracted inspection companies.

Sample Selection

From the population of 58,942 passenger and freight elevators that were active and available for use as of November 30, 2009, we randomly selected a sample of 94 elevators to evaluate the performance of elevator inspections and tests and DOB's related follow-up activities.

⁷ Office of the New York State Comptroller, *New York City Department of Buildings Elevator Inspections and Tests* (Report 2007-N-9), issued January 2, 2009.

To assess DOB's follow-up on no-access inspections by contract inspectors, we judgmentally selected the two-week period September 20–October 3, 2009. This selection was based on DOB's August 26, 2009 implementation of a new procedure that requires a DOB inspector to perform an inspection on equipment after two unsuccessful attempts by a contract inspector to gain access to the property to perform an inspection.

To evaluate DOB's follow-up on cease-use orders, we randomly selected 30 of the 178 cease-use orders issued during the period November 2009–January 2010, which represented the most current period at the time our test was performed.

Evaluation of Data Reliability

To gain an overview of the BIS database, we met with officials from DOB's Information Systems (IS) Department and Application Development Unit. We also reviewed two previous audits of the application performed by our office and the New York City Department of Information Technology and Telecommunications, respectively.⁸ Further, we reviewed materials available online through the BIS Web Internet (available to the public) and the BIS Web Intranet, to which we were provided read-only access. On a limited basis, we evaluated the general controls, disaster recovery procedures, and support of BIS. Since source documentation was initially limited and we had to wait an extended time for DOB to fulfill various audit requests, we compared the property and building information appearing on the City's Geographic Information System for the 94 sampled elevators to the data recorded in BIS to determine its reliability for audit test purposes. More specific tests associated with violations, and inspections were incorporated into substantive tests.

We also obtained various data extracts that we used in performing tests associated with the 94 sampled elevators. Further, we traced information appearing on available hard-copy documentation to that in the BIS online system. In general, we found that both the BIS data online and data copy were reasonably complete for audit test purposes.

Evaluation of Inspection and Follow-up Activities

We tested the Elevator Division's general inspection efforts and related enforcement activities for consistency and adequacy. We did not address the technical aspect of inspections, contracted inspection agencies' performance, or DOB's monitoring and oversight of these contractors. Nor did we review the qualifications of inspectors. These matters were considered outside the audit scope.

Annual (Periodic) Inspections

To determine whether periodic inspections were performed on the 94 sampled elevators in calendar year 2009, we accessed the inspection records in BIS for each of the sampled

⁸ (1) Office of the New York City Comptroller, *Audit Report on the Building Information System of the Department of Buildings* (#7A04-101), issued September 27, 2004, and (2) New York City Department of Information Technology and Telecommunication, *Audit of the Critical Applications and Supporting Infrastructure of the Department of Buildings*, 2008.

elevators. To measure the timeliness of those inspections, we ascertained the date of the last periodic inspection was performed prior to Calendar Year 2009 and calculated the time elapsed between that date and the 2009 inspection date.

Regarding DOB's assignment of elevators to contract inspectors, we obtained a file extract from BIS listing the periodic inspections performed by the contractors for the period January 1, 2007–December 7, 2009, from which we determined whether DOB assigned only active elevators requiring inspection.

To evaluate DOB's follow-up on no-access inspections by contract inspectors, we judgmentally selected the two weeks of September 20–October 3, 2009. We identified 165 elevators to which contractors were unable to gain access and determined whether at least two attempts had been made to inspect those elevators. If so, we determined whether DOB appropriately followed up by sending its own inspector to inspect the equipment at these properties.

To assess DOB's follow-up of PVT violations (issued by contract inspectors), we ascertained the number of PVT violations issued in calendar year 2009 for the sampled elevators and calculated the number that remained open and uncorrected as of January 15, 2010. We then assessed DOB procedures and processes for analyzing and following up on these open violations.

Category 1 and Category 5 Safety Tests

Based on BIS data, we determined whether the 94 sampled elevators received a Category 1 test in calendar year 2009 and a Category 5 test during the 60-month period January 1, 2005–December 31, 2009, and assessed the results of those tests. We also requested from DOB copies of the completed test reports (form ELV3) submitted by inspectors/property owners as verification of the Category 1 and Category 5 tests.

To evaluate DOB's follow-up of unsatisfactory Category 1 tests, we reviewed available ELV3 test result forms and test correction reports (form ELV29) submitted by inspectors/property owners and determined whether the forms were appropriately completed and submitted to DOB within the required time period. Further, for any test for which inspectors and/or property owners failed to submit required documentation to DOB, we assessed DOB's follow-up to ensure compliance.

Follow-up of Cease-use Orders and Complaints

We reviewed a copy of all the cease-use violations from November 2009–January 2010, as well as copies of corresponding cease-use order log books maintained by each Area Chief. Using the 30 sampled cease-use orders from the test period, we determined whether DOB responded with a reinspection, as required by its procedures.

To ascertain DOB's follow-up of complaints, we evaluated DOB elevator complaint statistics for January 1, 2007–November 20, 2009. We stratified complaints based on priority and determined whether DOB responded to those complaints within established timeframes.

Using data provided by DOB, we also calculated the time elapsed from the date the complaint was received to the date DOB responded with an inspection.

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

Discussion of Audit Results

The matters covered in this report were discussed with DOB officials during and at the conclusion of this audit. A preliminary draft report was sent to DOB officials and discussed at an exit conference held on August 27, 2010. On September 21, 2010, we submitted a draft report to DOB officials with a request for comments. We received a written response from DOB officials on October 5, 2010. In their response, DOB officials generally agreed with seven of the audit's nine recommendations and did not address the remaining two relating to DOB developing requirements and procedures with respect to open PVT violations.

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

FINDINGS AND RECOMMENDATIONS

DOB's enforcement and follow-up activities are not adequate to ensure the performance of mandated elevator safety inspections and tests and the correction of cited deficiencies. DOB did not ensure that all required periodic inspections were performed for the sampled elevators. Further, DOB's enforcement and follow-up activities did not provide sufficient assurance that property owners carried out required Category 1 and Category 5 tests or corrected deficient conditions cited in a periodic inspection or Category 1 test.

Specifically, we found that periodic inspections were lacking; nearly one-fifth of all sampled elevators were not inspected in 2009. We also found that DOB has a persistent backlog of elevators requiring a periodic inspection and did not adequately follow up on inspection attempts in which inspectors could not gain access to the property.

DOB's procedures do not adequately address open PVT violations. Further, its procedures to ensure the correction of deficient conditions do not clearly establish the time frame within which property owners must submit proof of the corrections to DOB. In addition, DOB's efforts to ensure property owners' compliance with Category 1 safety test requirements are inadequate. While DOB has a program targeting its top 10 "major offenders" (e.g., owners with a high number of unresolved violations and a history of cease-use violations), it still lacks effective procedures and does not sufficiently enforce its existing procedures with regard to the remaining offenders who may fail to perform required safety tests, correct deficiencies, and/or appropriately notify DOB of such corrections. We also found that DOB needs to improve the timeliness of its reinspection of elevators issued cease-use orders.

We found that DOB's response to complaints was generally satisfactory and that it met its response goals.

It must be noted, however, that in light of DOB's conduct during this audit (discussed earlier under *Scope and Methodology*), we are concerned that the weaknesses we identified in this audit may indicate broader, more pervasive deficiencies in DOB's overall control environment. In such an environment, we fear that DOB's ability to adequately address weaknesses in these processes will be limited.

The audit's findings are discussed in greater detail in the following sections of the report.

Weaknesses in Annual (Periodic) Inspections

We found that DOB, through its contract inspectors, failed to carry out required periodic inspections for nearly one-fifth of all sampled elevators in 2009. We also found that DOB has a persistent backlog of elevators requiring a periodic inspection and did not adequately follow-up on no access inspections. These matters are discussed below.

Lack of Periodic Inspections

The City's Administrative Code requires that all active elevators undergo an annual (periodic) inspection. According to DOB officials and the City's Building Code, periodic inspections can be performed from 6 months but not later than 12 months after the date of the last periodic inspection.

Based on the BIS database and available source documentation, we found that only 76 (81%) of the 94 sampled elevators were inspected in calendar year 2009. The other 18 (19%) sampled elevators were not inspected as of January 15, 2010, our audit test date. We also found that when inspections were performed they were not always carried out within one year of the previous inspection. Of the 76 elevators in our sample that were inspected, only 40 (53%) elevators were inspected within 12 months of the date of the last periodic inspection.

For the 18 sampled elevators for which an inspection was not performed, we found that contract inspectors attempted to inspect 8, but did not gain access to the property. For the remaining 10 elevators there was no evidence to show that any attempts had been made to inspect them as of January 15, 2010. We provided this information to DOB officials and requested an explanation for these 18 sampled elevators not being inspected. On April 1, 2010, they responded, stating that one of the elevators appeared to be located in an abandoned building. While, they offered no explanation for DOB's failure to ensure that this elevator and the remaining 17 were inspected, DOB officials stated, "the public safety was not compromised since all of the NOT INSPECTED elevators were current on their 1yr and 5yr inspection/tests."

Based on a general Internet search, we confirmed that one of the elevators was indeed in a building that has been vacant since September 1998. However, the elevator is classified as "active" in the BIS database and as such, according to the Administrative Code, remains subject to all mandated safety inspections and tests. Therefore, DOB should initiate stronger action to gain access to the property. With regard to DOB's response, we are concerned by the inference that the lack of a periodic inspection was of little consequence or concern since the 18 uninspected elevators were "current" on Category 1 and Category 5 tests.

The City's Administrative Code requires that building owners have a contract with an approved agency to perform repair work and maintenance of passenger elevators in accordance with ASME 17.1. Nevertheless, depending on a property owner's level of compliance with the equipment manufacturers' maintenance requirements, the frequency of use, and the environment in which the elevators operate, components can wear down at different rates. If elevator components are not adequately maintained, equipment malfunctions may ensue and create unsafe conditions. Recognizing these factors, City regulations specifically require that periodic inspections be performed once each year along with a Category 1 test. The code does not provide that one inspection or test can take the place of another as DOB officials suggest.

Backlog in Performing Periodic Inspections

In addition to sampled elevators that we found uninspected, as of December 31, 2009, DOB had a backlog of at 5,985 elevators that were overdue for a periodic inspection, based on

DOB statistics. Based on our review of DOB's analyses of the inspection backlog status, we noted that from January 1–December 31, 2009, DOB inspectors performed an average of 1,025 periodic inspections each month to reduce the backlog of periodic inspections, indicating a persistent condition of backlogged inspections about which someone at DOB was aware.

According to DOB officials, the backlog of periodic inspections is the result of a number of factors. Over the last few years DOB lost approximately 35 percent of its inspection staff. In addition, private contract inspection companies lacked a sufficient number of inspectors to perform assigned inspections, and both DOB and its contractors have faced competition from private industry firms hiring and retaining qualified inspectors. Officials also attributed the backlog to delays in the contract award process, the training of new contract inspection companies on DOB procedures, and the conduct of background checks of inspectors. However, with the introduction of two additional contractors at the end of 2009, DOB officials stated that the new contract inspectors would catch up on the backlog of inspections. Further, they stated that DOB inspectors were also assigned to perform periodic inspections to relieve the backlog.

On April 30, 2010, DOB provided analyses showing that the above-mentioned backlog of 5,985 periodic inspections from calendar year 2009 was completed as of April 12, 2010.

We recognize that backlogs can occur at any time due to any number of factors. Further, based on DOB's statements, it appears that they have taken action to address the mounting backlog of elevators that require periodic inspections. However, going forward, DOB needs to ensure that it identifies backlogs early on and acts to prevent them from growing too large.

The longer an elevator goes uninspected, the greater the likelihood that any deficiencies that exist will remain undetected and uncorrected. Therefore, unexpected breakdowns and equipment failure can occur, posing an inconvenience or possibly even a danger to occupants or residents of the affected buildings.

Insufficient Follow-up on No-Access Inspection Attempts

DOB does not adequately follow up on "no access" inspection attempts reported by contract inspectors.

DOB Elevator Division's Central Inspection Administrative Procedures, effective August 26, 2009, state that after two unsuccessful attempts by a contract inspector to gain access to a building to conduct an assigned periodic elevator inspection, a DOB inspector should be dispatched to perform the inspection.

According to the BIS data, as of February 19, 2010, all 165 elevators for which no-access inspection attempts were made by a contract inspector between September 20 and October 3, 2009, received a subsequent second no-access inspection attempt. Therefore, a DOB inspector should have followed up and inspected these elevators. However, as of February 19, 2010, BIS reported that DOB had followed up and inspected only one of the elevators. Consequently, although DOB established a follow-up policy, it does little to ensure that it is enforced.

Furthermore, the procedure does not explicitly establish a time frame for follow-up, and DOB has no procedure to flag those elevators that require a follow-up inspection by a DOB inspector.

During the audit and at the exit conference, DOB officials stated that if a contract inspector is unable to gain access to an assigned location to conduct a periodic inspection, the inspector is required to leave Form LS-4, notifying the building owner to contact DOB's Elevator Division to reschedule the inspection. If the building owner fails to contact DOB, however, the elevators' equipment numbers and locations will simply reappear on the next printout of route sheets of elevators due for inspection and another attempt will be made.

DOB needs to more quickly identify those elevators that remain uninspected for more than one year after two or more no-access inspection attempts and employ stronger enforcement action to encourage property owners to provide inspectors with access to the elevators. Allowing elevators to remain uninspected raises significant safety concerns.

Recommendations

DOB should:

1. Review and strengthen its procedures to ensure that periodic inspections of elevators are carried out promptly each year.

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

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

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

3. Develop reports, procedures, and processes to flag and identify elevators that receive two non-access inspection attempts by contract inspectors, and dispatch a DOB inspector to follow up in accordance with procedure. If a property remains

inaccessible, DOB should design and apply stronger enforcement actions to encourage the property owner's compliance.

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

Auditor Comment: Although DOB generally agrees with this recommendation, it is silent on one of the recommendation's key points—that the agency dispatch one of its own inspectors to follow-up on properties with repeated no-access inspection attempts. Requiring that private contract inspectors post additional LS-4 forms at these properties would appear to be of limited value. These properties should have already received LS-4 forms following previous inspection attempts, which the building owners apparently disregarded. In such cases, we believe that further action is needed and that these properties should be followed up by DOB inspectors, in accordance with DOB's own procedures.

Weaknesses in Follow-up of PVT Violations

DOB procedures to follow up open PVT violations do not establish a clear time frame within which property owners must submit proof of the correction of deficient conditions to DOB.

If a defect is found during a periodic inspection, the contract inspector will issue a PVT violation. The property owner has 30 days from the violation date to repair the defects. However, if the condition is a "class 1 failure to maintain violation," the condition must be repaired "immediately," and the property owner must submit to DOB an ELV29 Test Correction Report affirming that all violating conditions have been corrected. Included with the ELV29 must be a description of the work done to correct the violating conditions; and copies of permits, bills, receipts, photographs, or other documentary proof that the conditions have been corrected. However, DOB's instructions and procedures are mute on the time frame within which the property owner must submit the ELV29 and supporting documentation to DOB to remove the violation.

In calendar year 2009, DOB contract inspectors issued PVT violations for 43 of the 76 sampled elevators that were inspected.⁹ As of our January 15, 2010 audit test date, 32 of the 43 violations remained open and unresolved for an average of 249 days (ranging from 39 days to

⁹ Based on BIS inspection data, defects were found on 44 of the 76 sampled elevators that were inspected in 2009, however, the violation data only showed that 43 PVT violations were issued.

373 days) and 11 were dismissed either through an Affirmation of Corrections or through a reinspection performed by a DOB inspector.

For the 18 sampled elevators that were not inspected in 2009, our review of related records showed that the last periodic inspections were performed on these elevators as far back as 2004, up to 2008. We found that PVT violations had been issued for 10¹⁰ of them. As of January 15, 2010, 4 of the 10 violations remained open, ranging in age from 472 days to 2,102 days and 6 others were dismissed through an Affirmation of Correction.

On January 28, 2010, we requested that DOB provide us with copies of the 53 violations that were listed in the BIS database (43 PVT violations issued in 2009 and 10 violations issued prior to 2009), along with ELV29 test correction reports and inspector route sheets for the 17 violations that had been dismissed. On February 18, 2010, DOB provided us with copies of the 53 violations, but only 7 of the 17 ELV29 forms. DOB could not find the remaining 10 ELV29 forms for the dismissed violations. Accordingly, DOB was unable to provide any assurance that it obtained evidence that cited defects for these 10 elevators were corrected before the violations were dismissed.

DOB officials contended that open PVT violations can prevent building owners from obtaining or renewing a Certificate of Occupancy but provided no evidence to support this assertion. We believe that reliance on this approach alone does not provide sufficient assurance that property owners will correct deficient elevator conditions promptly, since PVT violations carry no penalty and DOB lacks effective procedures to pursue property owners who fail to file ELV29 reports. We therefore have some concerns about deficient conditions remaining uncorrected, growing worse over time, and increasing the likelihood of mechanical breakdowns or more hazardous events.

Recommendations

DOB should:

4. Establish procedures to improve its follow-up of open PVT violations.

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

Auditor Comment: The above-stated DOB procedures for addressing PVT violations were already in force at the time of the audit and found to have weaknesses. We urge

¹⁰ For the 18 elevators that, according to BIS, were not inspected in 2009, 11 were cited for defects on the last periodic inspections conducted between 2004 and 2008. However, BIS violation data showed that only 10 PVT violations were issued.

DOB to address those weaknesses and enhance its overall efforts by implementing specific follow-up activities to increase property owner's compliance and correction of open PVT violating conditions.

5. Establish clear time requirements and procedures for property owners to submit to DOB proof of the correction of deficient conditions cited on PVT violations.
6. Run a periodic report to identify open PVTs for which no ELV 29 or request for reinspection has been made, notify property owners of their obligation to make timely repairs, and appropriately follow up to ensure compliance.

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

Auditor Comment: DOB did not directly address either recommendation. DOB appears to suggest that it lacks the authority to establish time requirements and procedures with regard to PVT violations. DOB, however, provided no evidence to support its position. We note that with regard to Category 1 and Category 5 test requirements, DOB *does* have the authority to establish new procedures (see DOB response to recommendation #7). In any event, if additional legislation is needed to better enable DOB to compel owners' compliance in correcting PVT violating conditions, the agency should work with the City's Law Department to seek a change in legislation so that it may do so.

Weaknesses in DOB Efforts to Ensure Compliance with Safety Test Requirements

DOB's efforts to ensure property owners' compliance with Category 1 and Category 5 safety test requirements are inadequate. We found that the owners of buildings with sampled elevators did not perform all required safety tests or file required documentation with DOB reflecting the performance of safety tests and correction of cited deficiencies, when applicable.

The City's Administrative Code requires that each elevator must undergo a Category 1 test once each calendar year. To evidence the tests, the inspector (hired by the building owner and licensed by DOB) must submit an inspection- or test-results form (ELV3) to DOB within 45 days of the inspection date. For 2009 only, DOB granted those property owners who appropriately filed requests by December 31, 2009, an extension to perform the Category 1 test through April 30, 2010, and to subsequently file the required test reports (ELV3).

Category 1 and Category 5 Tests Not Completely Performed

According to DOB's *Central Inspections Administrative Procedures for Elevator Division* (dated, January 2009), "annual computer generated violations [are] issued to building owners that did not perform an annual elevator inspection/test, or did not submit their elevator inspection/test in a timely manner." When building owners fail to perform a Category 1 elevator test, DOB requires them to pay a \$1,000 fine plus a \$30 filing fee for each elevator on the property to clear the violation.

Based on our review of the BIS database and available source documentation, we found that the required Category 1 tests for calendar year 2009 were performed on only 59 (63%) of the 94 sampled elevators as of January 15, 2010.

Regarding the 35 tests that were not performed, DOB reported approving only nine extension requests. Therefore, there remained 26 elevators for which there were no ELV3 forms or extensions granted.

On May 12, 2010, in response to our request for information about the enforcement actions taken by DOB against the property owners associated with the 26 elevators, DOB officials stated that violations had not been issued because (1) DOB planned to issue violations "after the completion of the Calendar Year 2009 filing period (June 15, 2010)," and (2) DOB was "in the process of adopting Rules relating to Elevator inspections and tests, filing requirements, penalties, waivers and fees payable to the DOB" for which a public hearing for such rules was scheduled for May 19, 2010.

We find inconsistencies in both of these statements. In regard to the first statement, it must be noted that June 15, 2010, represented the end of the Calendar Year 2009 filing period for building owners who appropriately filed and were granted extensions by DOB, which was not the case for the property owners cited. For these and other owners who either did not request an extension or were not granted one, the filing period ended on February 15, 2010 (45 days after the end of CY2009), according to DOB's procedures. With respect to DOB's second statement, we do not find DOB's anticipated adoption of new rules sufficient cause to not enforce the procedures, filing requirements, penalties, etc. that were in effect during the period in question.

Regarding Category 5 tests, we found that 83 of the 94 sample elevators should have had a Category 5 test during the 60-month period January 1, 2005–December 31, 2009.¹¹ According to BIS data, Category 5 tests were not performed on 14 (17%) of the 83 elevators. The last tests were performed on these 14 elevators prior to January 1, 2005, based on inspection data in BIS. For the remaining 69 (83%) elevators, DOB provided us with the completed ELV3 forms submitted by inspectors for only 20 of them. Consequently, DOB was unable to provide corroborating evidence to give assurance that Category 5 tests were in fact conducted for the remaining 49 elevators, more than half (59%) of the 83 sampled elevators that required them.

¹¹ The other 11 elevators were newly installed between January 1, 2005, and December 31, 2009; therefore, they did not require a Category 5 test during the same 60-month period.

DOB's January 2009 procedures do not provide for any penalties to be assessed against property owners for the nonperformance of Category 5 tests. This again reflects DOB's lack of adequate procedures and follow-up efforts to persuade non-compliant property owners to perform required Category 1 and 5 tests in accordance with the City's Administrative Code.

Lack of Follow-up with Noncompliant Property Owners

When a Category 1 test is performed that results in an unsatisfactory rating, property owners have up to 105 days from the inspection date to correct the defects and submit to DOB an ELV29 form affirming that all violating conditions have been corrected.

Regarding the 59 Category 1 tests that were performed on sampled elevators, 15 (25%) were graded satisfactory and 44 (75%) were graded unsatisfactory. According to information provided by DOB, building owners submitted ELV29 Affirmations of Correction for only 10 (23%) of the 44 unsatisfactory Category 1 tests of sampled elevators. Consequently, there was no evidence that building owners took action to remedy the deficiencies identified for the remaining 34 elevators. It should be noted that DOB was also unable to provide the ELV3 forms that inspectors reportedly submitted for 7 of the 34 elevators.

In addition, DOB could not provide the documented test results for 5 (33%) of the 15 elevators that were graded satisfactory. Therefore, there was a total of 12 (20%) of the 59 reported Category 1 tests for which DOB could not provide evidence to substantiate that the tests were, in fact, conducted.

We also found that DOB procedures are mute on follow-up and/or enforcement actions (e.g., issuing violations) to be taken when property owners fail to take prompt and appropriate action to correct deficiencies cited in an unsatisfactory Category 1 test. DOB officials asserted that all the unsatisfactory conditions would be addressed during the next periodic inspection, but provided no evidence to support this claim.

As stated earlier on page 11 of this report, approximately one out of every five sampled elevators did not receive a periodic inspection in 2009. Accordingly, we have limited assurance that all elevators with deficiencies receive an annual periodic inspection. Therefore, it is conceivable that unless or until an unsafe or hazardous condition is found by an inspector and a cease-use order is issued placing an elevator out of service, a property owner may allow deficient conditions to remain uncorrected without penalty.

Considering that elevators are relied upon by the residents and occupants of more than 20,000 buildings throughout the City, it is unacceptable for DOB to not have effective follow-up procedures in place to ensure that all property owners carryout required safety tests and make required repairs of elevator defects promptly.

At the exit conference and in subsequent documentation submitted to us, DOB officials stated that they utilize every legislative enforcement tool available, such as issuing violations to property owners, to get full code compliance in order to provide reliable service and safe operations of elevators. Further, they provided information about its program to identify and

pursue the top ten major offenders. They explained that the program is a coordinated effort between the Area Chiefs, the DOB Audit and Legal Departments. Specifically, field inspectors identify potential elevator problem buildings and notify their respective Areas Chiefs, who perform research in BIS for outstanding violations, complaints, etc., and monitor the locations for overall elevator safety and service.

DOB's criteria for a building owner to potentially be considered as a major offender includes, but is not limited to, the following: at least 10 complaints entered over the past year; at least 10 ECB violations whose status is listed as either no compliance, overdue, or pending; or a history of cease-use violations filed at the location for the past several years. Once a building owner is identified as a potential major offender, DOB will refer the building owner to either Criminal or Housing Court unless it observes major improvements or the owner files applications to improve overall elevator service.

Notwithstanding, DOB still lacks effective procedures and does not sufficiently enforce its existing procedures with regard to the remaining offenders who may fail to perform required safety tests, correct deficiencies, and/or appropriately notify DOB of such corrections. Consequently, an opportunity is provided for delinquent property owners to inconvenience building occupants by delaying needed repairs. It also increases the likelihood that elevator malfunctions may occur and raises safety concerns for all those who use elevators.

Recommendations

DOB should:

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

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

8. Ensure that documentation, including ELV3 test reports and other related documentation that are submitted by inspectors and/or property owners, are appropriately retained as evidence that Category 1 and Category 5 tests are completed as reported. These submitted documents should be maintained in accordance with the agency's records retention schedule.

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

Follow-up of Cease-Use Orders Needs Improvement

Our review of DOB’s follow-up on cease-use orders determined that while reinspections are generally performed, DOB needs to improve the timeliness of its response. Similar conditions were noted in the State Comptroller’s audit, which found that DOB “was not timely with its reinspections of cease-use order elevators.”

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

Of the 30 sampled cease-use orders issued by either a DOB inspector or contract inspector between November 1, 2009, and January 31, 2010, 24 (80%) reinspections were conducted in a timely manner. However, for the remaining six orders, three reinspections were conducted late and three reinspections were not conducted as of March 10, 2010 (test date).

On March 11, 2010, we advised DOB officials of the three elevators that were not reinspected. On March 24, 2010, DOB officials provided information about the status of those elevators. They stated that one of the elevators was on New York State property and noted that the Chief of the Elevator Division was working with the property officials to resolve the issue. Further, DOB officials claimed that the cease-use order for another elevator had been lifted on March 3, 2010. However, they did not offer a reason as to why it was lifted. We found no evidence in either BIS or in the cease-use logbook that a reinspection had been conducted for this elevator. The third elevator remained out of service as the cease-use order remained in effect as of March 24, 2010.

Throughout the audit, DOB officials made no distinction between passenger and freight elevators, since both are subject to the same type of inspections and tests. However, when we inquired about the status of the three cease-use orders that remained in effect on March 12, 2010, contrary to their previous representations and DOB’s existing procedures manual, DOB officials stated that the “10/30 day rule” for reinspections was not applicable to freight elevators, since DOB had started to make a distinction between passenger and freight elevators. However, DOB provided no evidence to substantiate this change in policy or the date it took effect. Accordingly, we are unable to give credence to this subsequent statement by DOB.

If DOB is not prompt in carrying out reinspections, the opportunity for elevators to remain out of service for long periods is increased, further inconveniencing the occupants and residents of the affected buildings.

Recommendation

9. DOB should ensure that all inspections required to lift a cease-use order are expedited and carried out promptly.

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

Auditor Comment: In addition to the above-stated procedures for identifying cease-use orders needing follow-up, we urge DOB to implement specific follow-up activities to ensure that inspections are expeditiously performed.

DOB Met Its Target Goals for Responding to Complaints

Our analysis of complaints for the 23-month period January 1, 2007–November 20, 2009, showed that DOB’s response to complaints is generally satisfactory. We also found that DOB met its target response goals.

According to DOB Elevator Division officials, elevator complaints are primarily received through the City’s 311-call center and are prioritized based on the conditions reported by the caller. There are four priority levels for complaints—levels A, B, C, and D, with level A representing the highest priority and level D the lowest. Priorities are assessed by the call center based on conditions reported by a caller. DOB’s goal is to respond to 95 percent of priority-A complaints within 1.5 days and to 70 percent of priority-B complaints within 40 days. For lower priority (C and D) complaints, DOB officials stated that they try to respond within 60 days and 90 days, respectively.

Between January 1, 2007, and November 20, 2009, DOB received a total of 28,010 elevator-related complaints, of which 27,518 (98%) represented priority levels A and B complaints and 492 (2%) lesser priority level C and D complaints. Our review revealed that DOB met its goals for complaint response. As of November 20, 2009, DOB responded to 27,006 (96%) of the 28,010 total complaints. The remaining 1,004 (4%) complaints that remained open and active consisted of 979 B-priority and 25 D-priority complaints.

Our analysis found that DOB responded to 98 percent of priority-A complaints within two days¹² and at least 80 percent of priority-B complaints within 40 days.¹³ Nevertheless, there

¹² DOB’s goal is to respond to A-priority complaints within 1.5 days. However, for the purpose of our analysis, we used 2 days, since the time of complaint and response was not included in the data provided to us by DOB.

remained 24 priority-A complaints and 4,221 priority-B complaints to which DOB did not respond on time. With regard to the priority-B complaints, DOB officials attributed the complaint backlog to the need to assign DOB inspectors to perform more periodic inspections to relieve that backlog (as discussed above). Also, they said that inspectors from the Elevator Division's Audit and Review team were assigned to respond to priority-B complaints that exceeded 40 days. They further stated that DOB inspectors were focusing on responding to priority-A and -B complaints and would respond to priority-C and -D complaints only when they had addressed priority-A and -B complaints.

¹³ As of November 20, 2009, 21,358 (80%) of the 26,558 B-priority complaints had been responded to within 40 days. There were also 979 B-priority complaints that were still open. If any of these are responded to within 40 days, the overall percentage of timely responses would increase.

Robert D. LiMandri
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October 4, 2010

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**Re: Audit Report on the Department of
Buildings Elevator Inspections and
Follow-up Activities
MJ10-063A**

Dear Ms. Kim:

Thank you for the opportunity to respond to the findings and recommendations of the above-mentioned final audit draft report. The Department is taking steps to improve our existing procedures to address the issues identified in your report. We view your recommendations as helpful in furthering our commitment to providing quality public service while utilizing all our available resources.

The Department of Buildings' Elevator Division is committed to promoting operational safety and reliable service to all our riders while traveling in the elevators, escalators or moving walks, amusement rides and other related devices. The Elevator Division observes inspections and tests of over 65,000 devices under our jurisdiction by enforcing The City of New York Building Code. In New York City, an average elevator makes roughly 500 trips a day with over 29 million daily elevator trips citywide. As reported by Elevator World Vertical Transportation Industry, elevators are one of the safest modes of transportation with the chance of an accident reported as 1 in over 12 million.

As your report indicates, the objective of the audit was to determine whether the Department of Buildings' enforcement and follow-up activities, reasonably ensure that mandated elevator inspection and test are performed and cited deficiencies corrected. The audit resulted in nine (9) recommendations.

Below is the Department's response to the nine recommendations, as well as clarifying comments regarding a point that was addressed during the audit process and at the exit conference with your team.

Clarifying comments:

Scope and Methodology

In your report you suggest that, "During the audit we experienced delays and difficulties that required us to forgo certain test and design alternative audit strategies."

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During the audit process, the Department's officials informed your audit team that some of our records are kept off-site, due to the limited availability of on-site storage. As a result the Department uses a contracted storage vendor to house some of its information. This information had to be requested and delivered to the Department's offices from the vendor location in New Jersey. We acknowledge that there were delays in receiving the information in a timely manner from the vendor. Furthermore, due to the current economic climate, the Department is dealing with limited staffing resources, ongoing heavy workload, and the manual research work process attributed to the delays in retrieving the requested information in a timelier manner.

Recommendation 1: ***Review and strengthen its procedures to ensure that periodic inspections of elevators are carried out promptly each year. These procedures should also ensure that contract inspectors are assigned only equipment that requires inspections based on its classification.***

Agency Response: The Department has identified the cause of the backlog; a previous contract with two private companies expiring during Fiscal Year 2009. In Fiscal year 2010 the Department awarded three new contracts, allowing, increasing the number of inspections to be performed beyond the contract limit to achieve the goal of having all periodic inspections performed promptly. As of March 2010, our private contract inspectors are performing over 7,000 inspections per month, an increase of at least 1,600 more inspections per month are being performed over the stipulated levels in the contract. Future contracts will take into consideration these more robust numbers.

The procedures to ensure that contract inspectors are assigned only equipment that requires inspections based on current classification status is difficult to implement. This is due to the frequent changes made by the building owners to the device classification such as demolitions, removals, dismantles, out of service, building sealed, and changes of ownership. However, once the private contractor arrives on the site, and ascertains that the device is not one that requires inspection, the contractor moves on to another location. Since their assignments are made on a block and lot basis to minimize traveling time, very little inspection time loss occurs and the impact on the backlog is negligible.

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

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

Recommendation 3: ***Develop reports, procedures, and processes to flag and identify elevators that receive two (2) non-access inspection attempts by contract inspectors, and dispatch a DOB inspector to follow up in accordance with procedure. If, a property remains inaccessible, DOB should design and apply stronger enforcement actions to encourage the property owner's compliance.***

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- Agency Response:*** The Department has created reports using B-Smart technology to perform risk analysis-based inspections and report monitoring. The private contract inspectors are experiencing “no access” conditions due, in part, to the unscheduled nature of the periodic inspections. Under the new private contracts, the private contract inspectors’ are required to post a “no access” form (LS-4) at the site after each visit. The building owner or management is now required to make an appointment with the Elevator Division to have the device inspected. The Department is also exploring other options such as gaining access through the court system.
- Recommendation 4:** ***Establish procedures to improve its follow-up of open PVT violations.***
- Agency Response:*** The Department will strengthen its efforts in this area. Open PVT violating conditions on a device are being addressed in the following manner: during the next periodic inspection cycle by the private contract inspector, during the Category 1 and Category 5 inspection and test done by a licensed performing and witnessing approved agency, and/or during the Elevator Division inspections on complaints or other types of inspections, if the condition still exists.
- Recommendation 5:** ***Establish clear time requirements and procedures for property owners to submit to DOB proof of the correction of deficient conditions cited on PVT violations.***
- Agency Response:*** There are instances where most PVT violating conditions are corrected, but owners fail to file the appropriate form that certifies correction in order to dismiss a violation from the Department’s Buildings Information System. In order to obtain notification of correction from building owners the Department requires Legislation/Rule so that Elevator Division is able to enforce compliance.
- Recommendation 6:** ***Run a periodic report to identify open PVTs for which no ELV 29 or Request for Re-inspection has been made, notify property owners of their obligation to make timely repairs, and appropriately follow up to ensure compliance.***
- Agency Response:*** Please see response to #5 above.
- Recommendation 7:** ***Implement appropriate enforcement procedures and activities to encourage building owners to comply with Category 1 and 5 test requirements. These procedures should explicitly establish the follow-up and/or enforcement actions to be taken when property owners fail to take prompt and appropriate action to correct defects cited in an unsatisfactory Category 1 test.***
- Agency Response:*** The Department of Buildings Commissioner has already established and signed the “Elevator inspections and tests, filing requirements, penalties and waivers” Rule. This became effective September 13, 2010. It penalizes building owners who do not comply with Category 1 and Category 5 test requirements as per code. The Elevator Division inspectors are performing audits on Category 1 and Category 5 tests.

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Recommendation 8: ***Ensure that documentation, including ELV3 test reports and other related documentation that are submitted by inspectors and/or property owners, are appropriately retained as evidence that Category 1 and Category 5 tests are completed as reported. These submitted documents should be maintained in accordance with the agency's records retention schedule.***

Agency Response: The Department has established as a high priority, the development and introduction of electronic data entry of ELV3 forms in order to maintain and retrieve these documents in a more efficient manner.

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

Agency Response: The Department implemented the use of B-Smart management reports in November 2009 to address this issue and has further strengthened its procedures to have these report reviewed and monitored by area chiefs and the Deputy Director of Field Operations on a daily basis.

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

Sincerely,



Robert LiMandri
Commissioner

cc: George Davis III
 Vincent Grippo
 Eugene Corcoran
 Richard Bernard