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OFFICE OF THE COMPTROLLER
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DEPUTY COMPTROLLER FOR
AUDIT

BUREAU OF AUDIT

June 7, 2019

By Electronic Mail

Commissioner Jacques Jiha, Ph.D.
New York City Department of Finance
1 Centre Street, Room 500
New York, NY 10007

**Re: Letter Report on the Department of Finance's Administration of the
Disability Rent Increase Exemption Program
(Audit Number MG18-118AL)**

Dear Commissioner Jiha:

This Letter Report concerns the New York City Comptroller's audit of the Department of Finance's (DOF's) administration of the Disability Rent Increase Exemption (DRIE) program. The objective of this audit was to determine whether DOF has adequate controls in place to ensure that DRIE-related property tax abatement credits (TACs) are issued to only those landlords whose tenants meet DRIE eligibility requirements. Our audit found that DOF has adequate controls over the issuance of the TACs. Additionally, our review of TAC expenditures posted from July 1, 2016 through February 28, 2018 found that DOF correctly determined the eligibility of tenants to participate in the DRIE program, and revoked ineligible tenants' benefits or retrieved TACs from landlords when tenants passed away or moved subsequent to the issuance of the TACs.¹

Background

DOF administers a broad range of programs that offer tax credits, one of which is the DRIE program. This program provides an exemption to eligible tenants from future rent increases by keeping their rent at either the applicant's then current rent amount, or one third of his or her monthly income, whichever is greater. At the same time, the program offers landlords an equivalent credit on their property taxes. This amount, issued on behalf of eligible tenants, is applied quarterly to the landlord's property tax bill in the form of a TAC, to offset any taxes due in the next tax period.² Tenants who apply and are determined to be eligible are legally entitled to DRIE benefits. Landlords do not have the authority to refuse participation or to prevent a tenant from participating in the DRIE program. To establish and maintain eligibility for DRIE, the tenant must meet the following criteria:

¹ In addition to tests conducted during the scope period, we also conducted tests outside of the audit scope; specifically, of dormant accounts automatically revoked by DOF on May 1, 2018.

² The building owner or landlord receives a quarterly Statement of Account reflecting credit or debit activities.

- Be at least 18 years of age;
- Have no more than \$50,000 per year in household income;³
- Be listed on the lease/rent order or have been granted succession rights in a rent-controlled, rent-stabilized, or rent-regulated hotel apartment;⁴
- Spend more than one-third of the monthly household income on rent; and
- Have been awarded one of the following: Federal Supplemental Security Income (SSI); Federal Social Security Disability Insurance (SSDI); a U.S. Department of Veterans Affairs disability pension or disability compensation; Disability-related Medicaid for previous recipients of SSI or SSDI; or a United States Postal Service (USPS) disability pension or disability compensation.⁵

Landlords, tenants, and family of tenants' families are required to notify DOF within 30 days when there is a change in the tenant's circumstances, such as a death or a permanent move from the apartment. In such instances, DOF is to determine whether another household member is eligible for the exemption and, if so, approve a benefit transfer. If there is no other eligible household member, DOF is required to revoke the benefits and retrieve previously issued TACs—in the form of a debit adjustment—retroactively to the first day of the month following the change in circumstances.

For our scope period of July 1, 2016 through February 28, 2018, DOF issued \$41,655,865.75 in new TACs on behalf of 11,964 tenants.

Audit Findings

We found that DOF has adequate controls over the issuance of the TACs. Specifically, the controls established by DOF include the following:

- Development of clearly defined policies and procedures for its staff, including those pertaining to the roles, functions, and responsibilities of the personnel who administer DRIE to help ensure that staff are aware of their responsibilities.
- Segregation of responsibilities for various stages of the program—including the receipt and processing of applications, the issuance of TACs, and the review of appeals—among different units and individuals to ensure that overlapping responsibilities are not under the control of any one unit or individuals in a unit.
- Matches are made of the names of recipients listed in its DRIE databases with the names of individuals listed as deceased in a national database. Before February 2018, DOF

³ After the deduction of social security and federal, state, and local taxes.

⁴ The apartment must be located in a New York City building where the mortgage was federally insured under Section 213 of the National Housing Act, owned by a Mitchell-Lama Development, Limited Dividend housing company, Redevelopment Company or Housing Development Fund Corporation (HDFC) incorporated under New York State's Private Housing Finance Law.

⁵ To remain eligible for DRIE, all tenants who renew their leases while receiving the DRIE must complete and submit a signed renewal application to DOF for the new lease period, along with the required supporting documents.

performed the match using the Social Security Administration Death Master File (SSADMF) index on a monthly basis to ascertain whether any TACs were issued on behalf of deceased tenants and need to be recovered. As of February 2018, DOF retained the services of the National Association of Public Health Statistics (NAPHSIS) to perform a similar match on a quarterly basis.⁶

Based on our review of DOF's electronic database of TAC expenditures posted from July 1, 2016 through February 28, 2018, we found that DOF: correctly determined the eligibility of tenants to participate in the DRIE program; appropriately issued TACs to landlords on behalf of those tenants; and appropriately revoked the benefits of ineligible tenants. DOF also correctly issued prior period TACs to landlords within the current audit scope period.⁷ Additionally, we found that DOF revoked tenants' benefits or retrieved TACs from landlords when tenants passed away or moved subsequent to DOF's issuance of TACs to their landlords.

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 objective. 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 was July 1, 2016 through February 28, 2018. To gain an understanding of how DOF manages the DRIE program and to assess the adequacy of the agency's internal controls as they relate to our objective, we conducted walkthroughs and interviews with DOF management and staff, including the Director of the SCRIE/DRIE program,⁸ the Deputy Director of Administration, the Director of Compliance, and DRIE Intake and application processing staff. We also evaluated information obtained from the agency's website.

In addition, we reviewed various laws, procedures, and policies, including the following: (1) Provisions of NYS Statutes and the NYC Administrative Code concerning the SCRIE and DRIE programs; (2) DRIE Initial Application Checklist; (3) the NYC Rent Freeze Program- A Guide for Tenants; (4) SCRIE/DRIE Rent Freeze Programs Benefit Takeover Application Information; (5) DRIE Information for Property Owners and Managing Agents; (6) SSADMF Monthly Match Process; and (7) Information from the National Association for Public Health Statistics (NAPHSIS). To determine the dollar amount of the TACs issued to landlords during our 20-month scope period (July 1, 2016 through February 28, 2018), we reviewed an electronic

⁶ NAPHSIS matches the social security numbers of the DRIE population to its database to identify any current recipients who are deceased. NAPHSIS returns any matches to DOF for removal from DRIE benefits and for the recoupment of the TACs, if applicable.

⁷ DOF issues prior period benefits along with current benefits under the following circumstances: (a) lease period change or extension and (b) Retroactive Major Capital Improvement (MCI) increases.

⁸ SCRIE is the acronym for DOF's Senior Citizen Rent Increase Exemption program.

database of all TAC expenditures posted through February 28, 2018, and found that DOF issued to landlords \$41.6 million in TACs (expenditures), for the 11,964 tenants. To determine whether DOF issued TACs appropriately to landlords for eligible DRIE tenants, we randomly selected 50 tenants from the population of 11,964 approved tax expenditures and determined whether they met DRIE eligibility requirements (e.g., submitted completed DRIE applications, proof of age, and income documents; met the DRIE household and one third income requirements). We also determined whether benefit transfers were processed for tenants identified as deceased in DOF's records or, where applicable, whether the benefits were revoked and TACs were recouped. Further, we reviewed the entire population of 11,964 DRIE tenants to determine whether any of the tenants' annual household income exceeded the maximum allowed income of \$50,000.

From the sorted population of 11,964 approved TAC expenditures, we randomly selected 5 out of 45 prior period benefit payments to test the accuracy of DOF's assessment of prior period TACs that were issued along with the current period TACs. For primary tenants identified as deceased, we determined whether benefit transfers were processed for eligible household members or where applicable, whether TACs were recouped.

We further reviewed the population of 11,964 approved TAC expenditures to ascertain whether DOF accurately assessed applications that were previously listed in a status other than approved. Of the 267 tenants whose status was previously listed as pending, we compared the population of 267 tenants to the approved tax expenditure population and randomly selected 5 tenants whose status was previously listed as pending and examined supporting evidence to determine whether the reported status was accurate. We also randomly selected 35 of the 642 tenants whose status was listed as revoked to determine whether the revocations were appropriate. Furthermore, we determined whether benefit transfers were processed for eligible household members of tenants identified as deceased in DOF's records, or, where applicable, whether the benefits were revoked and the TACs were retrieved.

Additionally, on May 1, 2018, DOF revoked 1,855 dormant DRIE accounts that had failed to renew their applications after their leases expired. We randomly selected 25 tenants identified as having dormant accounts to determine whether the accounts for these tenants were appropriately listed as dormant, whether tenants had since submitted renewal documentation that indicated that they met DRIE eligibility guidelines, and whether any previously issued TACs should have been recouped as a result of the tenants' subsequent ineligibility.⁹

To assess the accuracy of DOF's assessment of denied applications we randomly selected 25 of 1,649 denied applications and tested whether applicants submitted renewal documentation that indicated that they met DRIE eligibility guidelines (e.g., submitted completed DRIE applications, proof of age, and income documents; met the DRIE household and one-third income requirements) and were therefore eligible to receive DRIE benefits.

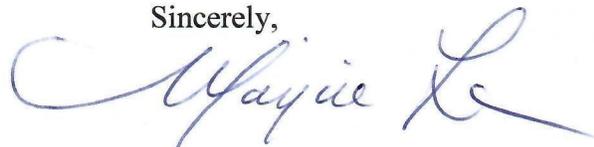
⁹ Deceased tenants without an eligible household member, or tenants who move from a rent regulated apartment to a non-regulated apartment or outside of New York City are no longer eligible for DRIE benefits.

To determine whether DOF issued DRIE benefits on behalf of tenants identified as deceased, we randomly selected 26 of the 252 tenants identified by SSADMF and NAPHSIS as deceased and determined whether DOF: (1) ceased issuing TACs to landlords for households in which the deceased tenants had no other eligible household members; and (2) where appropriate, retrieved the appropriate amounts.

The results of the above tests, while not projectable to their respective populations, provided a reasonable basis to assess DOF's controls over the issuance of TACs to landlords.

The matters covered in this report were discussed with DOF officials during and at the conclusion of this audit. A preliminary letter report was sent to DOF officials. Because the audit did not identify any negative findings or make any recommendations, DOF officials agreed to forgo an exit conference. On May 13, 2019, we submitted a draft letter report to DOF officials with a request for comments. We received a written response from DOF officials on May 28, 2019. In their response, DOF officials agreed with the report's findings and thanked the audit team for the "courtesy and professionalism shown to DOF personnel during the audit."

Sincerely,

A handwritten signature in blue ink, appearing to read "Marjorie Landa". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Marjorie Landa

- c: Sam Mayer, Senior Auditor Director, Department of Finance
- Celia Carino, Director of Internal Audit, Department of Finance
- Jeff Thamkittikasem, Director, Mayor's Office of Operations
- George M. Davis, III, Deputy Director, Mayor's Office of Operations

Property Exemptions Administration
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59 Maiden Lane, 22nd Fl
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May 28, 2019

Ms. Marjorie Landa
Deputy Comptroller for Audit
Office of the City Comptroller
1 Centre Street, Room 1100 North
New York, NY 10007

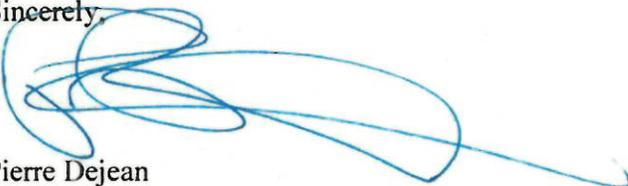
Re: Draft Letter Audit Report on the Department of Finance's Administration of the Disability Rent Increase Exemption Program (Audit Number MG18-118AL)

Dear Deputy Comptroller Landa:

The Department of Finance (DOF) hereby provides its response to the draft report for the Disability Rent Increase Exemption (DRIE) Program audit referenced above. We are pleased with the audit's findings that DOF has adequate controls in place to ensure that the property tax abatement credits (TACs) issued to landlords are appropriate. The Senior and Disabled Programs unit strives to continuously monitor and improve operations and process applications in a fair, efficient and transparent manner while providing exceptional customer service.

DOF thanks you and your audit team for the courtesy and professionalism shown to DOF personnel during this audit. Please do not hesitate to contact my office if you have any questions or would like additional information.

Sincerely,



Pierre Dejean
Assistant Commissioner, Property Division

Cc: Jacques Jiha Ph.D., Commissioner
Michael Hyman, First Deputy Commissioner
Timothy Sheares, Deputy Commissioner, Property Division
Sam Mayer, Senior Director, Internal Audit
Bibi Parmar, Senior Director, Property Division