



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Elevator Safety

New York City Department of Buildings



Report 2017-N-4

June 2018

Executive Summary

Purpose

To determine whether elevator inspections and tests are done timely and properly by inspectors who have the proper credentials. Our audit covered the period January 1, 2015 through October 20, 2017.

Background

The New York City Department of Buildings (DOB) is responsible for regulating the safe and lawful use of more than 1 million buildings and construction sites in New York City. This responsibility includes the oversight of elevators that are subject to the New York City Administrative Code, Building Code, and the Rules of the City of New York. DOB is responsible for enforcing these codes and rules. DOB inspects some elevators, oversees the inspection of others done by companies hired by DOB (non-DOB inspectors), ensures elevators are tested, and monitors the results. The Building Code requires elevators under DOB's jurisdiction to be inspected and tested annually. Inspections are generally performed by non-DOB inspectors and tests are performed by inspectors hired by building owners. DOB has authorized the New York City Housing Authority to perform its own elevator inspections and tests. The Metropolitan Transportation Authority is responsible for the inspection and testing of its elevators.

Key Findings

- We selected a judgmental sample of 12 elevators located in nine buildings, and observed, along with DOB inspectors, the inspection of these elevators by DOB contractors (non-DOB elevator inspectors) to determine whether elevator inspections were performed timely and properly. We found that elevator inspections are not properly done and, as a result, unsafe conditions are not always identified and remediated promptly:
 - We noted that two of nine non-DOB elevator inspectors had signed inspection certificates showing that they had inspected 15 elevators in 14 buildings. However, these elevators had not yet been inspected. Several of these elevators were not in our audit sample.
 - Three non-DOB inspectors failed to identify defective door restrictors, which may cause a door to open between floors – an imminently hazardous condition that requires an elevator to be taken out of service (cease use) until the problem is repaired.
 - Inspectors determined that the hoist cables (used to raise and lower elevators) for two elevators at two different buildings showed evidence of rouging – abrasions that cause the hoist cables to wear. At the first building, the rouging was missed by the non-DOB inspector. In another building, the non-DOB inspector, while noting the issue, did not have the required tool (gauge) to measure the diameters of the hoist cables, which would enable the inspector to determine the seriousness of the issue.
 - Non-DOB inspectors did not follow DOB's procedures and overlooked 29 violations, including an elevator emergency telephone not working, an expired fire extinguisher in the elevator machine room, and missing maintenance schedules and logs. DOB staff attributed this to non-DOB inspectors using procedures that are not as strict as those used by DOB's inspectors.
- We also reviewed DOB inspection data and saw no evidence that non-DOB inspectors performed

8,087 of 62,166 required elevator inspections in 2015 and 6,741 of the required 63,314 elevator inspections in 2016. In many instances, the inspectors could not gain access to elevators and/or buildings.

Key Recommendations

- Reinforce with elevator inspection companies the required procedures for proper elevator inspections and for identifying elevators that need to be taken out of service.
- Mandate that non-DOB inspectors comply with DOB procedures when performing elevator inspections.
- Ensure that DOB communicates upcoming inspections with building owners. Establish specific deadlines by which building owners should respond to no-access inspection attempts.
- Use more forceful measures, including monetary penalties, against building owners when elevator tests are not performed.

Other Related Audit/Report of Interest

[New York City Department of Buildings: Elevator Inspections and Tests \(2007-N-9\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

June 6, 2018

Mr. Rick D. Chandler, P.E.
Commissioner
New York City Department of Buildings
280 Broadway
New York, NY 10007

Dear Commissioner Chandler:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of the New York City Department of Buildings entitled *Elevator Safety*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this draft report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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Background

The New York City Department of Buildings (DOB) is responsible for regulating the safe and lawful use of more than 1 million buildings and construction sites in New York City. This responsibility includes the oversight of elevators and related vertical devices, such as escalators and lifts. The more than 70,000 elevators and related devices in the City are subject to various sections of the New York City Administrative Code, Building Code, and the Rules of the City of New York, which set forth elevator safety standards. DOB is responsible for enforcing these codes and rules. DOB inspects some elevators, oversees the inspection of others done by contractors (non-DOB inspectors), ensures that elevators are tested, and monitors the results.

The Building Code requires that elevators under DOB's jurisdiction be inspected and tested annually. In the City, certain elevators are not subject to inspections and testing by DOB or one of its contractors. Through a memorandum of understanding, DOB authorized the New York City Housing Authority to perform elevator inspections and tests within its buildings. Additionally, the Metropolitan Transportation Authority is responsible for inspecting and testing its elevators. An elevator inspection is a visual examination of an elevator and its parts to ensure the elevators are operating safely. An elevator test involves running the elevator to ascertain its condition. Annual inspections are generally performed by companies hired by DOB. Building owners hire DOB-licensed inspection companies to perform elevator tests. As of July 2017, DOB staff included 48 elevator inspectors and supervisors who conduct inspections of some elevators and related devices and oversee the inspections performed by two companies – Crimson Inspection L.L.C. (Crimson) and National Elevator Inspection Services, Inc. (NEIS).

Audit Findings and Recommendations

We concluded that while non-DOB inspectors had the appropriate credentials, they did not always perform thorough elevator inspections. Along with DOB inspectors, we accompanied non-DOB inspectors on a dozen elevator inspections. Elevator violations were missed or overlooked for 11 of the 12 sampled elevators. When we looked at the overall data for inspectors for 2015 and 2016, we determined that 14,828 elevator inspections that should have been performed by non-DOB inspectors were not performed. Moreover, we were unable to determine if a total of 8,437 tests were actually performed by inspectors hired by building owners, as DOB did not provide records to substantiate these tests. As a result, hazardous and other unsafe conditions were not always identified and corrected.

Improper Inspections

According to Article 304 of the Administrative Code, DOB is responsible for annual inspections of most elevators in the City. DOB has delegated this responsibility, in part, to two companies – Crimson and NEIS.

We selected a judgmental sample of 12 elevators, located in nine buildings in the five boroughs – one building in Staten Island and two buildings each in the Bronx, Queens, Manhattan, and Brooklyn. During July and August of 2017, in the presence of DOB inspectors, we observed the inspection of these elevators by Crimson and NEIS employees (non-DOB inspectors) to determine whether elevator inspections were performed timely and properly. We also reviewed DOB's records to determine if required elevator tests were performed by inspectors hired by building owners. During our visits, we noted that:

- Two of the non-DOB inspectors had signed certificates indicating they had inspected 15 elevators at 14 buildings, even though the inspections had not been done at the time. (Several of these elevators were not part of our sample.)
- A door zone restrictor is an elevator device that prevents the door of an elevator from opening when the elevator is between floors. According to a DOB official, a restrictor malfunction is an imminently hazardous condition. The official added that when a door zone restrictor malfunctions, the elevator must be taken out of service (cease use) until the problem is repaired. Three non-DOB inspectors failed to identify defective door zone restrictors on elevators in three different buildings, and allowed the elevators to remain in service. A fourth non-DOB inspector identified the defect on the elevator in another building, but did not consider it to constitute an imminently hazardous condition. Instead, he considered the condition as having a lesser effect on life, health, and safety, and allowed the elevator to remain in service. When asked why the elevators were allowed to remain in service, the non-DOB inspectors we spoke to told us that their companies' policies do not require an elevator to be taken out of service when a door zone restrictor malfunctions. This policy is not in alignment with DOB's procedures and practices and represents a potential serious hazard. The DOB inspectors subsequently took the four elevators out of service.

- Hoist ropes (hoist cables) are used to raise and lower elevators. Inspectors determined that the hoist cables for two elevators at two different buildings showed evidence of rouging (see Exhibit A) – abrasions that cause the hoist cables to wear. Over time, rouging reduces the diameter of the hoist cables and impacts their integrity. At the first building, the rouging was missed by the non-DOB inspector but noticed by the DOB inspector. In another building, both the DOB inspector and the non-DOB inspector observed that the hoist cables of an elevator were rouging. However, the non-DOB inspector did not have the required tool (gauge) to measure the diameters of the hoist cables. A gauge was provided by the DOB inspector and the diameters of the hoist cables were measured. The DOB inspector confirmed that the cables were worn. However, he decided that the worn cables, while needing replacement and constituting a violation, did not require the elevator to be taken out of service. The inspector who did not have a gauge was subsequently terminated by his company for unprofessionalism.
- At four of the nine sampled buildings, four non-DOB inspectors did not inspect the tops of elevator cars or the elevator pits – the spaces between the floor of the elevator and the bottom of the elevator shaft. The American Society of Mechanical Engineers (ASME) requires that the tops and pits of elevators be inspected. DOB’s contracts with Crimson and NEIS require compliance with ASME standards. One of the non-DOB inspectors, when told by a DOB inspector to check the tops and pits of the elevators, became angry and threw his documents on the floor. Subsequently, we asked selected non-DOB inspectors why they did not inspect the tops and pits of elevators. They told us they were concerned about their safety and that examining the tops and pits of elevators is prohibited by their companies. However, as described above, that prohibition contradicts ASME and DOB procedures as well as the companies’ DOB contracts. DOB officials told us that one of the four non-DOB inspectors was also subsequently terminated by his company for unprofessional behavior – this individual had also signed off on inspections prior to actually performing the inspections (see example above).

DOB officials told us they revisited some Crimson and NEIS inspections but have no plans to re-inspect the elevators that were inspected by the two terminated non-DOB inspectors. Officials added they plan to meet with Crimson and NEIS representatives to reinforce required inspection procedures and will implement an inspection checklist for the non-DOB inspectors. DOB officials also told us that once an elevator is taken out of service, further inspections of any other elevators in the building are discontinued. According to DOB officials, this practice frees up the remaining elevators to be used by tenants, employees, and visitors. We question whether this practice maximizes riders’ convenience at the expense of their safety.

During our site visits, DOB inspectors pointed out 29 violations that were missed or resulted from the inconsistent application of inspection procedures by non-DOB inspectors (see Exhibit B). These violations included a non-working emergency telephone in an elevator, an expired fire extinguisher in the elevator machine room, and missing maintenance schedules and logs. Moreover, the non-DOB inspectors did not check an emergency stop switch, a brake maintenance tab, and the ventilation on a hydraulic elevator. DOB inspectors advised that some violations were not identified because the procedures applied by the non-DOB inspectors are not as strict as those applied by DOB’s inspectors.

Since DOB delegated its inspection responsibilities to Crimson and NEIS, it must ensure that their inspectors have the necessary skills and perform the required procedures. Among other available remedies, DOB can penalize Crimson and NEIS for their inspectors' poor performance under certain conditions.

Recommendations

1. Reinforce with elevator inspection companies the required procedures for proper elevator inspections and identify violations that require elevators to be taken out of service.
2. Require that non-DOB inspectors comply with all DOB procedures when performing elevator inspections, including having the necessary tools to thoroughly inspect the elevators.
3. Re-inspect the elevators previously inspected by ineffective non-DOB inspectors.
4. Revisit the practice of discontinuing elevator inspections at a site when an elevator is taken out of service.
5. Penalize Crimson and NEIS for improper inspections as appropriate.

Missing Inspections and Tests

The Building Code and other regulations define how often elevator inspections and tests must be performed. DOB not only schedules inspections, but also maintains records of the number of inspections and tests that are performed. We found that a significant number of elevators were not inspected and a number of elevator tests may not have been performed, as records of these tests were not available from DOB. DOB officials told us that some elevators are not inspected because the contracted inspectors are unable to gain entry to the elevators and/or buildings.

Annual Inspections

According to DOB records, 62,166 and 63,314 elevators (including dismantled elevators) were subject to annual inspections in 2015 and 2016, respectively. We saw no evidence that 8,087 of the 62,166 elevators (13 percent) were inspected in 2015 and that 6,741 of the 63,314 (11 percent) elevators were inspected in 2016. Our analysis of the uninspected elevators concluded that 2,926 of the 8,087 (36 percent) missed inspections in 2015 occurred because non-DOB inspectors could not gain access to elevators and/or buildings. The same determination was made for 2,650 of the 6,741 (39 percent) missed inspections in 2016. DOB officials could not explain why the remaining 9,252 (5,161 in 2015 and 4,091 in 2016) were not inspected.

DOB officials told us that building owners are not provided with the dates for when elevators will be inspected. Officials stated that DOB would post a "Notice to Call for Inspection" on the building when the inspector cannot gain access to inspect an elevator. The notice informs the owner of the attempted inspection and requests that DOB be contacted to schedule another inspection.

However, the notice does not include a specific date by which the owner must contact DOB. We asked DOB officials if violations are issued when inspections cannot be performed. They advised that violations would only be issued if inspectors are unable to access a building for more than three consecutive years.

The lack of access to elevators is not a new issue. An audit report issued by the New York City Comptroller on October 21, 2010 reported that between September 20, 2009 and October 3, 2009, non-DOB inspectors were unable to inspect 165 elevators because they could not gain access to buildings. The report recommended that DOB employ stronger enforcement actions to encourage the building owners' compliance. However, more than eight years later, non-DOB inspectors' access to certain buildings still remains a major problem. With so many uninspected elevators in 2015 and 2016 due to lack of access, DOB needs to take more forceful actions to ensure compliance – such actions could include imposing monetary penalties, where appropriate.

Periodic Tests

The Administrative Code requires that Category 1 tests of active elevators be performed annually and Category 5 tests every five years. A Category 1 test involves running an elevator to ascertain its condition. It includes a no-load safety test to ensure that the elevator is safe and functional; a visual inspection of the elevator's braking systems; and checks to confirm that switches, belts, and other devices are working properly. In addition to the tests performed under Category 1, Category 5 tests require elevators to be run at full-load capacity. Tests are performed by DOB-licensed inspection companies hired by building owners and are witnessed by licensed elevator inspection companies not affiliated with the companies performing the tests. According to DOB records, 61,297 and 62,429 elevators were subject to Category 1 tests (dismantled elevators are not tested) in 2015 and 2016, respectively. Further, 8,641 and 7,997 elevators were subject to Category 5 tests in 2015 and 2016, respectively.

For 2015, DOB did not have records to show whether 2,265 of the 61,297 Category 1 tests were performed. For 2016, records were not available to show whether 5,011 of the 62,429 Category 1 tests were performed. We also found that DOB did not have records to show whether 625 of the 8,641 Category 5 inspections for 2015 and 536 of the 7,997 Category 5 inspections for 2016 were performed.

In an effort to compel compliance, DOB issued violation notices to building owners for the majority of the missing Category 1 tests that were not performed in 2015 and 2016. Violation notices for the remaining 2015 Category 1 tests were issued by DOB in December 2016. Similarly, violation notices for the remaining 2016 Category 1 tests were issued in September 2017. DOB officials did not explain why it took so long to issue the remaining notices. Property owners may not receive contemporaneous violation notices for missing Category 5 tests as, according to DOB officials, such violations are issued once every five years. DOB officials advised that violations remain on the buildings and owners must have the required tests performed prior to refinancing or selling the buildings. DOB should consider taking a more aggressive action in order to ensure that Category 1 and Category 5 tests are performed.

Inspector Credentials

DOB and non-DOB elevator inspectors must meet certain education, experience, and security requirements to be licensed. Those performing annual inspections must either be licensed by DOB or comply with standards established by ASME. In addition, non-DOB inspectors who perform elevator tests must be licensed by DOB. Further, DOB inspectors must pass a civil service test, have a license as a professional engineer or be a currently registered New York State architect, or complete an apprenticeship program in the assembly, installation, repair, or design of elevators.

To determine whether inspectors were qualified to conduct elevator inspections and tests, we selected a sample of 68 inspectors and reviewed their personnel files and/or licensing documentation. Our sample included a judgmental sample of 15 DOB in-house inspectors, a judgmental sample of 15 private inspectors hired by building owners, and all 38 non-DOB inspectors working under contract to DOB. We found that all 68 inspectors in our sample had the required credentials (education, experience, and/or security clearances) for their positions.

Recommendations

6. Ensure that DOB communicates upcoming inspections with building owners. Establish specific deadlines by which building owners should respond to no-access inspection attempts.
7. Determine the reasons for the missing inspections in 2015 and 2016 and work to eliminate those conditions.
8. Take additional actions, such as monetary penalties, against building owners when elevator tests are not performed.
9. Communicate more timely with building owners and management when Category 5 tests are not performed.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether elevator inspections and tests were done timely and properly by inspectors with the required credentials. Our audit covered inspection and test information from January 1, 2015 through October 20, 2017, including inspector credentials.

To accomplish our objective and assess related internal controls, we interviewed DOB officials, DOB in-house elevator inspectors, and non-DOB elevator inspectors. We also observed 12 elevator inspections performed at nine buildings by the two non-DOB elevator inspection companies. For each of the five boroughs, we judgmentally selected one day when our auditors were available and elevator inspections were scheduled, and arranged to observe those scheduled inspections. For the days selected, one borough had only a single building being inspected and the other four boroughs had two buildings each. As some buildings have more than one elevator, we observed a total of 12 inspections at the nine buildings visited on the five days selected.

We selected a judgmental sample of 15 DOB in-house inspectors by taking the first 15 names from an alphabetical listing of 57 inspectors employed between January 1, 2015 and September 30, 2017. We also selected a judgmental sample of 15 non-DOB inspectors hired by building owners by taking the first 15 names from an alphabetical listing of 43 inspectors we created from DOB records.

Furthermore, we reviewed DOB's website, the relevant sections of the Administrative and Building Codes, as well as the Rules of the City of New York. We also reviewed inspection and test records, inspector credentials, and DOB's monitoring activities for the time period from January 1, 2015 through October 20, 2017.

We obtained DOB's elevator inspection database for January 1, 2015 through June 14, 2017 and reviewed it to determine whether the required elevator inspections and tests were performed timely. We selected a judgmental sample of 70 inspection reports that had been received in May 2017 and traced them to DOB's database. We also selected a judgmental sample of 56 database entries based on the type of inspection and the borough where the elevator was located and traced them to the inspection reports. Due to the haphazard way inspection reports are filed, DOB was only able to provide us with 17 of the 56 inspection reports. However, based on other audit work, we believe that DOB's database is sufficiently reliable for our audit purpose.

We conducted our performance audit in accordance with generally accepted government auditing standards. These 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 during the audit provides a reasonable basis for our findings and conclusions based on our audit objective.

As is our practice, we notified DOB officials at the onset of the audit that we would be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. Agency officials normally use the representation letter to assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. They affirm either that the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, at the onset of our audit officials at DOB advised us that they would not provide a representation letter in connection with our audit. As a result, we lack assurance from DOB officials that all relevant information was provided to us during the audit.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights.

These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

Reporting Requirements

We provided a draft copy of this report to DOB officials for their review and formal comment. Their comments were considered in preparing this final audit report and are included at the end of it. In their response, DOB officials agreed with most of our findings and eight of the nine recommendations. They indicated that measures have been implemented to improve existing procedures. Our rejoinders to certain DOB comments are included in the report's State Comptroller's Comments.

Within 90 days after final release of this report, we request that the Commissioner of the New York City Department of Buildings report to the State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit A

Rouging of Elevator Hoist Cables



Rouged Cables

Exhibit B

Missed Violations and Procedures

Building	Borough	No. of Elevators in Building	No. of Elevators In Sample	Missed Violations	Type of Violations	Missed Procedures	Type of Procedure
1	Manhattan	10	1	0	N/A	0	N/A
2	Manhattan	8	1	4	1, 2, 3, 4	2	1, 2
3	Brooklyn	2	2	7	1, 5, 6, 7, 8, 9, 10	2	1, 3
4	Brooklyn	2	1	2	1, 11	2	1, 4
5	Bronx	1	1	4	2, 12, 13, 14	3	5, 6, 7
6	Bronx	1	1	6	13, 15, 16, 17, 18, 19	1	12
7	Queens	2	2	3	16, 20, 21	4	1, 5, 8, 9
8	Queens	2	2	1	16	0	N/A
9	Staten Island	1	1	2	2, 22	2	10, 11
Totals				29		16	

Description of Violations

1	Door Zone Restrictor Not Functioning Properly
2	Missing Maintenance Control Program
3	Machine Room Temperature Too High
4	Worn Cables (Ropes)
5	Worn Gate Switch Roller
6	Missing "In Case Of Fire" Sign
7	Damage Vision Panel On Hoistway Door
8	Adjustment Of Hoistway Door
9	Company Name Not On Elevator Equipment
10	Machine Lighting Inoperative
11	Hoist Cable Guards And Traction Sheave Not Grooved
12	Emergency Phone Not Working
13	Worn Guide Shoes/Roller Guides
14	Guard Cover For Machine Tack Was Off
15	Plastic Pit Light (Fire Hazard)
16	Maintenance Log Was Missing Or Not Up-To-Date
17	Rouging Of Cables
18	Seal Missing From The Governor
19	Missing Hatch Door
20	Car Position Monitoring Failure (Cease Use)
21	6-AMP Fuse In The Controller Was Jumped
22	Expired Fire Extinguisher

Description of Procedures

1	Did Not Cease Use the Car Due To Door Zone Restrictor Malfunction
2	Did Not Have The Proper Tool (Gauge) To Test And Did Not Test The Cable
3	Did Not Check The Emergency Stop Switch
4	Did Not Check Nor Realize The Expiration Date Of The Annual Break Maintenance Tab
5	Did Not Physically Check The Stop Switch
6	Did Not Check All Doors From Hallway Side
7	Did Not Stand Firm Inside The Elevator Car To Check If The Elevator Was Shaking
8	Did Not Check Fire Gibs
9	Did Not Check The Emergency Phone In The Elevator
10	Did Not Open And Check The Controller
11	Did Not Check The Ventilation On The Hydraulic
12	Did Not Pull On Hall Doors To Check Locks

Agency Comments



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April 17, 2018

Mr. Kenrick Sifontes
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Division of State Government Accountability
110 State Street, 11th Floor
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Re: Elevator Safety Audit (Report 2017-N-4)

Dear Mr. Sifontes:

Thank you for the opportunity to respond to the recommendations in the above-captioned draft audit. The New York City Department of Buildings (the "Department"/"DOB") is taking steps to improve our existing procedures to address the issues identified in your report.

As your report indicates, the purpose of the State of New York, Office of the State Comptroller's audit was to determine whether inspectors have the proper credentials and whether they perform elevator inspections and tests timely and properly. We appreciate the opportunity to address your audit findings and concerns, and will use these findings as a guide to further improve our policies and procedures.

The Department agrees with most of your findings and has implemented measures to improve existing procedures. During the course of the audit, and since the audit's completion, the Department has introduced various initiatives to better monitor workload and conduct inspections in a more efficient manner. The Department has also proactively performed monitoring inspections since July 2017 and meets regularly with the contracted inspection companies.

Following are the Department's responses to the nine (9) recommendations, as well as clarifying comments.

Clarification of Comments:

Code Interpretation

The Department observes the following rules:

- The Department accepts late filings of inspection and test reports and/or untimely filings of affirmations of correction as filed, upon payment of the appropriate civil penalties as set forth in subdivision (h) and (i) of § 103-02 of Title 1 of the Rules of the City of New York (RCNY), if filed within twelve (12) months of the date the inspection and test was conducted or the date the affirmation was due. Reports and affirmations filed after such twelve (12) month period are deemed expired. In such cases, the appropriate civil penalties must be paid, a new inspection and test must be performed for the current inspection and test cycle and a new report filed. (Please see the following chart.)

* Comment 1

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*See State Comptroller's Comments, Page 22.

Mr. Kendrick Sifontes
 April 17, 2018
 Page 2

CAT 1 Violations (No Report Filed)			
Issue Date	Inspection Cycle	If filed 12/31 of that Cycle	Last day to file late
6/10/2015	2014	12/31/2014	12/31/2015
12/01/2016	2015	12/31/2015	12/31/2016
9/15/2017	2016	12/31/2016	12/31/2017

It appears your audit team misunderstood the Department’s annual inspection requirement as it pertains to filing requirements. This in turn, distorted some of the findings described in the audit draft report, specifically, those regarding the missing records for Category 1 tests in 2016 and the timeliness of violation issuance.

*
 Comment
 2

RESPONSE TO RECOMMENDATIONS:

Recommendation 1:

“Reinforce with elevator inspection companies the required procedures for proper elevator inspections and identify violations that require elevators to be taken out of service.”

DOB’s Response:

The Department agrees with this recommendation. Since October 2017, the Department has proactively held regularly scheduled meetings with both private contractors, Crimson and NEIS. These meetings are ongoing and the most recent meeting was conducted on April 5, 2018. Attendees include the following:

- Representatives from the contracted elevator inspection companies (Crimson and NEIS).
- DOB representatives from the elevator administrative and technical teams and the DOB Contracting Office.

All pertinent procedural and inspection-related items including Cease Use procedures are included on the agendas.

Recommendation 2:

“Require that non-DOB inspectors comply with all DOB procedures when performing elevator inspections, including having the necessary tools to thoroughly inspect the elevators.”

DOB’s Response:

The Department agrees with this recommendation. During meetings with the contracted elevator inspection companies, the Department has emphasized the importance of having all necessary tools and equipment on site and readily available prior to performing any inspections. Those requirements have been documented, and the contracted elevator inspection companies have confirmed that they will comply with all such requirements and ensure that all such tools and equipment are provided to their inspectors.

Recommendation 3:

“Re-inspect the elevators previously inspected by ineffective non-DOB inspectors.”

DOB’s Response:

The Department agrees with this recommendation. The Department will assess elevators previously inspected by “ineffective” non-DOB inspectors as it deems necessary. Based on the Department’s assessment, we may perform complete physical re-inspections.

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Mr. Kendrick Sifontes
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Recommendation 4:

"Revisit the practice of discontinuing elevator inspections at a site when an elevator is taken out of service."

DOB's Response:

The Department agrees with this recommendation, and has already discontinued this practice. All DOB inspectors and the contracted inspectors received very clear instructions to continue all elevator inspections at a site regardless of whether there is a Cease Use car or not. In January 2018, prior to the release of the audit draft report, DOB informed the contractors of the following:

Cease Use Policy (effective as of Thursday, January 25, 2018)

- DOB's Elevator Division must be notified immediately (by inspector) of all inspections resulting in a Cease Use order for single and multiple elevator buildings.
- In single elevator buildings, the Department will continue to request that the building superintendent notify the elevator company of Cease Use orders.
- In the case of multiple elevator buildings, when a Cease Use order is issued for one elevator, DOB's Elevator Division must be notified immediately (by inspector). Inspectors will continue inspections in that building. DOB's Elevator Division must be notified immediately of any subsequent Cease Use order.
- Complete all inspections in multiple elevator buildings regardless of how many devices received Cease Use orders.

Subsequently, the Department witnessed an uptick in Cease Use inspections and reporting.

Recommendation 5:

"Penalize Crimson and NEIS for improper inspections as appropriate."

DOB's Response:

The Department agrees with this recommendation. The Department will improve current inspection procedures in conjunction with existing contractual requirements.

Recommendation 6:

"Ensure that DOB communicates upcoming inspections with building owners. Establish specific deadlines by which building owners should respond to no-access inspection attempts."

DOB's Response:

The Department agrees with this recommendation. Please note that if an inspector cannot gain access to a property on the first inspection attempt, the Department makes a follow up attempt. If the inspector cannot gain access during the follow up attempt, the inspector posts a Notice to Call for Inspection (LS-4) form at the property, which prompts the owner to call and schedule an appointment for inspection. Upon receiving an LS-4 form, property owners are responsible for calling the Department to schedule an inspection.

In addition, the Department is currently developing standard operating procedures for handling no access inspections, which will include deadlines by which building owners should call for an appointment.

Recommendation 7:

"Determine the reasons for the missing inspections in 2015 and 2016 and work to eliminate those conditions."

DOB's Response:

The Department agrees with this recommendation and makes every effort to constantly improve in this area; however, there are certain circumstances that are beyond the Department's control. For example, property owners can deny access and DOB cannot forcefully enter to perform periodic/routine inspections. Furthermore, the Department has established and signed the elevator inspections and tests, filing

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requirements, penalties and waivers rule, which penalize building owners who do not comply with Category 1 and Category 5 test requirements as per code. Nonetheless, the Department will continue to enhance its efforts in this area by improving its existing procedures and will develop additional action plans to address these challenges.

Recommendation 8:

"Take additional actions, such as monetary penalties, against building owners when elevator tests are not performed."

DOB's Response:

The Department disagrees with this recommendation. As a pre-requisite to implementing this recommendation, the City Council would need to enact new laws. Any additional action, such as imposing penalties beyond those currently allowed, would require legislative change. Notably, DOB currently imposes penalties across all applicable devices in relation to Category 1 and Category 5 tests and filings. This also includes significant late fees for untimeliness (see chart below). In addition, DOB's technical inspectors also issue ECB violations for non-compliance.

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Initial Inspection Report (ELV3)	Residential (J)	Non-Residential (A)	
	CAT 1, 3, and 5	CAT 1	CAT 3 and 5
Late filing fee per month per device	\$50	\$150	\$250
Max late filing fee per year per device	\$600	\$1,800	\$3,000
Failure to file fee per year per device	\$1,000	\$3,000	\$5,000
Affirmation of Correction (ELV29)	Residential (J)	Non-Residential (A)	
	CAT 1	CAT 1	CAT 3 and 5
Late filing fee per month per device	\$50	\$150	N/A
Max late filing fee per year per device	\$600	\$1,800	N/A
Failure to file fee per year per device	\$1,000	\$3,000	N/A

Recommendation 9:

"Communicate more timely with building owners and management when Category 5 tests are not performed."

DOB's Response:

The Department agrees with this recommendation and is working diligently to become more efficient in this area. DOB NOW: Safety for elevators is planned for launch in the summer of 2018; violation issuance and communication related to inspection and compliance filings will become more streamlined as a result.

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Thank you, once again, for giving us the opportunity to respond to your audit.

Sincerely,



Rick D. Chandler, P.E.
Commissioner

cc: George Davis, III
Archana Jayaram
Timothy Hogan
Germain Difo
Kerry Castro

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State Comptroller's Comments

1. While it is noteworthy that DOB imposes civil penalties for the late filing of elevator inspection and test reports, the lack of actual inspections and tests is the more significant issue. With more than 70,000 elevators in New York City, DOB needs to be more proactive in ensuring that elevators are inspected and tested.
2. The audit team did not misunderstand the elevator inspection and test requirements. The team based its conclusions on the inspection and test cycles stipulated in the Rules of the City of New York, the Administrative Code and Building Code, as well as numerous discussions with DOB officials. The fact that DOB issued violation notices for unfiled 2016 test reports in September 2017 is troubling. DOB could not know whether the missing 2017 information was merely a paperwork issue or whether the elevators had not been tested. We identified 5,011 missing 2016 Category 1 test reports.
3. DOB needs to be more proactive in ensuring that elevator tests are performed. As the City agency charged with elevator oversight, it needs to be at the forefront of ensuring elevator safety. The fact that DOB had no evidence that 5,011 Category 1 elevator tests were performed in 2016 means that the current penalties in place are not sufficient.