




PROCEDURE NUMBER 15-008

Subject:	Applicable To:	Effective Date:
DHS Operational Plan and Operating Certificate Procedure	All Shelters within the DHS Shelter System All DHS Directly Operated or Funded Facilities/ Programs Serving Homeless Individuals	May 30, 2015

Administered By:	Approved By:
Administration Legal Affairs Adult Services Division Family Services Division	 Gilbert Taylor, Commissioner

## **I. INTRODUCTION**

This document constitutes the Operational Plan and Operating Certificate Procedure (Procedure) for the New York City Department of Homeless Services (DHS). The Procedure requires all DHS shelters, either directly-operated or provider-managed, to create, submit and maintain Operational Plans and Operating Certificates. This Procedure is deemed a companion to, and consistent with the DHS Shelter Inspection Policy & Procedure – Procedure No 15-210.

## **II. POLICY**

Through its staff and shelter providers, DHS provides Temporary Housing Assistance (THA) to homeless individuals and families when needed. Applicable law requires DHS to provide THA in a setting that is safe, habitable and in compliance with all governing laws, codes, regulations and rules. Additionally, applicable law requires that the provision of THA include adequate social services and other support services to assist recipients of THA obtain permanent housing. This Procedure outlines what must be included in a shelter's Operational Plans or Operational Certificates, as well as the timeline for submitting such Plans and Certificates for approval by DHS and certification by Office of Temporary Disability Assistance (OTDA), where applicable. For purposes of enforcement, this Procedure applies to all shelters within the DHS system. DHS reserves the right to utilize all means, authorized by law, to compel compliance with this Procedure, its contracts, and the governing laws, codes, regulations and rules.

### III. **DEFINITIONS**

A. For purposes of this Procedure the terms listed below are defined as follows:

1. Operational Plan. The term “Operational Plan” shall mean a comprehensive and detailed plan which documents and outlines the operation of its families with children shelter, by the homeless shelter provider, in accordance with the requirements of 18 NYCRR §900 *et. seq.* The provisions governing Operational Plans apply to facilities owned and directly operated by the New York City Department of Homeless Services.
2. Operational Plan Renewal. The term “Operational Plan Renewal” shall mean a comprehensive and detailed plan which documents and outlines a homeless shelter provider’s operation of its families with children shelter, including any updated staffing schedules and positions and any change(s) to the services being provided at the shelter since the expiration of the Provider’s initial Operational Plan.
3. Operating Certificate. The term “Operating Certificate” shall mean a comprehensive and detailed plan which documents and outlines the operation of its single adult shelter, by the homeless shelter provider, in accordance with the requirements of 18 NYCRR §491 *et seq.*
4. Certified Operational Plan or Certified Operating Certificate. The term “Certified Operational Plan” or “Certified Operating Certificate” shall mean an Operational Plan that has been approved by OTDA under 18 NYCRR §900.3 or an Operating Certificate that has been approved by OTDA under 18 NYCRR §485.5.
5. Approved Operational Plan or Operating Certificate. The term “Approved Operational Plan” or “Approved Operating Certificate” shall mean an Operational Plan or Operating Certificate that has been submitted to DHS for review and for which DHS or OTDA have determined that the Operational Plan or Operating Certificate complies with this procedure and the applicable law.
6. Notice of Required Correction. The term “Notice of Required Corrections” shall mean a detailed report, which delineates any deficiencies contained in the Provider’s Operational Plan or Operating Certificate.
7. Compliance Team. “Compliance Team” shall mean a group of staff designated by DHS to implement and enforce the provisions of this procedure. Such team may be comprised of staff from the following DHS divisions: Office of Legal Affairs “Legal”, Fiscal and Procurement Services “Fiscal” or “ACCO”, Maintenance, Repair and Capital Construction “MRCC”, and Family and Adult Services “Families” and “Adults”.
8. Provider. The term “Provider” shall mean any person, entity or organization that provides shelter or operates a shelter on behalf of the Department, including DHS directly-operated shelters and DHS-contracted shelters.
9. Shelter. The term “Shelter” shall mean temporary housing as defined by 18 NYCRR Part 352.35(b)(3), and any unit, hotel room, apartment, apartment building, hotel, or location

(directly-operated or contracted) utilized by the Department for the provision of temporary housing assistance (“THA”).

10. Temporary Housing. The term “Temporary Housing” shall mean shelters authorized by 18 NYCRR §900 or §§352.8(a) & (b), §352.3(e) and §491.
11. Temporary Housing Assistance. The term “Temporary Housing Assistance” or “THA” shall mean a public assistance benefit provided temporarily for an eligible homeless individual or family to meet an immediate need for shelter.

#### IV. **REFERENCES**

This Procedure incorporates the following Department policies and procedures, provisions, laws, rules and regulations by reference:

- A. DHS Procedure No. 10-210 (Shelter Access)
- B. DHS Procedure No. 15-210 (Shelter Inspections)
- C. 18 NYCRR § 352.3
- D. 18 NYCRR § 352.8
- E. 18 NYCRR § 900 *et seq*, including but not limited to, §900.3, § 900.5, § 900.11, § 900.12 and § 900.14.
- F. 18 NYCRR §491 *et seq*, including but not limited to, § 491.1, § 491.3, § 491. 8 and § 491.10
- G. 18 NYCRR §600 *et seq*, including but not limited to, §600.3.
- H. 18 NYCRR §601 *et seq*, including but not limited to, §601.1 and §601.2.
- I. 94 ADM 20
- J. Human Services Standard Contract Section 1.01(I)
- K. Appendix A (General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services) for all DHS shelter contracts, including but not limited to:
  1. Section 8.07 (Withholding of Payments) and Section 13.04 (Compliance with Laws).
- L. Appendix B (Scope) for all DHS shelter contracts, including but not limited to:
  1. For Families with Children Providers, Section 2.03 (Applicable Standards) and Section 2.04 (Operational Plan).
  2. For Single Adult Providers, Article 2 (Transitional Residence Services).
- M. Procurement Policy Board Rules, including but not limited to, §4-06©(3)(iv).

#### V. **OPERATIONAL PLAN/OPERATING CERTIFICATE**

##### A. Purpose:

The Operational Plan (Families) or Operating Certificate (Single Adults) sets forth the Provider’s overall plan for managing its homeless services program and operating a homeless shelter. The Operational Plan or Operating Certificate shall completely describe the Provider’s

program model, staffing plan, financial condition and proposed budget for operating the subject shelter, and the Provider's maintenance schedule and plan for the facility.

**B. Operational Plan/Operating Certificate:**

The Operational Plan or Operating Certificate shall provide the following information concerning the subject shelter:

1. Name and location of the shelter;
2. The population to be served by the type of shelter;
3. Name and address of the entity that will operate the shelter;
4. Names, addresses and occupations of the members of the board of directors, if the Provider is a corporation;
5. Names and address of the owner of the premises, if other than the Provider; including a copy of the HPD building registration form for multiple dwellings
6. A copy of the lease, if the Provider is not the owner of the premises;
7. Name and address of the entity responsible for the maintenance of the premises, if other than the Provider;
8. Procedures demonstrating the Provider's compliance with DHS Procedure 15-210: Shelter Inspection;
9. Description of the physical plant of the shelter, including the number of floors, number of units, and any renovations that have been done, or will be done, or are planned in the future, to ensure the shelter's compliance with applicable laws and regulations;
10. Bathroom arrangements, including the intended number of toilets, sinks, showers, bathtubs that will be available for each gender and how the shelter will provide for bathing and changing of infants and young children, if applicable;
11. A copy of the building's current floor plans;
12. Financial resources and sources of future revenue of the shelter;
13. A Financial statement for the shelter's most recent completed fiscal year, if any, and a proposed one year budget that estimates income and expenditures and sets forth the amount reasonable and necessary to operate and maintain the shelter.
14. Procedures for accepting clients, for arrangements for preliminary health examinations, and for referrals of clients during nighttime hours to address systematic communicable disease or a readily-communicable local infection;
15. Procedures for ensuring access by legal representatives and legal counsel to their clients who reside in the shelter;
16. Procedures for providing needed care, services, and support of children, families, or individuals consistent with applicable regulations including, but not limited to, §900.10 and §491.8;
17. Arrangements for ensuring school attendance by school age children residing in the shelter, including how transportation arrangements will be made and how attendance will be documented and monitored, where applicable;
18. Documented evidence of an established relationship with a fully accredited medical institution or clinic for the provision of health services and the ability to store medical supplies at the shelter for clients with such needs, including the ability to refrigerate medication;



19. Procedures for assisting residents in making applications for income entitlements or public benefits such as public assistance, medical assistance, food stamps, SSI, etc.;
20. Staffing schedules and descriptions of each position, including job duties, as well as procedures for ensuring prompt notification will be provided for service delivery staff vacancies that remain vacant without permanent replacement for more than 60 days or if staffing falls below 80% of proposed staffing for the contract.
21. Comprehensive plan for providing on-site security services for the shelter, including staffing, access control, and description of any other security components at the shelter (metal detectors, magnetometers, cameras, wands, etc.). The security plan must be approved by DHS.
22. Plans for staff training, including trainings on emergency and disaster plans, fire safety, and trainings on the applicable laws, regulations and procedures from DHS and OTDA governing the provision of shelter. The plans must include the frequency of such trainings and must attach copies of all training materials;
23. Description of cooking facilities within units, if applicable, and food service arrangements, including written evidence of such, where appropriate.

C. Timetable for the Submission and Approval of the Operational Plan/Operating Certificate or Operational Plan/Operating Certificate Renewal:

1. The Provider must use the Operational Plan template (attached as Exhibit A) to complete its Operational Plan for a Families with Children shelter, or the Operating Certificate template (attached as Exhibit B) to complete its Operating Certificate for a Single Adults shelter. The Provider is required to submit its Operational Plan or Operating Certificate in accordance with the following schedule:
  - a. Operating Certificate: The Provider must submit its Operating Certificate to DHS thirty (30) days prior to the shelter's opening. For a Single Adult Shelter operating pursuant to an emergency contract, the Provider must submit its Operating Certificate within thirty (30) days from the date of the shelter's opening;
  - b. Operational Plan: The Provider must submit its Operational Plan to DHS thirty (30) days prior to the shelter's opening. For a Families with Children Shelter operating pursuant to an emergency contract, the Provider must submit its Operational Plan within thirty (30) days from the date of the shelter's opening.
  - c. Operational Plan/Certificate Renewals: the Provider must submit its updated Operational Plan no later than two (2) months prior to the expiration of the initial Operational Plan/Operating Certificate.
2. Post-Submission Action and Notices
  - a. Upon submission of the Operational Plan or Certificate, the Compliance Team will review its contents and either approve it or provide a Notice of Required Corrections to the Provider within seven (7) business days from the date of submission.

- b. The Provider must submit its revised Operational Plan or Certificate to DHS within five (5) days from receipt of the Notice of Required Corrections.
  - c. Upon review of the revised Operational Plan or Certificate, the Compliance Team will provide a second Notice of Required Corrections, if necessary, to the Provider within five (5) business days from receipt of the revised Operational Plan or Certificate.
  - d. The Provider must submit its second revised Operational Plan or Certificate to DHS within two (2) days from receipt of the second Notice of Required Corrections.
  - e. The Compliance Team will issue additional Notices of Required Corrections, when necessary, until the Provider's Operational Plan or Certificate sufficiently meets all requirements delineated under Section V.B of this Procedure. The Provider must submit its revised Operational Plan or Certificate to DHS within one (1) day from receipt of any additional Notices of Required Corrections beyond the second Notice of Required Corrections.
  - f. Upon receipt of the Operational Plan or Certificate and after the Compliance Team's final review of it, DHS will issue a Letter of Approval to the Provider.
  - g. For Operational Plans, i.e., Tier IIs, and Operating Certificates requiring OTDA-certification providers are not permitted to submit them directly to OTDA. Once DHS has approved the Operational Plan or Operating Certificate, it will submit it to OTDA for certification.
3. Relationship to VENDEX:
- a. To convert the weighted score (numerical) to the equivalent VENDEX score, the following chart demonstrates the related values.
  - b. The Provider's Operational Plan or Operating Certificate, and the timeliness of the submission of such documents is included in and related to the overall VENDEX score.

<b>Timeliness of Submissions</b>	<b>VENDEX Score</b>
One or More Weeks Prior to Due Date	Excellent
Within One Week of the due date	Very Good
On the Due Date	Satisfactory
One or More Days Late	Unsatisfactory

4. Notice of Non-Compliance. DHS shall issue a Notice of Non-Compliance (attached as Exhibit C) to providers who fail to submit an Operational Plan or Operating Certificate within the required timeframe. The Provider must deliver the required Operational Plan or Operating Certificate within two (2) business days from the date of Notice of Non-Compliance.
5. Assistance with the Operational Plans and Operating Certificates. Issues or Questions about **NEW** Operational Plans or Operating Certificates should be directed to the DHS Capacity Planning and Development Unit (CPD). DHS urges providers to seek assistance as soon as possible.
  - a. Issues or questions relating to renewed or updated Operational Plans (Families) should be directed to your designated DHS Program Administrator.
  - b. Issues or questions relating to renewed or updated Operational Certificates (Adults) should be directed to DHS CPD.

## **VI. OPERATIONAL PLAN/OPERATING CERTIFICATE COMPLIANCE & ENFORCEMENT**

- A. Notice of Enforcement Conference. DHS shall issue a Notice of Enforcement Conference to those Providers who:
  1. Fail to submit its Operational Plan or Operating Certificate pursuant to a Notice of Non-Compliance, V.C.(4) of the Procedure, or
  2. Have failed to revise their Operational Plans or Operating Certificates in accordance with either the first or the second Notice of Required Correction.
- B. The Notice of Enforcement Conference (attached as Exhibit D) shall list the areas of non-compliance and inform the Provider of the date of the Enforcement Conference.
- C. Enforcement Conference.
  1. At the Enforcement Conference, the Compliance Team shall discuss the Provider's non-compliance and review all documentation supplied by the Provider.
  2. Pursuant to the Notice of Enforcement Conference, the Provider will be advised to bring all documentation related to the correction of the deficiencies and it may bring its counsel.
  3. If the Compliance Team and the Provider are unable to develop an agreed upon plan for compliance, the Compliance Team shall refer the matter to DHS' Division of Fiscal and Procurement Services and Office of Legal Affairs for assessment of enforcement.

D. Withholding of Funds/Reimbursements.

1. DHS can only seek reimbursements from OTDA for facilities that have received OTDA certification for either their Operational Plans or Operating Certificates, where applicable.
2. As referenced in IV. K(1) and L(1) of the Procedure, providers are required to comply with all applicable laws and regulations, including Part 900 Regulations for Families with Children facilities and Part 491 Regulations for Single Adult Facilities, including the requirement to obtain OTDA-certification to operate such facilities.
3. A Provider's failure to abide by the timeframes delineated in V.C.1 and C.2 of the Procedure will constitute a failure to perform services in compliance with the terms and conditions of the contract, where applicable, and will result in DHS' withholding of funds pursuant to §8.07 and §11.01 of Appendix A and §4-06(c)(3)(iv) of the PPB Rules, and a delay in DHS' submission for reimbursements to OTDA until the Provider complies with the Procedure.

E. Assessments.

1. As stated in Section II of the Procedure, DHS will utilize all means authorized by law to enforce this Procedure, its contracts, and the governing laws, codes, regulations and rules regarding the conditions of the shelters within the DHS portfolio.
2. An Operational Plan or Operating Certificate constitutes a required document to be maintained by the Provider subject to audit by the Agency pursuant to Section 5.04 of Appendix A.
3. In the event that the Conference Team and the Provider are unable to develop an agreed upon plan for compliance, and upon the Conference Team's referral to DHS' Division of Fiscal and Procurement Services and Office of Legal pursuant to VI.C.(3) of the Procedure, DHS shall conduct an audit of the Provider's operations of the Shelter and may issue a \$50 assessment fee to the Provider for each day the provider fails to submit its Operational Plan or Certificate in accordance with the timeframes delineated in IV.C.(1) and C.(2) of the Procedure.

**VII. MISCELLANEOUS**

Questions concerning this Procedure should be directed to the Deputy General Counsel for Operations & Legal Services or the Assistant Commissioner for Regulatory Compliance & Accountability.