


Subject	Applicable To	Effective Date
Shelter Inspection	All DHS Directly Operated or Funded Facilities/Programs Serving Homeless Individuals and Families, and DHS Staff	<b>March 3, 2015</b>

Administered By	Approved By
NYC DHS Divisions of Executive, Administration, Legal Affairs, Fiscal and Procurement Operations, Family Services, and Adult Services	 Gilbert Taylor, Commissioner

**I. INTRODUCTION**

- A. This document constitutes the Shelter Inspection Policy and Procedure (the “Procedure”) for the New York City Department of Homeless Services (the “Department” or “DHS”).

**II. DEFINITIONS**

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

- A. Corrective Action Plan. The term “Corrective Action Plan” or “CAP” shall mean a detailed proposal which lists deadlines for correcting or curing the deficiencies listed in a Routine Site Review Inspection (“RSRI”) and/or a Callahan or OTDA Inspection Report. The CAP may include evidence (e.g. photographs, invoices, etc.) which demonstrate the correction of conditions listed in the subject RSRI and/or Callahan or OTDA Inspection Report.
- B. Deficiencies. The term “Deficiencies” shall mean conditions which require correction. Categories describing deficiencies are delineated as follows:

RSRI DEFICIENCIES			
CATEGORY	DESIGNATION	DEADLINE FOR CORRECTION	DESCRIPTION
CATEGORY 1	SEVERE	24 hours	Electrical and plumbing systems - failures, extreme flooding, sparking wires, severe structural damage, no heat, lead paint, fire safety, sewer backups and related items.
CATEGORY 2	DEFECTIVE	30 days	Non-functioning light and toilet fixtures, holes in walls, minor leaks, problems with doors and locks, broken and missing tiles, and related items.
CATEGORY 3	NON-HAZARDOUS	60 days	Graffiti, broken and missing Tiles, etc.

- C. Compliance Team. “Compliance Team” or “Team” shall mean a group of staff designated by DHS (Division of Administration “Administration”, Office of Legal Affairs “Legal”, Fiscal and Procurement Services “Fiscal” or “ACCO”, and Family and Adult Services “Families” and “Adults”), the New York City Department of Housing Preservation and Development “HPD”, Department of Buildings “DOB” and the Fire Department of the City of New York “FDNY”.
- D. Enforcement Conference. The term “Enforcement Conference” shall mean a conference convened by the Compliance Team and issued pursuant to a Notice of Enforcement and Sections V and VI of this Procedure to enforce this Procedure, DHS contracts (if applicable) and the laws, codes, regulations and rules governing the provision of temporary housing assistance including but not limited to the Housing Maintenance, Building and Fire Codes.
- E. Law(s). The term “Law” or “Laws” shall mean the New York City Charter (“Charter”), the New York City Administration Code (“Admin. Code”), a local rule of the City of New York, the Constitutions of the United States of America and State of New York, a statute of the United States of America or State of New York and any ordinance, rule, or regulation having the force of law and adopted pursuant thereto, as amended, and common law.
- F. OTDA Inspection. The term “OTDA Inspection” shall mean an examination of a shelter conducted by OTDA pursuant to 18 NYCRR §§ 491 and 900 *et seq*, or 94 ADM 20.

- G. Provider. The term “Provider” shall mean any person, entity, or organization that provides shelter or operates a shelter on behalf of the Department.
- H. Routine Site Review Inspection. The term “Routine Site Review Inspection” or “RSRI” shall mean an examination conducted by the Department pursuant to Sections V and VI of this Procedure. An RSRI constitutes an inspection and an audit pursuant to Article V of the Human Services Standard Contract and Section 5.04 of Appendix A of the Human Services Standard Contract.
- I. 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 (contracted or not) utilized by the Department for the provision of THA.
- J. Temporary Housing. The term “Temporary Housing” or “TH” shall mean family shelters authorized by 18 NYCRR §900 or 352.(8)(a) &(b), §352.3(e) and §491.
- K. Temporary Housing Assistance. The term “Temporary Housing Assistance” or THA” refers shall mean a public assistance benefit provided temporarily for an eligible homeless individual or family to meet an immediate need for shelter.

### **III. REFERENCES**

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

- A. DHS Procedure No. 10-210 (Facility Access)
- B. 18 NYCRR § 352.3
- C. 18 NYCRR § 352.8
- D. 18NYCRR § 900 *et seq*, including by not limited to 18 NYCRR §§ 900.5, 900.11, and § 900.12
- E. 18 NYCRR § 491 *et seq*, including but not limited to 18 NYCRR § 491.10
- F. 94 ADM 20
- G. Human Services Standard Contract Section 1.01(I)
- H. 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 1.01(J), Section 5.04 (Audit), Section 8.07 (Withholding of Payments) and Section 13.04 (Compliance with Laws).
- I. Appendix B (Scope) for all DHS shelter contracts, including but not limited to:
  - 1. Section 2.03 (Applicable Standards), Section 4.07 (Recoupment of Disallowances, Improperly Incurred Costs and Overpayments and Article XIII (Environmental Standards).

J. Consent Decree, Callahan v. Carey (1981).

#### **IV. POLICY**

- A. With its providers, DHS provides THA to homeless individuals and families when needed. The 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.
- B. This Procedure delineates the practices and tools used by DHS to fulfill its obligation to provide homeless individuals and families with safe, habitable shelter which complies with all governing laws, codes, regulations and rules. However, 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.
- C. For purposes of enforcement, this Procedure applies to all shelters within the DHS system.

#### **V. RSRI INSPECTIONS**

##### **A. Purpose:**

- 1. The RSRI is DHS' primary tool to determine whether a shelter's physical environment is in compliance with the laws, codes, regulations and rules governing THA.
- 2. Additionally, the RSRI helps DHS evaluate the appropriateness and efficiency of the provider's use of City funds budgeted for the maintenance of a shelter.
- 3. Moreover, the RSRI assists DHS and the providers with identifying problematic building conditions (i.e. roofs, plumbing, HVAC) to prevent their premature failure.
- 4. Finally, the RSRI maximizes the utility of preventative maintenance to minimize the number of units being placed off-line.

##### **B. RSRI Framework:**

- 1. The RSRI contains 348 questions.
- 2. The RSRI Inspection Form has been attached to this Procedure as Exhibit A.
- 3. Each question is categorized into one of three areas: cleanliness, building integrity and management, as defined below in Section V.C.3(c) of this Procedure.

##### **C. Scoring Methodology:**

- 1. Point Methodology:

- a. Each individual RSRI question has a point structure. Questions are scored starting with an excellent receiving a score of 100 and an unsatisfactory receiving a “0”.
  - b. The RSRI generates two scores.
  - c. The first is the Shelter score which accounts for all 348 items.
  - d. The second is a Provider score.
  - e. Upon mutual, written agreement by both DHS and the Provider, designated questions may be eliminated from scoring due to items that are not classified as maintenance and repair items, but deemed capital projects. While these items are not *scored* for RSRI purposes, they are included as capital projects on the RSRI Inspection Report and the Provider shall deliver a capital plan to Administration.
  - f. Both the operator and the facility score are weighted as follows: 60% is for cleanliness, 30% for integrity and 10% for management.
2. Comprehensive Methodology:
- a. The responses to the questions of the RSRI are then ranked into one of four scores (excellent, very good, satisfactory and unsatisfactory) and categorized into one of three groups (cleanliness, integrity and management).
  - b. Questions that are marked not applicable are eliminated from the scoring system.
  - c. The following delineates the scoring methodology applied to all questions.

Scoring Guideline	Category Breakdown
<p><b><u>Excellent:</u></b> is a condition where a building, building component or individual item <i>performs as designed</i>. In the case of cleanliness, no dirt, debris or graffiti is discovered during the inspection for the item being scored.</p> <p><b><u>Very Good:</u></b> is a condition where a building, building component or individual item <i>needs minor repair</i>. In the case of cleanliness, minor dirt, debris or graffiti is discovered in parts of the facility during the inspection for the item being scored.</p> <p><b><u>Satisfactory:</u></b> is a condition where a building, building component or individual item performs as it is designed, but <i>needs repair</i> to make it 100% operational. In the case of cleanliness, some dirt, debris or graffiti is discovered in several areas during the inspection for the item being scored.</p> <p><b><u>Unsatisfactory:</u></b> is a condition where a</p>	<p><b><u>Cleanliness:</u></b> Inspectors look to see if the facility is free of dirt, debris, marks and stains. When looking at floors, it is being inspected for dirt, wax build-up and garbage. Walls and ceilings would include graffiti and stains from a variety of encounters; including water, food residue and foot prints. Windows would be checked for soot and general household dirt accumulations. In addition, kitchens are inspected for grease build-up.</p> <p><b><u>Structural Integrity:</u></b> Inspectors identify broken or worn items throughout the facility. Various items are inspected to determine if they are operational and/or missing. Examples of this would include water faucets, bathroom doors and partitions, door closures, window screens and guards, light switches and fixtures, and similar items.</p> <p><b><u>Management:</u></b> Inspectors review administrative logs and records that include</p>

<p>building, building component or individual item <i>needs major repair</i> in order to function or is <i>non-functional</i>. In the case of cleanliness, dirt, debris or graffiti is discovered in all parts the facility during the inspection for the item being scored.</p>	<p>fire drills, facility violations, budgets, headcount, recordkeeping related to inventory supplies and work order tickets, and various facility inspections required by the FDNY, Department of Buildings, New York State and other oversight agencies.</p>
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D. Relationship to VENDEX:

1. To convert the weighted score (numerical) to the equivalent VENDEX score, the following chart demonstrates the related values.
2. Approximately 13% of the overall VENDEX score is directly related to the RSRI average score for each building.

Numeric Score	VENDEX Score
>90	Excellent
81 – 90	Very Good
76 – 80	Satisfactory
<75	Unsatisfactory

E. Inspection Cycle:

1. The RSRI inspection cycle is performed semi-annually, in six month intervals with cycle one starting July through December, and cycle two from January through June or when directed by the Executive Office.
2. At the end of the fiscal year, the average score for each facility is generated and utilized for VENDEX evaluations.

F. Re-Inspection:

1. As discussed in Section II.C. of the Procedure, “Severe” or “Category 1” conditions must be corrected within 24 hours of the delivery of the RSRI Report. Providers must deliver to Administration a Certificate of Correction, executed by the Executive and Shelter Directors, within 3 business days from date of the delivery of the RSRI Report, unless the Department determines that the condition is so severe as to require correction prior to completing an RSRI report. Such determinations shall be made within the sole discretion of the Department.
2. Severe or Category 1 conditions will be re-inspected within 5 business days, from the date of delivery of the RSRI Report, to assess compliance.

G. Reporting:

1. Pre-Inspection Notices:

- a. DHS will make best efforts to contact the Shelter or Program Director prior to conducting an RSRI.
  - b. DHS reserves the right to inspect a shelter without prior notice.
  - c. The Provider must provide access to all parts of the building.
  - d. In the event that DHS conducts an inspection without prior notice, the Provider must provide access as soon as practicable.
2. The Inspection and RSRI Report:
- a. During the walkthrough, if an inspector identifies any condition that s/he deems severe, hazardous, or dangerous, s/he shall immediately stop the inspection and notify the Shelter Director and respective DHS Program Administrator of the condition.
  - b. The inspector will then remain on location until the Provider, landlord or agent has taken the action required to stabilize or minimize the risk of harm caused by or the condition and if practicable, correct the condition within 24 hours.
  - c. Upon completion of an RSRI, the inspector shall conduct an exit conference with the Shelter Director to provide feedback of her findings.
3. Post-Inspection Action and Notices:
- a. DHS Inspectors shall deliver a completed RSRI Report by regular and electronic mail to the Provider's Executive (or equivalent) and Shelter Directors within fourteen business days of the inspection date.
  - b. DHS Inspectors shall also deliver a copy of the RSRI report to the DHS Program Administrator and Assistant/Associate Commissioners of the applicable Program Division and the Division of Administration.
  - c. The Shelter Director is required to submit a CAP for any and all items which have been identified as unsatisfactory within fourteen business days from the date of the delivery of the RSRI report. The CAP must contain the signature of the Executive Director.
  - d. The Shelter Director shall copy its Executive Director and Chair of the Board when submitting a CAP to the Department.
  - e. The Executive and Shelter Directors shall deliver a Certification of Correction, which demonstrates the correction of conditions which are classified as "Severe" or "Category 1" within 3 business days.
  - f. Notice of Non-Compliance. DHS shall issue a Notice of Non-Compliance to providers who fail to deliver a CAP within the required timeframe. The Provider must deliver the required CAP within three business days from the date of Notice of Non-Compliance.

## **VI. SHELTER INSPECTION ENFORCEMENT**

- A. Notice of Enforcement. DHS shall issue a Notice of Enforcement to those providers who:
  1. fail to submit a CAP pursuant to a Notice of Non-Compliance, V.G.3.(e) of the Procedure, or

2. fail to demonstrate that they have properly corrected the conditions listed in the RSRI in accordance with V.G.3 and 3(d).
  3. fail to document compliance with the directives issued by DHS Legal with respect to an OTDA inspection.
- B. The Notice of Enforcement, which has been attached as Exhibit (B), shall list the outstanding items for correction or the areas of non-compliance and inform the provider of the date of an Enforcement Conference.
1. The Notice of Enforcement shall not address agreed upon conditions which require capital construction measures that have been identified and addressed in the CAP or other conditions where the Department has approved an extension of time required for repair. Such extensions are granted within the sole discretion of the Department. Instead, Administration shall monitor these matters as part of its project management portfolio.
- 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, the provider is advised to bring all documentation related to the correction of the deficiencies and it may bring its counsel.
  3. If the Team and the provider are unable to develop an agreed upon plan for compliance, the Team shall refer the matter to DHS' Division of Fiscal and Procurement Services and Office of Legal Affairs for assessment of enforcement mechanisms.
- D. Withholding and/or Recoupment of Funds:
1. As stated in Section IV.B. 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. Moreover, an RSRI, which examines both the physical plant and providers' records, constitutes an audit. *See* Section II.H of the Procedure.
  3. Upon Receipt of the RSRI, DHS' Audit Unit ("Audit") shall review the RSRI, include, clarify or amend findings if needed and certify the completion of its audit and issue its findings.
  4. Audit shall then determine if there has been an overpayment and calculate the amount for purposes or recoupment and/or withholding.



5. Audit shall deliver its findings to the applicable Program Division, the Agency Chief Contracting Officer or AACO, and Legal for enforcement of Audit's findings.
6. With respect to Notices of Enforcement generated by the failure of a provider to comply with directives issued for an OTDA Inspection, the Team shall refer the matter to Audit and Administration.
7. Audit in consultation with Administration shall conduct an audit of the provider's records regarding maintenance and repairs.
8. Audit shall then implement the procedure delineated in Sections VI.D(4)&(5) of the Procedure regarding the withholding and recoument of funds.

**VII. NO RE-ALLOCATION OF FUNDS DESIGNATED FOR MAINTENANCE OR CAPITAL REPAIRS**

- A. The re-allocation of funds designated for maintenance and/or capital repairs is prohibited without the explicit written authorization of the Deputy Commissioners for Fiscal and Administration and the General Counsel.

**VIII. MANDATORY LEASE REVIEW**

- A. All leases and site control documents must be reviewed by Administration, Legal and the Capacity, Planning and Development Divisions.