



James S. Oddo  
Commissioner

280 Broadway  
7<sup>th</sup> Floor  
New York, NY 10007  
[nyc.gov/buildings](http://nyc.gov/buildings)

+1 212 393 2001

February 9, 2024

Mr. David Schaeffer  
Audit Manager  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

**Re: Follow-up Audit – Oversight of the Department of Buildings’  
Construction Site Safety (2023-F-32)**

Dear Mr. Schaeffer:

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

The Department of Buildings (DOB) regulates the safe and lawful use of more than 1.1 million buildings and over 40,000 active construction sites under its jurisdiction by enforcing laws, including the City’s Construction Codes, Zoning Resolution and Energy Code, as well as the New York State Multiple Dwelling Law. The Department enforces compliance with these regulations and promotes public safety through its review and approval of building plans, permitting, licensing functions, and inspections.

DOB’s primary objective is promoting the safety of buildings and construction sites. The Department makes every effort to balance its multiple, competing priorities and mandates to conduct inspections and takes enforcement action where appropriate.

Of the initial 6 audit recommendations, two recommendations have been implemented, and one recommendation is partially implemented.

The following is the Department of Buildings’ (Department/DOB) response to the final audit report on DOB’s Oversight of Building Construction Site Safety (2023-F-32), which is a follow-up report on (2021-N-3).



## **Response to Recommendations**

**Recommendation 1:** “Ensure that the site inspection issues we identified are corrected.”

**Previous Agency’s Response:** *DOB agrees with this recommendation. DOB will perform site inspections or administrative reviews to confirm if the issues raised during your audit have been corrected.*

**Comptroller’s Status Update:** *Implemented*

### **Recommendation 2:**

“Create and implement policies and procedures to issue DOB Violations for failure to certify corrections of immediately hazardous conditions in a timely manner.”

**Previous Agency’s Response:** *The Department of Buildings has policies and procedures in place to facilitate the issuance of DOB Violations for failure to certify correction of immediately hazardous conditions consistent with Administrative Code Section 28-219 which requires re-inspections for certain Class 1 summonses and the issuance of the civil penalty at an appropriate interval.*

**Comptroller’s Status Update:** *Not Implemented*

### **DOB’s Response to Follow-up Audit:**

The Department partially agrees with this recommendation. The Department of Buildings has revised its policy on the issuance of Class I, Failure to Certify Corrections of Immediately Hazardous Condition Violations, from the previous 80 days from the date of service to 60 days from the date of service. This will significantly enhance the speed and efficiency with which DOB processes summonses.

**Note:** This is only applicable to Class 1 summonses issued at construction sites larger than four families.

### **Recommendation 3:**

“Ensure that overdue summonses are categorized as “Overdue Compliance” immediately after the summonses become overdue.”

### **Previous Agency’s Response:** :

*DOB agree with this recommendation and will explore the technical practicalities of implementation.*

**Comptroller’s Status Update:** *Not Implemented*

### **DOB’s Response to Follow-up Audit:**

The Department agrees with this recommendation.



DOB is in the process of replacing legacy applications. Once completed, this process will be incorporated into DOB NOW: Safety. This will be a phased-in process, and will incorporate this recommendation. Enhancements to summonses are scheduled for Phase 3. (Please see attached.)

**Recommendation 4:**

“Use DOB inspection, violation, and accident data as well as publicly available data to identify high-risk contractors and sites to proactively inspect.”

**Previous Agency Response:** *DOB partially agrees with this recommendation. DOB continues to conduct pro-active and complaint-based inspections at building construction sites and takes enforcement actions upon identifying non-compliance with site safety regulations and Chapter 33 of the Building Code.*

**Comptroller’s Status Update:** *Not implemented*

***DOB’s Response to Follow-up Audit:***

The Department partially agrees with this recommendation/findings, in that DOB contends that it uses various data in its decision-making process for all enforcement actions.

Currently, the Department of Buildings reviews a diverse range of data and indicators such as job filings, major incidents, and accident notifications. This multifaceted approach enables us to gain insights into the performance and practices of general contractors and construction sites. Serious accidents, injuries, and fatalities can also initiate proactive “sweeps” of specific contractors and construction sites.

Looking ahead, the Department plans to enhance its capacity for proactive action by developing a more robust information system. This system will not only collate and analyze existing data, but also identify potential risks and safety concerns before they escalate.

**Recommendation 5:**

“Develop and implement procedures, including coordinating with OSHA and other relevant agencies, to identify building construction site incidents.”

***DOB’s Original Response:***

*DOB agrees with this recommendation and will continue to work with OSHA and other NYC Agencies to identify building construction site incidents. In addition, DOB is organizing monthly meetings with OSHA to coordinate NYC incidents. Representatives from OSHA’s regional offices that are overseeing New York City will also be invited.*

**Comptroller’s Status Update:** *Partially Implemented.*

***DOB’s Response to Follow-up Audit:***

The Department agrees with this recommendation.



Construction Safety will review the OSHA published incident data on a monthly basis, and compare it with the DOB's data. All data will be synchronized between DOB and OSHA. It should be noted that there is an established monthly meeting with OSHA to share information.

DOB's Construction Safety Unit will perform follow-up site inspections, if necessary.

**Recommendation 6:**

"Follow up on incidents to ensure accurate reporting of injuries and fatalities at building construction sites."

**DOB's Original Response:** *DOB partially agrees with this recommendation as the Façade Unit already confirms the presence of public protection after each and every unsafe notification or unsafe compliance report for buildings over six stories. The Façade Unit confirms whether public protection is installed, if necessary, per the unsafe report or unsafe notification and takes enforcement action where appropriate. Ensuring that protection is installed, and that unsafe condition are corrected, is the responsibility of the property owner or other responsible party.*

**Comptroller's Status Update:** *Implemented*

We strongly value the dialogue between our offices and look forward to identifying ways we can continue to strengthen our system for the benefit of all New Yorkers. The agency's commitment to safety, combined with its innovative use of technology, positions it at the forefront of risk management in the construction industry. By continually refining its practices and embracing new technologies, the agency is setting a benchmark for safety standards industry-wide.

Sincerely,

A handwritten signature in blue ink that reads "James S. Oddo".

James S. Oddo  
Commissioner

- cc: Mark Sanabria, NYC Department of Buildings  
Maxim Pierre, NYC Department of Buildings  
Kerry Castro, NYC Department of Buildings  
Marjorie Landa, NYC Mayor's Office of Risk Management and Compliance  
Doug Giuliano, NYC Mayor's Office of Risk Management and Compliance

## AUDIT IMPLEMENTATION PLAN (AIP)

**AGENCY:** New York City Department of Buildings

**AUDIT TITLE AND NUMBER:** Follow Up on New York City Department of Buildings’ Audit - 2023-F-32  
Oversight of Building Construction Site Safety (Report 2021-N-3)

**DATE:** 1/18/2024

Audit Findings:	Recommendation:	Corrective Action:
<p>Based on issues raised in the previous audit (Report 2021-N-3), DOB has ensured that the conditions cited in 24 OATH summonses were either corrected or appropriately addressed.</p>	<p>Recommendation 1: “Ensure that the site inspection issues we identified are corrected.”</p> <p><b>Previous Agency’s Response:</b> <i>DOB agrees with this recommendation. DOB will perform site inspections or administrative reviews to confirm if the issues raised during your audit have been corrected.</i></p>	<p><b>Corrective Action:</b> The Department agrees with this recommendation in that it is current practice.</p> <p>DOB will continue to perform site inspections or administrative reviews to ensure that conditions cited are appropriately addressed or corrected.</p> <p><b>Status:</b> Implemented</p> <p><b>Implementation Date:</b> Standard procedure at the Department of Buildings</p>

## AUDIT IMPLEMENTATION PLAN (AIP)

**AGENCY:** New York City Department of Buildings

**AUDIT TITLE AND NUMBER:** Follow Up on New York City Department of Buildings’ Audit - 2023-F-32  
Oversight of Building Construction Site Safety (Report 2021-N-3)

**DATE:** 1/18/2024

Audit Findings:	Recommendation:	Corrective Action:
<p>DOB does not issue DOB Violations for failure to certify corrections of immediately hazardous conditions in a timely manner.</p>	<p><b><u>Recommendation 2:</u></b> “Create and implement policies and procedures to issue DOB Violations for failure to certify corrections of immediately hazardous conditions in a timely manner.”</p> <p><b>Previous Agency Response:</b> <i>The Department of Buildings has policies and procedures in place to facilitate the issuance of DOB Violations for failure to certify correction of immediately hazardous conditions consistent with Administrative Code Section 28-219 which requires re-inspections for certain Class 1 summonses and the issuance of the civil penalty at an appropriate interval.</i></p>	<p><b>Corrective Action:</b> The Department partially agrees with this recommendation.</p> <p>The Department of Buildings has revised its policy on the issuance of <u>Class I, Failure to Certify Corrections of Immediately Hazardous Condition Violations</u>, from the previous 80 days from the date of service to 60 days from the date of service. This will significantly enhance the speed and efficiency with which DOB processes summonses.</p> <p><b>Note:</b> This is only applicable to Class 1 summonses issued at construction sites larger than four families.</p> <p><b>Status:</b> Implemented</p> <p><b>Implementation Date:</b> January 1, 2024</p>

## AUDIT IMPLEMENTATION PLAN (AIP)

**AGENCY:** New York City Department of Buildings

**AUDIT TITLE AND NUMBER:** Follow Up on New York City Department of Buildings’ Audit - 2023-F-32  
Oversight of Building Construction Site Safety (Report 2021-N-3)

**DATE:** 1/18/2024

Audit Findings:	Recommendation:	Corrective Action:
<p>DOB did not demonstrate that overdue summonses are appropriately identified.</p>	<p><b><u>Recommendation 3:</u></b> “Ensure that overdue summonses are categorized as “Overdue Compliance” immediately after the summonses become overdue.”</p> <p><b>Previous Agency Response:</b> <i>DOB agree with this recommendation and will explore the technical practicalities of implementation.</i></p>	<p><b>Corrective Action:</b> The Department agrees with this recommendation.</p> <p>DOB is in the process of replacing legacy applications. Once completed, this process will be incorporated into DOB NOW: Safety.</p> <p><u>This will be a phased-in process, and will incorporate this recommendation.</u></p> <p><b>Status:</b> Partially Implemented</p> <p><b>Implementation Date:</b> TBD</p>

## AUDIT IMPLEMENTATION PLAN (AIP)

**AGENCY:** New York City Department of Buildings

**AUDIT TITLE AND NUMBER:** Follow Up on New York City Department of Buildings’ Audit - 2023-F-32  
Oversight of Building Construction Site Safety (Report 2021-N-3)

**DATE:** 1/18/2024

Audit Findings:	Recommendation:	Corrective Action:
<p>DOB does not analyze available data to proactively identify high-risk contractors and construction sites to inspect.</p>	<p><b><u>Recommendation 4:</u></b> “Use DOB inspection, violation, and accident data as well as publicly available data to identify high-risk contractors and sites to proactively inspect.”</p> <p><b>Previous Agency Response:</b> <i>DOB partially agrees with this recommendation. DOB continues to conduct pro-active and complaint-based inspections at building construction sites and takes enforcement actions upon identifying non-compliance with site safety regulations and Chapter 33 of the Building Code.</i></p>	<p><b>Corrective Action:</b> The Department partially agrees with this recommendation/finding.</p> <p>The Department contends that it uses various data in its decision-making process for all enforcement actions.</p> <p>To further the Department’s proactive measures, the agency is planning to develop a more robust information system.</p> <p>Additionally, DOB adheres to Section 28-105.12.8 of article 105 of chapter 1, title 28 of the Administrative Code of the city of New York and Chapter 33 of the NYC Building Code.</p> <p><b>Status:</b> Implemented</p> <p><b>Implementation Date:</b> <i>This is the current procedure at the Department of Buildings</i></p>



## AUDIT IMPLEMENTATION PLAN (AIP)

**AGENCY:** New York City Department of Buildings

**AUDIT TITLE AND NUMBER:** Follow Up on New York City Department of Buildings’ Audit - 2023-F-32  
Oversight of Building Construction Site Safety (Report 2021-N-3)

**DATE:** 1/18/2024

Audit Findings:	Recommendation:	Corrective Action:
<p>DOB officials were not aware of five construction-related incidents that resulted in injuries between September 1, 2022, and March 31, 2023, until we informed them.</p> <p>(We identified these additional injuries based on readily available public data. Once informed of these incidents, DOB took enforcement actions at all of these sites for failure to report an injury or fatality to DOB.)</p>	<p><b><u>Recommendation 5:</u></b> “Develop and implement procedures, including coordinating with OSHA and other relevant agencies, to identify building construction site incidents.”</p> <p><b>Previous Agency Response:</b> <i>DOB agrees with this recommendation and will continue to work with OSHA and other NYC Agencies to identify building construction site incidents. In addition, DOB is organizing monthly meetings with OSHA to coordinate NYC incidents. Representatives from OSHA’s regional offices that are overseeing New York City will also be invited.</i></p>	<p><b>Corrective Action:</b> The Department agrees with this recommendation.</p> <p>Construction Safety will review the OSHA published incident data on a monthly basis and compare it with the DOB’s data. All data will be synchronized between DOB and OSHA.</p> <p>DOB’s Construction Safety Unit will perform follow-up site inspections if necessary.</p> <p><b>Status:</b> Implemented</p> <p><b>Implementation Date:</b> January 2024</p>

## AUDIT IMPLEMENTATION PLAN (AIP)

**AGENCY:** New York City Department of Buildings

**AUDIT TITLE AND NUMBER:** Follow Up on New York City Department of Buildings’ Audit - 2023-F-32  
Oversight of Building Construction Site Safety (Report 2021-N-3)

**DATE:** 1/18/2024

Audit Findings:	Recommendation:	Corrective Action:
<p>DOB meets with OSHA officials monthly to discuss injuries and fatalities at building construction sites, including following up on the conditions of injured construction workers. DOB provided monthly meeting minutes, agendas, and attendance records to support these meetings.</p>	<p><b><u>Recommendation 6:</u></b> “Follow up on incidents to ensure accurate reporting of injuries and fatalities at building construction sites.”</p> <p><b>Previous Agency Response:</b> <i>DOB meets with OSHA officials monthly to discuss injuries and fatalities at building construction sites, including following up on the conditions of injured construction workers. DOB provided monthly meeting minutes, agendas, and attendance records to support these meetings.</i></p>	<p><b>Corrective Action:</b> The Department agrees with this recommendation.</p> <p>Construction Safety will review the OSHA published incident data on a monthly basis and compare it with the DOB’s data.</p> <p>All data will be synchronized between DOB and OSHA.</p> <p>DOB’s Construction Safety Unit will perform follow-up site inspection if necessary.</p> <p><b>Status:</b> Implemented</p> <p><b>Implementation Date:</b> January 2024</p>