

REVIEW
DEPARTMENT OF SOCIAL SERVICES
TEMPORARY ASSISTANCE DIVISION
SHELTER ALLOWANCE POLICIES AND PROCEDURES



ALBANY COUNTY COMPTROLLER'S OFFICE
ALBANY COUNTY COMPTROLLER
MICHAEL F. CONNERS, II
JULY 2010

Table of Contents

TABLE OF CONTENTS	2
EXECUTIVE SUMMARY	3
INTRODUCTION	3
OBJECTIVES	4
SCOPE & METHODOLOGY	4
EXAMINATION RESULTS	5
FINDINGS AND RECOMMENDATIONS - PUBLIC HOUSING AUTHORITY	5
FINDINGS AND RECOMMENDATIONS - PRIVATE LANDLORDS	7
FINDINGS AND RECOMMENDATIONS - CASHIER LOG REVIEW	16
SUMMARY	17
APPENDIX	18
DEPARTMENT RESPONSE TO AUDIT	21

EXECUTIVE SUMMARY

- 2082 total cash security payments totaling approximately \$1.2 million issued in 2008 and 2009.
- **DSS received back only \$7,463.28 out of \$1.2 million issued in cash security deposits over a two year period. These were from landlords who voluntarily sent back security deposits.**
- The agency did not adequately keep track of a million dollars worth of taxpayer money that was issued in cash securities to landlords
- Comptroller's staff reviewed a random sample of 60 cases representing \$41,271.28 of security deposits issued on behalf of recipients in need of shelter allowance. Staff also reviewed the cashier log and the associated cases for both years.
- Out of the 60 security deposits issued, 53 were recoverable by the department, only 1 deposit was recovered.
- **DSS only recovered \$353.00 of \$30,351.28 in overpayments to clients/landlords for 2008 and 2009. This is approximately a 1.2% recovery rate.** The remaining security deposits are not recoverable at this time due to the clients still residing in these locations.
- Albany County DSS faces the potential for continued enormous financial loss unless significant changes to the policies and procedures to the shelter allowance program are strengthened.
- There is little or no oversight to the shelter allowance program.
- DSS creates a climate of irresponsible behavior due to the lack of oversight and enforcement of cash security deposits for both clients and landlords.
- By their own admission in the exit interview, DSS states that no prior security deposits are recoverable from landlords or clients due to the fact that **no post inspections were done on any of the rentals.** Albany County cannot recover any past uncollected cash security deposits. DSS must conduct pre and post inspections to ensure recovery of taxpayer money used as security deposits.

INTRODUCTION

The Department of Social Services is responsible for providing temporary, supportive services to those eligible families and individuals who seek shelter allowance. Shelter allowance can include those who require a cash security deposit to secure a new residence. The private landlord will request rent and a security deposit as a guarantee before allowing a family or individual client to take possession of the dwelling. Under the New York State Temporary Assistance Administrative Directive 93-ADM-10 (ADM), there are three ways to guarantee security to the landlords under shelter allowance to help secure housing for those on Temporary Assistance (TA):

Security can be guaranteed in the following ways:

- A written Security Agreement letter must first attempt to secure a landlord or the landlord's agent against damages to the rental property caused by the recipient or for non-payment of rent. Note: this is the **only method** allowed by law to secure a public housing authority unit for those eligible under Temporary Assistance.
- The local Social Service District (SSD) can secure housing by depositing money into an escrow account, which is not under the control of the landlord or the landlord's agent.
- If a rental cannot be secured using the above two methods and other suitable permanent housing in the area cannot be secured, the SSD can issue a cash deposit to be held as security against the non-payment of rent or for damages caused by the applicant/recipient.

The Albany County Department of Social Services (DSS) has chosen to use the third method of providing a cash security deposit to the landlord unless the applicant/recipient is securing housing with a Public Housing Unit Authority.

During the period of January 1, 2008 to December 31, 2009 DSS has paid approximately \$1.2 million in cash security to landlords and public housing units. The ADM instructs the Social Service District on what is needed to regulate cash securities to both landlords and public housing.

OBJECTIVES

The examination objectives were to determine whether the Department of Social Services:

- Kept accurate accounting records of issued cash security deposits.
- Maintains a data base of issued and returned cash security from both landlord and client recoupment.
- Case files were maintained properly including signed security agreements, "Request for Return of Security Deposit" letter to landlords, CAMS (Cash Management System) overpayment, recoupment initiated in the budgets and notations in case files for returned cash security deposits from landlords.
- Conducts pre and post tenancy inspections.

SCOPE & METHODOLOGY

The scope of this examination covered fiscal years 2008 and 2009.

The Comptroller's Office looked at shelter allowance procedures from New York State Office of Temporary Assistance (OTDA) as well as DSS shelter allowance procedures. Staff reviewed the contracts and information governing the Rapid Rehousing Program which is federally funded and includes cash security deposits that would offset some of the county funds under the Temporary Assistance Program. Security Deposit payments issued from DSS were also reviewed. Staff interviewed the Deputy Commissioner and employees of the Accounting Division of DSS. Staff reviewed the case files and billing

system of a random selection of cases using Centraport (NYS imaging software), the New York State payment system - BICS (Benefit Issuance and Control System), and WMS (Welfare Management System). We were unable to obtain verification of security deposit refunds from CAMS as we were informed that they do not have a way to code and track returned security deposits. Lastly, we received the cashier log outlining cash security returns for 2008 and 2009. A portion of 2010 was included in the log. The OTDA sourcebook and 93-ADM-10 regulations are attached in the Appendix section of this document.

EXAMINATION RESULTS

Staff looked at the case files and the payment systems (WMS) of 38 public housing units and 22 private landlords, (60 cases). In 53 out of the 60 cases that were reviewed, money due to Albany County either from the recipient or the landlord, was not recovered.

The Department of Social Services (DSS) has severe weaknesses in its internal control procedures regarding the issuance and recovery of cash security deposits. When reviewing 60 cases totaling \$41,271.28 of issued cash securities only \$353.00 was recovered from either the landlord or the client. **During the examination period of 2008-2009 the Department of Social Services recovered less than 1% of the cash security deposits reviewed by the Albany County Comptroller's Office. DSS can only account for \$7,463.28 of security deposit refunds from landlords when over 1.2 million dollars was issued.**

FINDINGS AND RECOMMENDATIONS - PUBLIC HOUSING AUTHORITY

As per NYS OTDA regulations, a cash security is not issued to public housing authority units. In lieu of cash, a letter of security agreement is given to the authority. When the recipient vacates the premises leaving damages or unpaid rent the public housing authority can request payment up to the maximum amount of the security agreement.

During the examination period of 1/1/08 – 12/31/09, DSS did not track the number of guaranteed security letters issued to the clients placed by DSS with public housing authority units. They only accounted for the number of claims submitted by public housing authorities for payment. For the purposes of this examination, 38 public housing authority cases were reviewed where a cash security was issued to the public housing authority upon request.

Review of Files

Staff reviewed a total of 38 public housing authority payments:

- In 4 payments reviewed, there were no records found on the IEDR file imaging system even though the payments were authorized. When we requested the paper

case files for review, we were advised by the Deputy Commissioner that no paper case files exist, they are only on the IEDR imaging system.

- In 16 instances, payment was made without any proof of a request for payment from the Public Housing Authority.
- Comptroller's staff found 2 cases where the DSS examiner initiated recovery procedures from the recipient based on the public housing request for payment.
- Comptroller's staff found 5 cases where a cash security deposit was issued to private landlords for 'Section 8' housing but were paid under a public housing authority unit code set by OTDA. (Code 67) This code should only be used to track payments to public housing authority units.

Findings:

- 38 cases reviewed
- \$12, 685.28 issued in cash security claims for 2008-2009
- \$353.00 recovered from client recoupment
- 5 "Section Eight" cases were incorrectly coded by DSS as public housing units that were issued to private landlords, of those 5 payments:
 - \$1,718.08 issued in security deposits to Section 8 landlords
 - \$269.08 of the \$1,718.08 was an unrecovered/recouped. Resulting in:
 - **\$10,883.28 not recovered from clients**
- DSS does not track issued security agreements and their amounts given to public housing during any given year
- When a cash security is requested by a housing authority unit, there is an internal DSS memo explaining to the caseworker how to authorize the payment. While there is a procedure included in this memo instructing the case worker how to recoup from a client, our findings did not show that this was being followed. There is also no instruction to fill out a CAMS referral as this allows the accounting division to track security deposit over payments.

Recommendations:

- Create a database tracking issued guarantee letters to public housing authorities.
- Payments should not be authorized to any public housing authority units without a cash security letter and a written request substantiating the claim.
- All case files that have a cash security payment issued, should have a copy of the cash security letter with the written request for payment from the public housing unit authority.
- Recovery procedures from the client must be initiated in all cases where a cash security payment was issued to a public housing authority on behalf of a client.
- Any overpayment on opened or closed case files should have a CAMS referral in the case record. This would trigger the accounting departments' involvement to track the overpayment and initiate recovery on closed cases.

DSS Response: Please see the detailed response on page 21. All corrections made in the final copy.

DSS contends that 5 of the 38 cases “were part of Section 8 payments to public housing authorities for rent in private housing, not public housing units.”

Comptroller’s response: *These 5 cases were coded incorrectly by DSS as “payments to public housing units” Upon further review, one client moved to another residence and there was no attempt to recover that security deposit. Out of the other four, two cases are closed and two are currently open where the clients are still residing at the location where the last security deposit was issued.*

DSS also states, *“while we should not have provided cash security for their public housing units, those households continue to reside in public housing. Those deposits may be returned when the tenant vacates the apartment. Because these households still reside in their public housing units, these securities should not be included in the amounts that were not recovered.”*

Comptroller’s response: *93-ADM-10 states that cash security is **not to be** issued for public housing units. Of the five cases, one of the clients had moved and Albany County is entitled to the security deposit. The amount of \$269.08 is deducted from DSS figures.*

FINDINGS AND RECOMMENDATIONS - PRIVATE LANDLORDS

Albany County DSS has chosen to issue cash security deposits in lieu of a security agreement letter to private landlords for those clients on Temporary Assistance. In 2008 and 2009, 2082 payments for approximately \$1.15 million were issued by DSS to private landlords. For the purposes of this review, 22 files were reviewed where a cash security deposit was issued at the time of the client’s move.

Review of Files

Staff reviewed 22 case records and the related security deposit payments made to private landlords of which a total of \$28,586.00 was issued in cash security deposits.

Client #1 review of the case files:

Case closed (7-20-09)

Move #1

In 2009 the client moved to address #1. The landlord received a cash security for \$550.00 on 6/8/09 for the apartment. On 6/9/09, the next day, the client ended up in an emergency shelter. There was no explanation in the case file to indicate why cash security was issued to this landlord the day before the client became homeless. The worker sent out his or her own typed recovery letter to the landlord on 6/10/09. The worker did not use the agency recovery letter form.

Move #2

The client then found another apartment at address #2. The client submitted a moving package requesting cash security for address #2. The security was issued for the new move but there was no indication that recovery efforts were implemented for move #1 where a cash security was issued on 6/08/09 for \$475. In addition, there is no indication of a returned security from move #1.

Total unrecovered cash security: \$475.00

Client #2 review of the case files:

Case closed (11-19-08)

Move #1

The client was in an emergency shelter from 1/1/08 until 4/28/08. The client then moved to address #1. A cash security was issued to the landlord for \$450. There was no security agreement in the case file even though the cash security was issued to the landlord.

Move #2

The client moved again on 12/1/08 to address #2. and cash security was given to a new landlord for \$500 on 12/10/08. The landlord form for this move to address #1. shows the security was issued to a different name and vendor # than what was on the landlord form. There is no indication of any attempt to recover this cash security in the case record nor is there an explanation as to why the security went to a different landlord. In addition, there was no attempt to recover the cash security from the first move at Campus View. Auditors found a cash security letter for this different landlord in the file under correspondence not the shelter section. Based on the fact that Move #1 security was not recovered and Move # 2 security was issued to the incorrect landlord and no attempt was made to rectify this:

Total unrecovered cash security: \$950.00

Client #3 review of the case files:

Case closed (11-6-09)

The client application was dated 11/6/09. On 10/16/09, there is a letter in the case file from Albany Housing Authority (AHA). The letter indicated, in the permanent documentation section of the case record, an available apartment for this client at address #1. A security letter was given on 11/25/09 to Albany Housing but the print out that the Comptroller's staff received from DSS indicated that a security deposit was issued in the amount of \$697.00 to AHA. In other words, no cash security should have been issued. OTDA regulations require a security letter only. The case file has no indication of attempted recovery. The case record is incomplete in its permanent documentation.

Total unrecovered cash security: \$697.00

Client #4 review of the case files:

Case opened

The client had a landlord form dated 5/26/08 for an apartment at address #1 requiring security. The landlord form showed two amounts of \$550.00 and \$590.00 as rent. On 4/8/08 a security agreement letter was issued for a vendor not listed on the landlord form. The landlord form in the case file did not indicate what the security should be but on 5/7/08 a security deposit was issued to the landlord at \$590.00. On 1/29/09, a rental agreement in the case record was found for \$590.00 to the landlord of address #1.

Unrecovered cash security: \$0

Client #5 review of the case files:

Case opened

Move #1

The client requested a cash security for a move to address #1. On 3/30/09 there was a cash security deposit issued in the amount of \$655.00 to the landlord for this move.

Move #2

The client moved to address #2 requesting security for another landlord in the amount of \$750. The case record shows a cash security agreement for the \$750.00 but staff could not find the payment on the BIC's print out that DSS provided. The case file did not show any attempts in recovering the first cash security deposit after the second move, or the duplicate cash security from the first move.

Unrecovered cash security: \$655.00

Client #6 review of the case files:

Case opened

Move #1

The client requested security for a move to address #1. On 5/6/09, a cash security deposit was issued for \$691.00 to the landlord. No recovery methods in the case file were found for the cash security.

Move#2

The client moved again on 12/2/09 to address #2 requesting security for \$750. There is no record of any recovery from the previous landlord of the cash security given for address #1. when the client moved.

Unrecovered cash security: \$691.00

Client #7 review of the case files:

Case closed (9-11-09)

The client found an apartment in Troy, NY. On 10/7/09, there was a cash security deposit issued at \$450.00 to the landlord. There were no recovery efforts indicated.
Unrecovered cash security: \$450.00

**Client #8 review of the case files:
Case closed (2-22-10)**

The client moved and the landlord form did not list a moving address. Staff could not find a formal request for the cash security deposit. On 3/26/08, a cash security deposit was issued to the landlord for \$500.00. After the move, the client ended up at an emergency shelter. No recovery attempts were found in the case file.

Unrecovered cash security: \$500.00

**Client #9 review of the case files:
Case opened**

Move #1

The client moved to address #1. on 5/08. On 7/2/08, a cash security was issued in the amount of \$950.00 to the landlord.

Move #2

The client moved again to address #2 on 4/10/09 requesting a \$650 cash security deposit to the landlord. There is nothing in the case files showing any recovery efforts made for the prior cash security from move #1. The client wrote a note that her landlord wants her to leave the apartment on 6/1/09. The file does not indicate that the caseworker received written correspondence from the landlord for the client to vacate the residence.

Move #3

The client then found an apartment at address #3 requesting cash security of \$1,211 in 10/09. No recovery efforts were found in the case file for the previous two landlords.

Unrecovered cash security: \$1,600

**Client #10 review of the case files:
Case opened**

The client moved on 1/1/08 to address #1 in Coeymans. Cash security was issued in the amount of \$800.00 for this move on 3/24/08. Case currently open, no recovery needed at this time.

Unrecovered cash security: \$0

**Client #11 review of the case files:
Case closed (10-7-09)**

Move#1

On 12/07 the client found an apartment at address #1 and a cash security was issued for \$590.00 to the landlord. A review of the BICS prints for Cash Security shows this

landlord not only received \$590.00, but also received two other cash security deposits dated on 1/14/08 for \$295.00 and another on 1/14/08 for \$295.00 for the same case number. The client's rent terminated at that apartment on 2/31/08.

Move#2

On 3/1/08, a cash security deposit was signed and issued to the landlord of address #2. Cash security was issued for \$490.00 to the landlord on 4/28/08. In July 2008 the client ended up in an emergency shelter. There were no recovery efforts in the case file for either move.

Move#3

On 2/09 another move request was made for the client to relocate to address #3 with cash security agreement of \$550.00 to the landlord. On 9/09 the client ends up in a homeless shelter.

Move #4

On 10/09, the client finds an apartment at address #4 requesting a \$700 cash security deposit. There is no indication in the case file, after the client moved out the previous three times, of any recovery efforts.

Unrecovered cash security: \$2,920

DSS response: The draft document states the landlord "received two other cash security deposits" of \$295 each. The two additional payments referenced were the semi monthly issuance of their total rent of \$590. This was a coding error, not excessive security payments. Therefore, the \$590 should be subtracted from the \$26,491 total.

Comptrollers response: Upon further investigation to verify the response provided by DSS, staff found in the WMS issued voucher system that there was indeed two payments of \$295.00 each and a payment of \$590.00 all coded as security deposits for the month of 12/1/07-12/31/07. There was also a note in the file provided by DSS in their response showing that the first month's rent was prorated from 12/19/07-12/31/07 in the amount of \$255.58. This is also reflected in the WMS issued voucher system. We can conclude that since the first month's rent was noted in the file as prorated, there was a duplicate security deposit issued. (Screen prints below):

DATE 06/23/10
VOUCHER NUMBER X0184263 VENDOR ID [REDACTED]

LN #	CASE #	CIN	PAY STAT	TYP	PAY AMT	ADJUSTMT	RMT	AMT	SVC/BILL	PER
003	[REDACTED]		AUT	Q5	0590.00	0590.00	12/01/07-12/31/07			
004	[REDACTED]		AUT	10	0255.58	0255.58	12/19/07-12/31/07			

DATE 06/23/10
VOUCHER NUMBER X0184383 VENDOR ID [REDACTED]

LN #	CASE #	CIN	PAY STAT	TYP	PAY AMT	ADJUSTMT	RMT	AMT	SVC/BILL	PER
0004	[REDACTED]		AUT	Q5	0590.00	0590.00	12/01/07-12/31/07			

**Client #12 review of the case files:
Case closed (5-3-09)**

Move #1

The client requested a move to address #1 in Cohoes. A security deposit was issued on 2/1/08 in the amount of \$590.00 to the landlord. The client requested another move at the end of 2/08 and a recovery letter was issued to Landlord #1 for the security deposit. There was nothing in the case file indicating the security was returned by the landlord nor was there any indication that a recoupment was initiated from the client's budget.

Move#2

Client moved to Public Housing in Cohoes on 2/22/08 and a guarantee letter was issued for \$252.00.

Unrecovered cash security: \$590.00

**Client #13 review of the case files:
Case closed (3-31-09)**

On 2/10/09 client requested a move to an address in Troy. On 3/23/09 a cash security was issued to the landlord in the amount of \$1,000. There is nothing in the file to indicate any recovery effort was made.

Unrecovered cash security: \$1,000.00

Client #14 review of the case files:

Move #1

On 9/27/08, the client requested a move to address #1. The landlord was issued cash security in the amount of \$590.00.

Move#2

The client then requested another move and another cash security was issued in the amount of \$590.00 on 8/10/09.

Move#3

The client moved again and cash security was issued to Landlord #3 in the amount of \$590.00.

No records were found in the case files for these moves and no recovery efforts for the cash security deposits were found for move #1 and #2.

Unrecovered cash security: \$1,180.00

**Client #15 review of the case files:
Case closed (11-9-08)**

The client requested a move to address #1. Cash security was issued for \$400.00 to the landlord. On 11/24/08 another security was issued to the same landlord for an additional \$400. The file did not indicate any recovery efforts for the duplicate security issued.

*Please note that the case was closed on 11/9/08 and the cash securities were issued 10 and 15 days after this case was closed.

Unrecovered cash security: \$800.00

Client #16 review of the case files:

Case closed (8-31-09)

Move #1

On 4/08 the client requested moving expenses to address #1. Cash security of \$825.00 was issued the landlord.

Move #2

The client requested another move on 10/08 to address #2. Cash security was issued for \$1,000 to the landlord. No security agreement was found for this move in the case record.

Move #3

On 5/09 the client requested another move to address #3 in Schenectady. The landlord was issued a cash security of \$700. There file did not indicate any attempt to recoup the previous security deposits issued before the move to Schenectady.

Unrecovered cash security: \$1,825.00

Client # 17 Review of Case files:

Case closed (9-30-08)

On April 08, the client's mobile home was deemed uninhabitable by the town of Colonie and the client was placed in an emergency shelter. A letter for recovery of security was sent to the landlord of a trailer in the amount of \$1150.00 but according to cashier records obtained from the Deputy Commissioner of DSS, the deposit was never recovered and recoupment from the client was not initiated in the case files.

Move#2

On 5/08 the client found an apartment in Schenectady. Cash security was issued for \$400.00

Unrecovered cash security: \$1,150.00

Client #18 review of the case files:

Case closed (10-08-09)

The client found an apartment at address #1. Cash security was issued for \$625.00 with a cash security agreement. Sept. 09 the client ended in an emergency shelter.

There was nothing in the case file to indicate any recovery efforts for this cash security.

Unrecovered cash security: \$625.00

**Client #19 review of the case files:
Case closed (12-31-09)**

Move #1

The Client submitted paper work for a move on 10/18/09 to an apartment in Troy. A \$260.00 cash security was issued to the landlord. There is nothing in the case record that shows an approval of cash security or any agreement letter.

Move #2

Client moved to address #1 security was issued on 1/21/08 for \$525.00 to the landlord. Nothing was found in the case files indicating an attempt to recoup or recover the previous cash security.

Unrecovered cash security: \$260.00

**Client #20 review of the case files:
Case opened**

Move #1

On 8/25/08 a cash security deposit was issued to the landlord in the amount of \$750.00 for a move to address #1.

Move #2

The client moved again to address #2 requesting cash security of \$750.00.

Move #3

The client moved again to address #3 requesting a \$950 security that was issued on 9/2/09.

Move #4

Another move and security was issued on 12/30/09 for \$800.00 for an apartment at address #4. A recovery letter was found in the case file for address #3 only. However, according to cashier records obtained by staff, no cash security was returned.

Unrecovered cash security: \$2,450

**Client #21 review of the case files:
Case closed**

Move #1

The client moved to address #1 and cash security was issued on 12/29/08 to the landlord for \$650.00.

Move #2

The client moved to address #2. There was no moving package request in the case file, only a landlord's form was found. Cash security was issued to the landlord for \$650.00.

No evidence of recovery attempts for the security deposit for move #1.

Unrecovered cash security \$650.00

Client #22 review of the case files:

Case closed (11-6-09)

The client moved to address #1. and cash security was issued on 12/29/08 for \$550.00.

Client still resides at this address based on WMS records.

Unrecovered cash security: \$0

Findings

- **Total unrecovered/recouped Security Deposits in 22 cases reviewed: \$19,468.00**
- The Agency is in violation of OTDA rules and regulations by not using post tenancy inspection forms and not signing the pre-tenancy inspection forms.
- The Agency does not follow its own internal procedures to fully recover issued security deposits either from the landlord or the client.
- At the time of this examination, there was no Director in place to oversee the Temporary Assistance Division and as a result the department was overseen by the Deputy Commissioner.
- DSS does not consistently follow their own written procedures under shelter allowance for cash security deposits. They do not have written procedures for the tracking and recovery of cash security deposits. There is little oversight, if any, of the accounting process and recoupment process of cash security deposits.
- Recipients are not held accountable when damages and/or nonpayment of rent occurred and security was kept by the landlords.

Recommendations

- Cash deposits should be replaced with the Security Agreement form guaranteeing security when a tenant is moving from their residence, damage occurs, or tenant leaves without paying rent or:
- Cash deposits should be placed in a DSS owned escrow account set up by the Comptroller's Office that collects interest as per the OTDA regulations when issuing a guarantee letter.
- DSS should explore the possibility of contracting the recovery process to a private non for profit organization.
- Internal reviews must be performed of the case files to ensure that all required documents and approvals for cash security requests are current. This will aid case workers in the recovery of prior cash security deposits.

- The agency must use the both the pre-tenancy inspection form and the post tenancy inspection form. This will ensure the recovery of security deposits from a landlord. These forms must be filled out and signed by the landlord the tenant and DSS. The agency does not perform a post tenancy inspection. DSS must adhere to NYS OTDA requirements for the use of a post tenancy inspection form. This will ensure that the landlords “word only” is not taken for any claimed damages that were allegedly caused by the tenant.
- Any request for cash security deposits should not be approved for another move unless the post tenancy inspections for the prior residence have been resolved. The post inspection form must be done with the landlord and tenant upon leaving the residence. If the tenant’s whereabouts are unknown, DSS must complete the post tenancy inspection form.
- DSS should create a log of every cash security issued and if and how it was recovered.
- Any recovered cash securities should be noted in the case files.

***DSS response:** As a result of these errors in the draft document, the Comptroller’s total on page 15 of \$26,491 in unrecovered/unrecouped security deposits is inflated by the counting of \$8,657.42 in payments never issued. Therefore the correct total should be \$17,833.58.*

***Comptroller’s response:** All data that this review was based on, was provided by the Department of Social Services. During the exit interview, it was determined that this data, which was run though a program called “cognos” was “picked up incorrectly” and routinely duplicates payments. This information was not verified by DSS before it was given to audit staff, knowing that “cognos” has this flaw. Cognos duplicate payments reduced the unrecouped/unrecovered security deposits to \$19,468.00.*

FINDINGS AND RECOMMENDATIONS - CASHIER LOG REVIEW

Cashier Responsibility

Staff requested a copy of the cashier logs that are used to track cash security refunds from landlords. The Deputy Commissioner of DSS provided a spreadsheet in Microsoft Access which identifies 15 cases and \$7,463.28 in recovered security deposits for the two year review period. DSS does not have a procedure for notifying the case worker when a cash security payment is recovered by the cashier. The log provided in one case identifies a cash security refund assigned to “multiple clients” and the amount is \$471.00. No case numbers are assigned to this refund. Below is the examination of the case files associated with the log provided:

Review of Log

Staff received a printed database containing 29 checks from 15 landlords from 2008-2009 totaling \$7,463.28. Staff asked for the written procedures on the return of cash securities from landlords. The response given from the Deputy Commissioner via email was, “*I have checked with Accounting, TA and Legal. There appears to be a process that has not been committed to paper. When a check comes in from a landlord and it indicates that it is a repayment of a security, the TA workers make the appropriate case notation, reduces or eliminates any recoupment of the security deposit if imposed. The check is sent to accounting for recording and crediting.*” The analysis of the case files shows only one file out of 29 actually had a notation indicating that they received a check from the landlord.

Findings

- 1 file was properly notated; this check came directly to the DSS case worker
- 18 files were not found on the IEDR imaging system nor was there any comment sheets created if these were closed cases.
- 9 files had no comments regarding returned security even though the cashier logged the payment.
- 1 file was noted in the cashier log but had no file number attached

Based on the review of the case files pertaining to the cashier log it is likely that the cashier does not consistently notify the case workers when a landlord returns a cash security to the agency. In fact, the only file where there was a proper notation indicating that the security was returned, the case worker received the check from the landlord directly. This could cause problems in the future for the client. The recoupment process could be initiated reducing the client’s grant when the security has already been returned.

Recommendation:

- A system should be put in place where the cashier notifies the case worker that a cash security deposit was recovered.

DSS response: none

SUMMARY

The mission of the Albany County Department of Social Services is to “help people help themselves”*. The Department of Social Services issued \$1.2 million in cash securities in a two year period of time. There was little or no effort to track or recover this money and essentially the program was a checkbook to landlords. No post inspections have ever been done by the agency and therefore no previously issued security deposits Albany County is entitled to can ever be recovered. It could be surmised that the Agency treated

the issuance of cash securities as a “rent check” to secure housing and did not want to put forth the effort to recoup this money from landlords or clients.

Secondly, Comptroller’s staff was not given timely information when requested and/or received partial responses to requests while conducting this review. On many occasions, reminders had to be sent several times to obtain information previously requested.

Clients that cause damages or do not pay their rent face no consequences from Albany County DSS when there are state guidelines in place to deal with these issues. By utilizing a post tenancy inspection form and holding the client responsible for damages or lack of payment of rent, the client will realize that they play a role in the upkeep of their residency and the landlord/tenant relation. If there is no oversight of this program and the client is not held responsible for their own housing, DSS will never fulfill their full mission.

APPENDIX

OTDA REGULATIONS:

According to NYS Office of Temporary Disability Assistance (OTDA) **93-ADM-10**[†], whenever a cash security deposit is issued, the landlord or the landlord’s agent and SSD should sign an agreement detailing the conditions under which the cash deposit can be kept by the landlord or the landlord’s agent and the conditions under which it must be returned to the SSD.

The OTDA sourcebook[‡] states: while there is not a state mandated security agreement form, certain elements should be contained in any security agreement form used by a local district. They must include but would not be limited to:

- The date of the agreement; the name and address of the landlord or the landlord's agent;
- Identification of the premises subject to the agreement;
- The amount of money the agreement represents;
- The conditions under which the local district would make payment under the agreement (i.e., nonpayment of rent and client caused damages); The conditions under which the local district would not make payment under the agreement (i.e., loss of rent due to client vacating premises without notice);
- The name and address of the local district representative to whom request for payment should be made;
- The procedures a local district will use before a claim is paid (i.e., an investigation of the apartment for damages);
- The client case name and number;
- The time limit in which a claim must be submitted (i.e., 15 days after client vacates premises); How long the agreement is binding after the client’s TA case

closes. For example, six months after the case is closed might be a reasonable time period. This would allow the landlord or the landlord's agent time in which to obtain a cash security deposit from the client (in installments if necessary) to replace the security agreement.

OTDA **93-ADM-10** also outlines recovery and recoupment of cash deposits:

3. Recovery/Recoupment of Cash Deposits, or Money Paid as a Result of an Agreement or Escrow Account.

Recoupment from Client

(1) Non-Payment of shelter- allowance (advance rent).

If, as a result of non-payment of the shelter allowance, the landlord or the landlord's agent keeps all or part of the cash deposit, or if money must be paid to the landlord or the landlord's agent as a result of an agreement, any such amount must be considered to be an overpayment to the client, and recovered or recouped.

Client caused Damages.

When a landlord or the landlord's agent keeps all or part of a cash deposit for client caused damages or an SSD pays money to the landlord or the landlord's agent for damages under an agreement, **any such amount must be considered an overpayment and must be recouped or recovered from the client.**

However, the SSD can only recover from the client if it has conducted, or arranged for, a pre-tenancy and post-tenancy inspection or survey of the premises. The SSD must note and record the condition of the premises during the pre-tenancy inspection. This record must be signed and agreed to by the landlord or the landlord's agent, client and SSD representative. If the post-tenancy inspection shows no damages caused by the client, then cash must not be issued or, if a cash deposit has been issued and the landlord or the landlord's agent keeps it for alleged damages, recoupment/recovery cannot be initiated against the client.

b. Recovery from landlords or their Agents

Article 7 of the General Obligations Law allows landlords or their agents to require security against a tenant's break of a lease or rental agreement. A lease or rental agreement is between the landlord or the landlord's agent and the tenant only. Article 7 also requires landlords or their agents to deposit any money received as a security deposit in a bank or trust company not to be comingled with other funds or to become an asset of the landlord or the landlord's agent. This law provides that until the cash is kept by the landlord or the landlord's agent according to the terms of the lease or agreement (i.e. tenant moves owing rent),

the security and any interest that accrues continues to be the money of the person making the deposit. In the case of an SSD paying cash deposit, the cash deposit continues to be the money of the SSD until it is kept by the landlord or the landlord's agent for on-payment of rent or damages caused to rental property by the client.

SSDs that pay cash deposits must make "diligent efforts" to recover such deposits from the landlords or their agents who keep them in violation of law.

Examples of when a landlord or a landlord's agent keeps a cash deposit in violation of law would include instances where:

- Pre-tenancy and post-tenancy inspections do not confirm a landlord's or the landlord's agent's claims for client caused damages
- The SSD has verification that rent was paid for the period client resided in an apartment and the landlord or the landlord's agent claims unpaid rent. The landlord or the landlord's agent keeps the cash deposit for reasons other than those stated in the letter of agreement between the SSD and the landlord or the landlord's agent
- The SSD has verification that the landlord or the landlord's agent commingled the cash deposit with other funds
- The rent was not paid because of a legitimate landlord/tenant dispute, a rent strike or as a result of the application of the Spiegel Act and the landlord has retained the cash deposit.

"Diligent Efforts" would include such measures as:

- Sending letters to the landlord or the landlord's agent requesting return of the cash deposit held in violation of law;
- Referring the matter to a collection agency;
- Suing the landlord or the landlord's agent.

DEPARTMENT RESPONSE TO AUDIT

MEMORANDUM

Albany County Department of Social Services

TO: Michael F. Conners, II

FROM: David Kircher, Deputy Commissioner

DATE: June 11, 2010

SUBJECT: Response to draft review of *The Department of Social Services Temporary Assistance Division Home Establishment Policies and Procedures*.

The Department of Social Services has reviewed the Comptroller's Office draft of its review of the *Temporary Assistance Division's Home Establishment Policies and Procedures*. The Comptroller's review encompasses the issuance of cash security payments to landlords for the period of 2008 and 2009. The Department issues security payments to ensure housing for the County's most vulnerable and needy residents, and welcomes this review of our procedures, policies and practices.

As indicated in the draft, the Comptroller requested data in January 2010 on all cash security payments issued to private landlords and public housing authorities during 2008 and 2009. The Department sought the assistance of NYS OTDA for the retrieval and development of a data report listing the payments. The OTDA created spreadsheet was used by the Comptroller to select the cases that would be audited. The Comptroller's document indicates that their findings are based on an audit of *every* payment made to public housing authorities, totaling thirty eight (38) payments in 2008 and 2009. The Comptroller also audited cash security payments issued to private landlords during the same timeframe. The OTDA spreadsheet listed a total of 2,040 payments during the two audit years of which 22 payments were selected for review. The Comptroller's Draft Review was submitted to the Department for comment on May 27 with a return date of June 11th. The Department has reviewed the draft document and offers the following comments and rebuttal.

1. The references to "Home Establishment" are incorrect.

The cover sheet, *Executive Summary* and *Introduction* of the review use the term "home establishment" when referring to the payment of security. This is incorrect. "Home establishment" refers to the purchase of furnishings for a home. Specifically, 18 NYCRR Section 352.7 reads:

Allowances and grants for other items of need.

(a) Furnishings. (1) If provision therefor cannot otherwise be made, each social services district shall provide for the purchase of necessary and essential furniture, furnishings, equipment and supplies required for the establishment of a home for persons in need of public assistance.

Security deposits are actually a form of shelter allowance, not “home establishment”. The Comptroller’s review should refer to 18NYCRR Section 352.6:

Miscellaneous shelter allowances and grants....(2) A security deposit and/or brokers' or finders' fees shall be provided only when an applicant or recipient is unable to obtain a suitable vacancy without payment of such allowances.

We, respectfully, suggest that for clarity and accuracy the references to ‘home establishment’ be removed.

2. Public Housing Authority findings (Pages 6 & 7)

The draft document states that over the two year period “\$12,685.28 issued in cash security” to public housing authorities and “\$12,332.28 not recovered from client”. The Department argues that both these figures are inaccurate.

Five (5) of the 38 cases reviewed by the Comptroller were cash security payments that were part of Section 8 payments to public housing authorities for rent in *private housing*, not public housing units. On page 6 of the draft document, it states that a cash security is not to be issued to a “public housing authority”. This is not accurate; 93-ADM-10 states that cash security is not to be issued for “public housing units”. The total amount for these five (5) cases is \$1718.00. Therefore the correct amount of the total cash security issued over two years should be \$10,614.28.

For four (4) of the 38 cases, while we should not have provided cash security for their public housing units, those households continue to reside in public housing. Those deposits may be returned when the tenant vacates the apartment. Because these households still reside in their public housing units, these securities should not be included in the amounts that were not recovered. The total amount for these four (4) cases is \$1,406.00. Therefore, the correct amount of the cash security not recovered should be \$9,208.28.

Although we disagree with the actual dollar amounts in the Comptroller’s findings, the Department acknowledges that it erred in issuing cash payments for some households in public housing units and will take steps to ensure that the State policy is correctly applied in all future cases.

3. Private landlord review of files and findings (Pages 8 – 15)

Upon a detailed examination of each of the 22 private landlord cases selected, the Department has discovered that the Comptroller’s total on page 15 of \$26,491 in cash security deposits is inaccurate.

The draft report incorrectly cites the Department issuing duplicate security deposits for 13 of the 22 cases (*Case #3; Case #4; Case #5 Move #1; Case #6 Move #1; Case #7; Case #8; Case #10; Case #12, Move #1; Case #13; Case #18; Case #19, Move #2; Case # 21, Move #2; Case # 22*)

The spreadsheet from OTDA used by the Comptroller's auditors (incorrectly referred to in the draft document as a BICS printout) does appear to indicate two payments. However, the spreadsheet also reflects that both "payments" have the same date and check number. That duplication prompted the Department to look further into the Welfare Management System (WMS). Attached to this response is proof from BICS that, in fact, only one check was issued in the cases listed above. We would like to note that the Comptroller's auditors were given full access to this system and at no time did they inquire to the Department about this duplication. The Department submits that no duplication of payment occurred.

The total of these OTDA spreadsheet errs is \$8067.00 and should be subtracted from the \$26,491 total.

Case #11, Move #1 (page 11): The draft document states the landlord "received two other cash security deposits" of \$295 each. The two additional payments referenced were the semi monthly issuance of their total rent of \$590. This was a coding error, not excessive security payments. Therefore, the \$590 should be subtracted from the \$26,491 total.

Case #16, Move #1 (page 13): The draft document states that cash security "of \$412.50 was issued twice" to the landlord. In this case, the security amount for the apartment was actually \$825; issued in two equal payments of \$412.50. While this does not impact the total dollars in the Comptroller's findings, the Department did not erroneously issue a duplicate security payment as the draft document implies.

As a result of these errors in the draft document, the Comptroller's total on page 15 of \$26,491 in unrecovered/unrecouped security deposits is inflated by the counting of \$8,657.42 in payments never issued. Therefore the correct total should be \$17,833.58.

Summary

The Department agrees that our process for handling securities was ineffective and not aligned with State Regulations. The Comptroller's audit, though flawed, focuses our attention on an area where we can and will do better. The Department has already taken steps to improve our performance in this area. We have reminded staff about the rules regarding security for public housing units, and strengthened our supervisory review procedures. We've also included with this response our revised protocol which will provide safeguards and controls to ensure that repayments are made by landlords when required and that recoupments are implemented and tracked. A post-inspection procedure is currently being developed as part of our recoupment process.

In April we began exploring how other local social services districts handle security deposits in their counties. From this review we decided to pursue an “agreement in lieu of cash” program, although historically private landlords in our county have refused to ensure housing for temporary assistance households without cash security. We have had discussions with the Department of General Services to assist us with conducting post-inspections as part of this initiative. Recently, our Temporary Assistance Director began meeting with landlords to gauge their interest in participating in this initiative. So far we have had some limited success in finding willing landlords, with whom we plan to begin a pilot “agreement in lieu of cash” program.

* <http://www.albanycounty.com/countybudget/2009/volumeI/AFundDepts/socialservices.pdf> ; p 164.

† <http://www.otda.state.ny.us/MAIN/directives/1993/>

‡

http://search.state.ny.us/search?q=cache:kQ_SEWDo2HsJ:www.otda.state.ny.us/main/ta/tasb.pdf+CHAPTER+17:+SHELTER&output=xml_no_dtd&ie=UTF-8&client=otda_frontend&proxystylesheet=otda_frontend&site=otda_collection&access=p&oe=UTF-8