

1 RCNY §11-01

CHAPTER 11 ELEVATORS, ESCALATORS, PERSONNEL HOISTS AND MOVING WALKS

§11-01 Rules for the Certification and Qualification of Private Elevator Inspection Agencies and for the Performance of Inspections and Filing of Inspection Reports for Elevators and Escalators by such Agencies.

(a) *Certificates of approval for agency directors.* (1) A Certificate of Approval for an agency director shall be the written authorization of the commissioner to an individual who shall be the responsible representative of an entity, who carries on her, his or its business as an independent contractor that witnesses tests and inspects elevators, escalators and related equipment. Each private elevator inspection agency shall have one or more directors who supervise the operations of the agency and hold a certificate of approval from the Department of Buildings.

(2) In order to be granted an agency director's certificate of approval, an applicant must:

(i) have a minimum of ten (10) years of experience within the last fifteen (15) years immediately preceding the date of the application for a Certificate of Approval, or a minimum of five (5) years experience within the last seven (7) years immediately preceding the date of the application for a Certificate of Approval if applicant is a New York State licensed Professional Engineer or Registered Architect, in the supervision of the assembly, installation, maintenance, repair, design or inspection of elevators; and

(ii) demonstrate to the commissioner's satisfaction, including performance on any written or oral tests the Commissioner may require, that the applicant is sufficiently familiar with the construction and maintenance of elevators, escalators and related equipment within the provisions of Subchapter 18 of Chapter 1 of Title 27 of the Administrative Code and Reference Standard 18; and

(iii) demonstrate to the commissioner's satisfaction that the applicant is of good moral character so as not to adversely impact upon his or her fitness to conduct a private elevator inspection agency; and

(iv) furnish payment to the Department for the actual cost of conducting a background investigation of the applicant.

(3) The applicant must complete such questionnaires and provide such supporting data as the commissioner may require including but not limited to a Private Elevator Inspection Qualification/Background form ("qualification/background form") provided by the Department of Buildings which describes, among other things, the applicant's required experience history as follows: job title or capacity of employment; license, if any; name and address of each employer; length of service for each employer; and any criminal convictions. The applicant shall then submit the completed qualification/ background form to the Licensing Division.

(4) Prior to the department's issuance of a certificate of approval for the agency director, the applicant shall submit the following to the Licensing Division;

(i) the completed qualification/background form and supporting data as the commissioner may require;

(ii) the filing fee specified in §26-213(c)(a) of the Administrative Code and the actual cost of conducting a background investigation of the applicant;

(iii) a copy of the inspection agency's general liability insurance policy for the amount of one million dollars (\$1,000,000), with coverage provided for the term of the certificate of approval naming the New York City Department of Buildings, Licensing Division as an additional insured on said insurance certificate;

(iv) documentation indicating compliance with the provisions of the New York State Worker's Compensation Law; and

(i) a current business address, which the applicant is responsible for keeping updated.

(5) After the applicant has complied with paragraphs 1 through 4 above, the department shall issue to the applicant an agency Director's Certificate of Approval. The preceding provisions notwithstanding, the commissioner may refuse to issue such a Certificate of Approval for any of the reasons specified as a grounds for revocation or suspension set forth in subsection

(e) below. Each agency director shall supervise the operations of only one private elevator inspection agency.

(b) *Certificates of approval for agency inspectors.* (1) A Certificate of Approval for an inspector shall be the written authorization of the commissioner to an individual to conduct periodic inspections of elevators, escalators and related equipment and who shall be employed and supervised by a director who holds a Certificate of Approval from the Department of Buildings or who shall be employed by a person or entity who carries on her, his or its business as an independent contractor to witness tests and inspect elevators, escalators and related equipment. Every inspector employed by a private elevator inspection agency shall hold a certificate of approval from the Department of Buildings.

(2) In order to be granted an inspectors' certificate of approval, an applicant must:

(i) have a minimum of five (5) years of satisfactory experience, within the last seven (7) years immediately preceding the date of application to a certificate of approval, in the assembly, installation, repair, design, or inspection of elevators, or as an elevator mechanic;

(ii) demonstrate to the commissioner's satisfaction, including performance on any written or oral tests the Commissioner may require, that the applicant is sufficiently familiar with the construction and maintenance of elevators, escalators and related equipment within the provisions of Subchapter 18 of Chapter 1 of Title 27 of the Administrative Code and Reference Standard 18; and

(iii) demonstrate to the commissioner's satisfaction that the applicant is of good moral character so as not to adversely impact upon his or her fitness to conduct elevator inspection; and

(iv) complete a questionnaire and provide supporting data as the commissioner may require; and

- (v) furnish payment to the Department for the actual cost of conducting a background investigation of the applicant.
- (3) The applicant must complete such questionnaires and provide such supporting data as the commissioner may require including but not limited to a Private Elevator Inspection Qualification/Background form ("qualification/background form") provided by the Department of Buildings which describes the applicant's required experience history as follows: job title or capacity of employment; license, if any; name and address of each employer; length of service for each employer; and any criminal convictions. The applicant shall then submit the completed qualification/ background form to the Licensing Division.
- (4) Prior to the department's issuance of a certificate of approval for an agency inspector, the applicant shall submit the following to the Licensing Division:
- (i) the completed qualification/background form and supporting data as the commissioner may require;
 - (ii) the filing fee specified in §26-213(c)(a) of the Administrative Code and the actual cost of conducting a background investigation of the applicant;
 - (iii) a current business address, which the applicant is responsible for keeping updated.
- (5) After the applicant has complied with paragraphs 1 through 4 above, the department shall issue to the applicant an agency inspector's certificate of approval. The preceding provisions notwithstanding, the commissioner may refuse to issue such a Certificate of Approval for any of the reasons specified as a grounds for revocation or suspension set forth in subsection (e) below. Private elevator inspectors who are employed by more than one private elevator inspection agency must have a certificate of approval for each agency by which they are employed. In such cases, an inspector shall submit a separate qualification/background form and pay a separate filing fee for each agency by which he or she is employed.

(c) *Department listings of private inspection agencies.* (1) Each private inspection agency shall furnish the Department of Buildings, Licensing Division with a list of directors and inspectors, its certificate of approval numbers, a complete table of organization(s), including identification of persons or titles, and a current business address. This information shall be set forth on letterhead bearing the name and address of the private elevator inspection agency.

(2) Notification of any changes in the information required to be furnished to the Department by subsection (c)(1) shall be sent to the Licensing Division by certified mail within five (5) days of the change.

(3) All private inspection agencies must have a legal place of business within the City of New York. A post office box in New York City is not acceptable.

(d) *Renewal of Certificates.* (1) Every certificate of approval provided for in this section shall be renewed in person within thirty (30) days prior to its December 31 expiration date.

(2) Prior to the renewal of a certificate of approval for an agency director, the director shall submit the following to the Department of Buildings Licensing Division:

- (i) the renewal fee specified in §26-213(c)(a) of the Administrative Code; and
- (ii) a copy of the inspection agency's general liability insurance policy for the amount of one million dollars (\$1,000,000), with coverage provided for the renewal term of the director's certificate of approval, naming the New York City Department of Buildings, Licensing Division as an additional insured on said insurance certificate; and
- (iii) documentation indicating compliance with the provisions of the New York State Worker's Compensation Law; and
- (iv) documentation demonstrating to the commissioner's satisfaction that the applicant continues to be of good moral character so as not to adversely impact upon his or her fitness to conduct a private elevator inspection agency.

(3) Prior to the renewal of a certificate of approval for an agency inspector, the inspector shall submit to the Department of Buildings, Licensing Division:

- (i) the renewal fee specified in §26-213(c)(a) of the Administrative Code; and
- (ii) documentation demonstrating to the commissioner's satisfaction that the applicant continues to be of good moral character so as not to adversely impact upon his or her fitness to conduct elevator inspections.

(4) After the director or inspector has complied with the requirements stated above, the department shall issue a renewal of the director's or inspector's certificate of approval. The preceding provisions notwithstanding, the commissioner may refuse to issue a renewal of a director's or inspector's Certificate of Approval for any of the reasons specified as a grounds for revocation or suspension set forth in subsection (e) below.

(5) Agency directors and inspectors not renewing their certificates of approval by December first of each year shall be subject to the late fee specified §26-213(c)(b) of the Administrative Code. Those agency directors and inspectors not renewing their certificates of approval by January 1 shall be suspended until the applicable late fees are paid. In the event a director or inspector's certificate of approval has lapsed for a period of five (5) years or more, the director or inspector must submit to the Department and follow the procedures for a new application.

(e) *Suspension or revocation of agency directors' or inspectors' certificates.*

(1) The commissioner or his or her designee may suspend or revoke an Agency Director's or Inspector's Certificate of Approval or impose a fine not to exceed five thousand dollars upon a finding of any of the following:

- (i) fraud or deceit in obtaining a Certificate of Approval or renewal thereof;
- (ii) the making of a false or misleading statement on any form or report filed with the Department or failure to file a statement, report or form required by the law of [sic] the Department;

- (iii) the willful impeding or obstruction of the filing of a statement, report or form of another;
 - (iv) fraudulent dealings;
 - (v) negligence, incompetence, lack of knowledge of the Building Code, or disregard for the Building Code, as demonstrated in the performance of elevator inspections or the submission of any form or report filed with the Department;
 - (vi) exhibiting a practice of failing to timely or properly carry out the inspection of elevators;
 - (vii) engaging or assisting in any act that endangers the public safety and welfare;
 - (viii) failure to comply with or abide by an order of the commissioner;
 - (ix) in the case of an agency Director, delegating inspectorial duties to a person who the agency director knows or has reason to know is not qualified to inspect elevators;
 - (x) poor moral character that adversely impacts upon the individual's fitness to conduct a private elevator inspection agency or elevator inspections;
 - (xi) the conviction for a criminal offense where the underlying act arises out of that individual's professional dealings with the City of New York or with any other governmental entity;
 - (xii) engaging in any other conduct evidencing a willful or negligent failure to comply with provisions of federal, state or local law, or rules or regulations promulgated pursuant to statutory authority;
- one or more violations of any provisions of Title 26, Chapter One of [sic] Title 27, Chapter One of the Administrative Code or rules adopted pursuant to such provisions related to elevator inspections.
- (2) Where the commissioner or his or her designee, in his or her discretion, deems that there is probable cause to believe that the Certificate of Approval of the agency director and/or inspector should be suspended or revoked or that the director and/or inspector should be fined, unless otherwise provided, charges shall be preferred by the Department's IAD Unit and served by mail upon the appropriate party. The director and/or inspector shall be entitled to a hearing before the Office of Administrative Trials and Hearings, to be held in accordance with the provisions of Title 48 of the Rules of the City of New York, as provided by rules promulgated by the Department.
- (3) Where the commissioner or his or her designee, in his or her discretion, deems that there is probable cause to believe that the continued Certificate of Approval of the agency director and/or inspector will create a condition of imminent peril to public safety, the suspension or revocation shall be effective immediately pending a hearing to be held as soon as practicable in light of the circumstances before the Office of Administrative Trials and Hearings.