



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
www.chicityclerk.com

## Legislation Details (With Text)

**File #:** F2014-53  
**Type:** Report  
**Status:** Placed on File  
**File created:** 6/25/2014  
**In control:** City Council  
**Final action:** 6/25/2014  
**Title:** Inspector General's report regarding Department of Streets and Sanitation Garbage Ordinance Enforcement Audit  
**Sponsors:** Dept./Agency  
**Indexes:** Miscellaneous  
**Attachments:** 1. F2014-53.pdf

Date	Ver.	Action By	Action	Result
6/25/2014	1	City Council	Placed on File	

## Office of Inspector General *City of Chicago*

11 Ciii' \*

### *Report of the Office of Inspector General:*

\*\*\*\*\*

*Department of Streets and Sanitation  
Garbage Ordinance Enforcement Audit*

.- o rn "">

o

r> ■-i

rn 7.!: rrj

€3

866-IG-TIPLINE (866-448-4754) [www.chicagoinspectoreeneral.org](http://www.chicagoinspectoreeneral.org)

*Joseph M. Kergusson Inspector General*

## **OFFICE OF INSPECTOR GENERAL**

*City of Chicago*

740 N. Sedgwick Street, Suite 200 Chicago, Illinois 60654 Telephone: (773)  
478-7799 Fax: (773)478-3949

June 20, 2014

To the Mayor, Members of the City Council, City Clerk, City Treasurer, and residents of the City of Chicago:

The City of Chicago Office of Inspector General (OIG) has completed an audit of the Department of Streets and Sanitation's (DSS) enforcement of certain service eligibility restrictions in the DSS ordinance, Municipal Code of Chicago (MCC) § 7-28-240. OIG reviewed DSS garbage service to multi-unit dwellings covered by the ordinance's "grandfather" clause and DSS garbage service to specific not-for-profit organizations. The combined impact of these services is the expenditure of nearly \$6.6 million in taxpayer-funded City resources.

The "grandfather" clause in MCC § 7-28-240 provides for City garbage collection service to certain multi-unit dwellings that would otherwise be required to procure private garbage service. Until recently, DSS's "grandfather list" had not been updated since 2007 and contained 2,402 properties. An informal survey by DSS, following initial OIG inquiries, concluded in March 2014 that collection service was still being provided to approximately 1,839 multi-unit dwellings pursuant to the ordinance's grandfather clause. DSS is also providing City garbage service to 1,393 not-for-profit organizations. (As part of the release of this audit, both lists may be found on OIG's website.) According to DSS's own estimates, garbage service to these multi-unit dwellings and not-for-profit organizations costs the City \$3,275,207 and \$3,316,274, respectively, each year.

Based upon the results of our audit, we concluded that DSS's present enforcement of MCC § 7-28-240 is neither effective nor efficient. OIG found that DSS's ordinance enforcement mechanism, the grandfather list, has been seriously inaccurate. DSS began a full review of the grandfather list in late 2013 with the assistance of the City's Department of Law (DOL). Based on that review, DSS concluded that another 794 multi-unit properties from the grandfather list may no longer be eligible for service. DSS stated that it will initiate procedures to verify ineligibility and terminate City

collection service where appropriate. Such actions may free up to approximately \$1.41 million in wasted department resources that could be reallocated for other DSS responsibilities and reduce the size of the grandfather list to less than half the number of properties listed in 2007. DSS deserves credit for its proactive remedial efforts. However, OIG also found that present efforts to improve the accuracy of the grandfather list are themselves unduly time-and resource-intensive. DSS agrees with OIG's recommendation that it develop and implement a more efficient process for updating the grandfather list and is working to develop a self-certification and audit process with DOL.

Our audit also revealed that DSS's provision of garbage service to some not-for-profit organizations constitutes the provision of free services at taxpayer expense that is not legally

Website: [www.cliicauoinspectorgeneral.org](http://www.cliicauoinspectorgeneral.org) <<http://www.cliicauoinspectorgeneral.org>>

authorized under the Municipal Code. If DSS wishes to continue this service, OIG recommends that the Department work with the City Council to set explicit standards in the MCC for the collection of garbage from not-for-profit organizations, and that in doing so, it consider the recent legislation respecting the provision of free water to certain non-profits as an instructive guide. If the City Council chooses not to formalize this service by amending City ordinance, OIG recommends that DSS end the practice of providing free garbage collection services to not-for-profit organizations in order to bring its practices into compliance with the law as set forth in the existing ordinance. In its response, DSS provides its own interpretation of not-for-profit service authorization under MCC § 7-28-240.

We thank DSS management and staff for their full cooperation during this audit.

Respectfully,

Joseph M. Ferguson Inspector General City  
of Chicago

Website: [www.chicagoinspectorgeneral.org](http://www.chicagoinspectorgeneral.org) <<http://www.chicagoinspectorgeneral.org>>

OIG File #13-0516  
Garbage Ordinance Enforcement Audit

June 20, 2014

## Table of Contents

I.	Executive Summary	2
II.	Background	4
A.	Bureau of Sanitation	4
B.	Garbage Collection Ordinance and its "Grandfather" Clause	5
C.	DSS's Garbage Service to Not-for-profit Organizations	5
III.	Objectives, Scope, and Methodology	6
A.	Objectives	6
B.	Scope	6
C.	Methodology	6
D.	Standards	6
E.	Authority and Role	6
IV.	Findings and Recommendations	8
	Finding 1: DSS has not effectively or efficiently enforced the ordinance regarding garbage collection service to multi-unit rental residences	8
	Finding 2: DSS does not enforce MCC § 7-28-240 effectively because there is no legal basis in the ordinance for its \$3.3 million estimated annual expenditure for refuse removal service to not-for-profit organizations	11
V.	Appendix A: DOL Review of DSS "Grandfather List"	13

OIG File #13-0516  
Garbage Ordinance Enforcement Audit

## I. Executive Summary

The Office of Inspector General (OIG) conducted an audit of the Department of Streets and Sanitation's (DSS) enforcement of Municipal Code of Chicago (MCC) § 7-28-240 ("the ordinance") regarding eligibility for City garbage collection service. Specifically, OIG reviewed DSS's administration of the ordinance's "grandfather" clause, which grants City garbage service to certain multi-unit dwellings that would otherwise be required to procure private garbage service. OIG also reviewed DSS's provision of garbage service to not-for-profit organizations, a service which is not specifically authorized by the ordinance.

DSS estimated that as of March 28, 2014 it was providing garbage service to 1,839 "grandfathered" multi-unit dwellings and 1,393 not-for-profit properties. According to DSS's estimates, annual garbage service to these multi-unit dwellings and not-for-profit organizations costs the City \$3,275,207 and \$3,316,274, respectively.

The objectives of the audit were to determine if DSS effectively and efficiently enforces MCC § 7-28-240 with respect to "grandfathered" multi-unit dwellings and non-profit organizations.<sup>1</sup> OIG found that DSS did not enforce the ordinance effectively or efficiently. Specifically we found that,

1. To enforce the ordinance DSS uses a list of grandfathered properties, known as "the grandfather list." This list is inaccurate and, over time, may have resulted in millions of wasted City dollars in the provision of City garbage services to multi-unit dwellings that by law should have been using private commercial garbage collection services. In addition, the current process of updating the grandfather list is time- and resource-intensive.

From 2007 to 2013, DSS did not maintain up-to-date records regarding multi-unit dwellings eligible for City garbage service under the ordinance's "grandfather" clause. Before OIG announced its audit, DSS initiated two processes for improving the accuracy of the grandfather list that required the assistance of the Department of Law (DOL) and DSS ward superintendents.

Despite these efforts, DSS's most up-to-date version of the list may still include multi-unit dwellings that are ineligible for City garbage service. In addition, these processes required a substantial diversion of City staff time and therefore do not efficiently address DSS's goal of keeping the grandfather list complete and ' accurate over time.

2. There is no legal basis in the ordinance for DSS's \$3.3 million estimated expenditure for City refuse removal service to not-for-profit organizations.

The ordinance does not provide for City garbage service to not-for-profit organizations, and DSS has no authority under the ordinance to offer this service. If the City Council intends for such a service to be provided, it can pass an

<sup>1</sup> Effectiveness refers to DSS's degree of success in enforcing the ordinance, while efficiency refers to its performance outcomes in relation to time and resources invested. Herbert Simon, *Administrative Behavior: Decision-Making Processes in Administrative Organization*, (New York: The Free Press, 1997), 256.

*OIG File #13-0516  
Garbage Ordinance Enforcement Audit*

*June 20, 2014*

ordinance similar to that in MCC § 11-12-540(8), which grants free or reduced-rate water service to eligible not-for-profit organizations.

The specific recommendations related to each finding, and DSS's responses, are described in the "Findings and Recommendations" section of this report.

OIG File #13-0516  
Garbage Ordinance Enforcement Audit

## II. Background

According to the City of Chicago's 2014 Budget Overview,

DSS collects recycling and disposes of residential refuse; sweeps city streets; removes graffiti; cleans vacant lots; coordinates the towing of illegally parked vehicles; enforces sanitation ordinances; abates rodents; and plants and trims trees.

For FY2014, the City appropriated a total of \$252,155,839 to fund the Department's five bureaus:<sup>3</sup>

^Commissioner's Office \$2,003,417

Administrative Services Division \$4,512,776

Bureau of Street Operations \$43,618,536

Bureau of Sanitation: \$163,761,373

Bureau of Traffic  
Services \$23,998,390

Bureau of Finance: \$14,461,347

### A. Bureau of Sanitation

The Bureau of Sanitation (BOS) receives the largest appropriation of DSS's five bureaus and is responsible for the City's residential garbage collection service. DSS's website lists the Bureau's other duties as follows:<sup>4</sup>

- Operating the City's Blue Cart Recycling Program;
- Providing technical assistance and support for the City's recycling initiatives;
- Providing assistance for the development of city-wide waste reduction and management programs and policies; and
- Coordinating street sweeping efforts for city main streets and side streets.

DSS's Bureau of Sanitation provides weekly garbage collection service for approximately 600,000 residential households.<sup>5</sup> Owners of commercial, industrial, and larger residential structures are required to arrange private garbage service.<sup>6</sup> City garbage trucks collect standard

<sup>3</sup> City of Chicago, Office of Budget and Management, "2014 Budget Overview," 111, accessed March 24, 2014, <<http://docs.chicgov.com/budget/2014-budget/2014-budget-overview.pdf>>.

<sup>4</sup> City of Chicago, Office of Budget and Management, "Annual Appropriation Ordinance for Year 2014," 5, accessed March 24, 2014, <<http://www.cityofchicago.org/content/dam/city/depts/obm/supp%20info/2014%20Budget/2014ordinance.pdf>>.

<sup>5</sup> City of Chicago, Department of Streets and Sanitation, "Sanitation and Waste Reduction - What We Do," accessed March 24, 2014, <[http://www.cityofchicago.org/city/en/depts/streets/provdrs/streets\\_san.html](http://www.cityofchicago.org/city/en/depts/streets/provdrs/streets_san.html)>.

<sup>6</sup> City of Chicago, Department of Streets and Sanitation, "Residential Garbage," accessed March 24, 2014, <[http://www.cityofchicago.org/city/en/depts/streets/supp%20info/residential\\_garbage.html](http://www.cityofchicago.org/city/en/depts/streets/supp%20info/residential_garbage.html)>.

<sup>6</sup> City of Chicago, Department of Streets and Sanitation, "Sanitation Code Violation," accessed March 25, 2014, <[http://www.cityofchicago.org/city/en/depts/streets/provdrs/streets\\_san/svcs/sanitation\\_ordinance.html](http://www.cityofchicago.org/city/en/depts/streets/provdrs/streets_san/svcs/sanitation_ordinance.html)>.

Page 4 of 13

OIG File #13-0516

Garbage Ordinance Enforcement Audit

household garbage that residents place in City-provided 96-gallon black carts.<sup>7</sup> Garbage collection is intended for standard refuse, not construction waste, hazardous materials, or recycling.<sup>8</sup> DSS's Bureau of Sanitation, in collaboration with two private refuse collection companies, also provides residential recycling service.<sup>9</sup>

#### B. Garbage Collection Ordinance and its "Grandfather" Clause

MCC § 7-28-240 states that the City will provide garbage collection service for residential rental buildings with four units or less. Owners of residential buildings with more than four units are required to arrange their own garbage service. However, the ordinance exempts owners of residential buildings with more than four units from this requirement if they were receiving City garbage collection on July 19, 2000, the building has not transferred ownership since then, and each unit is individually heated by the unit tenant. Rental residences with more than four units are eligible for City garbage service only if all three conditions are met.

To enforce the ordinance, DSS created a grandfather list to identify all residential properties with more than four units that are eligible for City garbage service. DSS provided the list to its ward superintendents, who manage garbage collection in their respective wards.

The most up-to-date grandfather list provided to OIG by DSS includes 1,839 properties. DSS estimates the annual cost of garbage collection service to properties on the grandfather list, including disposal and cart costs, is \$3,275,207.<sup>10</sup>

#### C. DSS's Garbage Service to Not-for-profit Organizations

According to a 2001 DSS memo, DSS has been providing garbage service to not-for-profit organizations for at least 13 years. A list of not-for-profit organizations (the "nonprofit list") assists ward superintendents in identifying which not-for-profit organizations are eligible for City refuse service under the rules promulgated in the 2001 memo. The most up-to-date nonprofit list provided to OTG includes a total of 1,393 private schools, religious institutions, and other not-for-profit properties receiving City garbage service. Although DSS could not attest to the exact number of carts, tons of garbage, or replacement carts involved, it estimates the cost of providing service to these 1,393 not-for-profit organizations is \$3,316,274, including disposal and cart costs.

<sup>7</sup> City of Chicago, Department of Streets and Sanitation, "Roll-Out Refuse Carts," accessed March 25, 2014, <[http://www.cityofchicago.org/city/en/depts/streets/provdrs/streets\\_san/svcs/roll-out/refuse\\_carts.html](http://www.cityofchicago.org/city/en/depts/streets/provdrs/streets_san/svcs/roll-out/refuse_carts.html)>.

<sup>8</sup> City of Chicago, Department of Streets and Sanitation, "Household Hazardous Waste and Electronic Recycling," accessed April 1, 2014, <<http://www.cityofchicago.org/city/en/depts/does/genCT/HWandECycling.pdf>>.

City of Chicago, Department of Public Health, "Construction and Demolition Debris Recycling," accessed April 1, 2014,

<[http://www.cityofchicago.org/city/en/depts/cdpli/supp\\_info/environmental/permitsandregulation/constructionanddemolitiondebrisrecycling.html](http://www.cityofchicago.org/city/en/depts/cdpli/supp_info/environmental/permitsandregulation/constructionanddemolitiondebrisrecycling.html)>.

<sup>9</sup> City of Chicago, Department of Streets and Sanitation, "Blue Cart Schedule and Maps," accessed April 22, 2014,

<[http://www.cityofchicago.org/city/en/depts/streets/supp\\_info/recycling/blue\\_cart\\_scheduleandmaps.html](http://www.cityofchicago.org/city/en/depts/streets/supp_info/recycling/blue_cart_scheduleandmaps.html)>. <sup>10</sup> Notably, in its calculations provided to OIG, DSS could not attest to the total number of carts assigned to, tons of garbage collected at, or the annual number of replacement carts needed for exempt multi-unit dwellings. DSS approximated these three variables to generate the \$3,275,207 estimate.

Page 5 of 13



## **TIT. Objectives, Scope, and Methodology**

### **A. Objectives**

The objectives of the audit were,

- To determine if DSS effectively enforces MCC § 7-28-240 regarding eligibility for City garbage service; and
- To determine if DSS efficiently enforces MCC § 7-28-240 regarding eligibility for City garbage service.

### **B. Scope**

In this audit, OIG reviewed the effectiveness and efficiency of DSS's enforcement of MCC § 7-28-240, regarding eligibility for City garbage service. OIG did not review the City's grid-based garbage collection system or DSS's recycling service.

### **C. Methodology**

To assess DSS's effectiveness in enforcing MCC § 7-28-240, OIG compared the language in the ordinance with DSS's provision of garbage service to multi-unit dwellings and not-for-profit organizations. For DSS's garbage service to not-for-profit organizations, OIG conducted a review of relevant sections in the MCC and DSS's policies related to provision of this service.

To evaluate DSS's efficiency in enforcing MCC § 7-28-240, OIG assessed DSS's policies and procedures for compiling, maintaining, and updating the grandfather list.

For both objectives, OIG interviewed DSS management to gain an understanding of the Department's operations related to garbage service to multi-unit dwellings and not-for-profit organizations. OIG also interviewed DOL staff members who have been involved in the recent review of DSS's grandfather list.

### **D. Standards**

We conducted this audit in accordance with generally accepted Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### **E. Authority and Role**

The authority to perform this audit is established in the City of Chicago Municipal Code § 2-56-030 which states that the Office of Inspector General has the power and duty to review the programs of City government in order to identify any inefficiencies, waste, and potential for misconduct, and to promote economy, efficiency, effectiveness, and integrity in the administration of City programs and operations.

The role of OIG is to review City operations and make recommendations for improvement.

City management is responsible for establishing and maintaining processes to ensure that City programs operate economically, efficiently, effectively, and with integrity.

OIG File #13-0516  
Garbage Ordinance Enforcement Audit

#### **IV. Findings and Recommendations**

##### **Finding 1: DSS has not effectively or efficiently enforced the ordinance regarding garbage collection service to multi-unit rental residences.**

OIG found that DSS has not effectively enforced the grandfather clause that provides for garbage collection service for certain residential rental buildings with more than four units because its enforcement of the grandfather clause is based on a substantially out-of-date and inaccurate eligibility list. We also found that the Department's efforts to update the list are time- and resource-intensive for both DSS and the Department of Law (DOL).

In August 2013, in response to an inquiry from OIG, DSS provided a copy of its grandfather list which identified 2,402 properties, corresponding to a total of 15,431 residential units, as eligible for City garbage service under the grandfather clause. According to DSS's records, this version of the grandfather list was last updated in January 2007.

DSS management subsequently enlisted DOL to review the grandfather list. In its initial review, DOL pulled a sample of 116 properties and found that 46% (53 properties) had changed ownership since the ordinance's grandfather clause went into effect in July 2000 and were therefore ineligible." Through interviews with DOL staff, OIG learned that DOL invested a significant amount of City time and resources to complete this initial review of the grandfather list. Using each property's unique Property Index Number, DOL conducted a public records search in the Cook County Recorder of Deeds database to determine if a change in ownership had occurred since the grandfather clause went into effect in July 2000. DOL staff stated that these deed searches were not always straightforward. For example, the language in the ordinance's grandfather clause does not make it clear if a property is ineligible for City garbage service if the deed has been transferred among family members (e.g. from parent to child, between spouses, etc.). Moreover, DOL staff explained that determining the exact nature of a change in property ownership may require extensive legal research. Due to these challenges, DOL staff emphasized that their review of just 116 out of 2,402 properties took a significant amount of time and required the efforts of six staff members, including two attorneys, two law clerks, a paralegal, and an administrative assistant. DOL staff also emphasized that its legal review of the entire grandfather list was likely to take several months as the project must be prioritized among the essential duties specific to their own Department."

DSS management acknowledged the difficulty and resource-intensiveness of updating the grandfather list and told OIG it would like to explore the possibility of implementing an entirely new process for managing the list. This new process, DSS management explained, would shift the onus of proving eligibility for City garbage service from DSS and DOL staff to the owners of grandfathered multi-unit dwellings through an annual self-certification process.

" OTG did not validate the results of DOL's review. Even without validation, the initial finding that 46% of sampled properties had changed ownership is sufficient proof of the 2007 grandfather list's inaccuracy. <sup>12</sup> The flowchart in Appendix A outlines in further detail the steps involved in DOL's initial review of the grandfather list.

*Page 5 of 13*

OIG File #13-0516  
Garbage Ordinance Enforcement Audit

In December 2013, DSS used these initial findings to issue notification letters to the owners of the 53 multi-unit dwellings that DOL determined to be no longer eligible for City garbage service. In these letters, DSS informed the owners of their statutory obligation to arrange for private garbage service. Based on DSS's cost estimate for garbage

service, OIG estimates that the elimination of these 53 ineligible multi-unit dwellings from the grandfather list will save the City \$95,000 annually. DOL continues to work with DSS to review the remaining properties on the 2007 grandfather list.

In January 2014, DSS management instructed its ward superintendents to conduct an inventory review of the grandfather list by comparing the list with multi-unit dwellings in their ward that were receiving City garbage service. Specifically, ward superintendents were to notify DSS management whether properties on the 2007 grandfather list were still receiving service or had arranged for private garbage service. Likewise, DSS management instructed its ward superintendents to notify the Department of any multi-unit dwellings not included on the 2007 grandfather list that were receiving City garbage service so that the Department could review the eligibility of these properties.

Tn March 2014, DSS management provided OIG with an updated grandfather list (hereafter the "2014 grandfather list") that reflected the efforts of DOL and DSS ward superintendents. The 2014 grandfather list includes 1,839 properties, down from the 2,402 (a 23.4% reduction) properties included on the 2007 list. Using the 2014 grandfather list, DSS estimated that the Department spends \$3.3 million annually providing garbage service to properties it understands to be "grandfathered" multi-unit dwellings.

DSS management cannot attest to when and how the grandfather list was first created. Therefore, it is unclear whether the grandfather list was ever complete. Compounding this issue, from 2007 to 2013, DSS did not maintain up-to-date records regarding multi-unit dwellings eligible for City garbage service. Despite recent efforts to improve the accuracy of the grandfather list, DSS's most up-to-date version of the list may still include multi-unit dwellings that are ineligible for City garbage service. As a result, DSS could still be providing garbage service to ineligible multi-unit dwellings and thereby wasting a portion of the estimated \$3.3 million spent annually for this garbage service.

OIG recognizes that DSS has made concerted efforts in recent months to update its grandfather list. However, until DSS updates the 2014 grandfather list in accordance with DOL's review, the 2014 grandfather list may still capture properties that are ineligible for City garbage service. Furthermore, the process of updating the list has been time- and resource-intensive for both DSS and DOL. In accordance with best practices in public administration, DSS should strive for efficiency in all its departmental policies and procedures.<sup>13</sup> DSS officials have acknowledged that a more efficient process for maintaining the grandfather list may involve an annual self-certification process that shifts the responsibility of demonstrating eligibility for City garbage service to the property owners. Such a self-certification process has the potential to reduce costs

<sup>13</sup> Specifically, the principle of efficiency "dictates that choice of alternatives which produces the largest result for the given application of resources." Herbert Simon, *Administrative Behavior: Decision-Making Processes in Administrative Organization*, (New York: The Free Press, 1997), 256.

*Page 9 of 13*

*OIG File HI3-0516*  
*Garbage Ordinance Enforcement Audit*

for the City by requiring less staff hours and other resources, provided that it yields a complete and accurate grandfather list.

#### **Recommendation:**

OIG recommends that DSS take steps to ensure garbage collection services are provided to only those multi-unit dwellings eligible under the grandfather clause. OIG further recommends that DSS develop and implement a more efficient process for updating the grandfather list on an ongoing basis in order to reduce the resources needed to enforce the ordinance. This may involve DSS implementing its proposal of an annual self-certification process or developing

another means of maintaining a complete and accurate grandfather list.

**Management Response:**

*"In an effort to ensure DSS is utilizing resources as efficiently as possible, the department coordinated with DOL to evaluate the Grandfather list and ensure only eligible multi-unit property owners are receiving City refuse services.*

*A complete audit of the list found that 794 multi-unit properties of the 1,839 may no longer be eligible for services. DSS will be notifying these property owners that they must retain a private scavenger service unless they can provide proof that their properties still meet the eligibility requirements under the ordinance.*

*Additionally, as recommended by the Inspector General, DSS is currently working with DOL to develop a self-certification process that will allow the department to effectively maintain the Grandfather list. Property owners will be asked to regularly certify their buildings and DSS will conduct random sample audits to ensure the accuracy of these certifications. "*

Page 10 of 13

OIG File #13-0516  
Garbage Ordinance Enforcement Audit

**Finding 2: DSS does not enforce MCC § 7-28-240 effectively because there is no legal basis in the ordinance for its \$3.3 million estimated annual expenditure for refuse removal service to not-for-profit organizations.**

Our audit found that DSS has been providing refuse collection service to hundreds of not-for-profit organizations without any legal basis in the ordinance since at least 2001. DSS estimates the annual cost of garbage collection service to these not-for-profit organizations, including disposal and cart costs, to be \$3,316,274.

In August 2013, in response to an inquiry, DSS sent OIG its list of 1,276 not-for-profit organizations that receive City refuse service.<sup>14</sup> When asked to provide the legal basis for this service, a DSS senior official explained that, although the

MCC does not expressly permit the Department to provide refuse service to not-for-profit organizations, neither does the MCC prohibit it. According to this official, DSS relies on the general establishment and duties clauses of Title 2 of the MCC as its basis for providing refuse service to not-for-profit organizations.<sup>15</sup> DSS also provided OIG with memos and letters from 2001 and 2005 that discuss refuse removal service for not-for-profit organizations, including a February 2005 letter from the then-DSS commissioner containing the most up-to-date version of its policy regarding refuse collection for not-for-profit organizations.

OIG disagrees with DSS's expressed reliance on the establishment and duties clauses of Title 2 of the MCC and with its interpretation of the MCC.<sup>16</sup> While sections 2-100-030 and -100 of the MCC authorize the DSS Commissioner to have supervision of "the cleaning of public ways and the removal of garbage, refuse and waste" and for the Deputy Commissioner of Streets and Sanitation to assist in this endeavor, these duties are circumscribed by the City's refuse ordinance, MCC § 7-28, Article II.

According to MCC § 7-28-240, City service will not be provided to "occupational units." Occupational units are defined as being, "designed, intended and used for any business purpose."<sup>17</sup> The ordinance does not require that the business purpose make a profit. DSS's nonprofit list includes: private schools, daycare providers, chambers of commerce, churches, and museums. These entities occupy occupational units as described above. Therefore, by the plain language of the ordinance, not-for-profit entities must provide for their own refuse removal service.

In addition, City Council did not write the provision of free refuse collection for not-for-profit organizations into the ordinance, as it did in the water ordinance. Specifically, MCC § 11-12-

<sup>14</sup> In March 2014, DSS sent OIG an updated nonprofit list. DSS's current list includes 1,393 not-for-profit

organizations that receive City garbage service.

<sup>15</sup> MCC § 2-100-030 defines the responsibilities of DSS and its Commissioner with respect to "rodent control, snow removal, refuse removal," among others. MCC § 2-100-100 establishes the Bureau of Sanitation within DSS and tasks it with the "cleaning of public ways" and the "removal of garbage, refuse, and waste." Full text is available here: <<http://www.amlgal.com/librai-y/il/chicago.shtml>>.

<sup>16</sup> MCC § 2-100-010 *et seq.*, establishes the organizational structure of the Department of Streets and Sanitation, including the positions of DSS Commissioner and DSS deputy commissioners, and sets forth the powers, duties, and authority of these officials. The City's refuse ordinance is contained in MCC 7-28-200 *et seq.*

<sup>17</sup> MCC § 7-28-200.

Page 11 of 13

OIG File #13-0516

Garbage Ordinance Enforcement Audit

540(8) directs that not-for-profit organizations may qualify for free or reduced rate water service. The section also sets forth very specific requirements that not-for-profits must meet in order to qualify for such service, including adopting a water conservation plan and performing charitable work benefiting the public within the City's limits.<sup>18</sup> Finally, a prior version of the water ordinance exempted not-for-profit organizations from paying for water service entirely.<sup>19</sup>

The City Council specifically excluded not-for-profit organizations from paying for water service under certain circumstances and provided a reduced rate under others. No such exemptions exist in the current refuse collection ordinance.

### Recommendation:

If DSS wishes to continue providing this service, OIG recommends that DSS work with the City Council to set explicit standards in the MCC for not-for-profit refuse removal service. If the City Council chooses not to formalize this service by amending City ordinance, OIG recommends that DSS provide refuse removal service to only those properties defined as eligible by City ordinance.

## Management Response:

"Chapter 2-100 of the Municipal Code is the authorizing ordinance for the Department of Streets and Sanitation, and that Chapter sets out the Department's powers and duties. Chapter 2-100 provides plenary authority for the Commissioner to 'have supervision of. . . the removal of garbage, refuse and waste . . .' (Section 2-100-030), and for a deputy commissioner to assist in 'the removal of garbage, refuse and waste.' (Section 2-100-100). In this instance the Department has followed a long-standing policy, in reliance upon its codified authorization, to provide refuse collection to qualifying entities. It is a basic principle of administrative law that an agency is entitled to deference in interpreting and administering its own ordinance. See *Stone Street Partners, LLC v. City of Chicago Dept. of Administrative Hearings*, 2014 WL 2119049, \*7 ('we give substantial weight to the agency's opinion about an ambiguous statute or regulation, and we also give deference when the agency's interpretation relates to its own jurisdiction.');

*Advanced Ambulatory Surgical Center, Inc. v. Health Facilities and Services Review Bd.*, 2014 WL 1584498, \*7 (ILL.App.4 Dist., 2014) ('to the extent that there are any ambiguities, this court should give deference to the administrative agency's interpretation of the [statute] it was created to enforce.').

Additionally, as noted in the report, DSS is currently conducting a citywide inventory of all refuse and recycling carts. Once finalized, the inventory data will provide the department with the most up to date and accurate information outlining the number of carts and resources needed to effectively and efficiently collect the City's refuse and recycling. "

<sup>18</sup> Additionally, section 540(8)(v) includes a definition for not-for-profit organizations and sections 540(8)(i) - 540(8)(iv) set prorated payment percentages based on a not-for-profit's net assets or fund balances.

" Section 11-12-540(a) exempted certain charitable, religious, and educational institutions from water fees. The exemption was in place at least since December 2002. OIG could not find the text of the prior version of the MCC (§185-47).

Page 12 of 13

OIG File #13-0516  
Garbage Ordinance Enforcement Audit

June 20, 2014

## V. Appendix A: DOL Review of DSS "Grandfather List"

The flowchart below outlines the steps involved in DOL's initial review of the grandfather list. Department of

### Law Review of DSS "Grandfather List"

/ DOL staff pulled title documents for the 116 properties in the sample /

, from the Cook County Recorder of Deeds

/

DOL staff reviewed property records to determine if a transfer was recorded i after July 19, 2000

No transfer recorded after July 19, 2000

Transfer recorded:after July 19, 2000

DOL staff analyzed property records to ■ determine if the transfer met one of the five exceptions in MCC § 7-28-240

<sup>1</sup> Reviewed corporate

<sup>\*</sup> Secretary of ; State website

2 looked at  
taxpayer information

1 Locletl a

3 Reviewed | recorded deeds for | Real Estate Transfer | Tax exemptions

public  
information to  
ascertain Land  
Trust/Trust  
|

5 Used Account, a law enforcement tool, to establish name changes, company directors, etc

Transfer meets at least one of five cweptions in MCC§ 7-28-240

Transfer lively docs not meel any of

the exceptions in the MCC, but ineligibility cannot be confirmed by searching public records

Transfer clearly does not meet any of the exceptions provided in the MCC and is ineligible tor City refuse service

: DOL used Account, IL SOS, and other sources to provide DSS with : owner service addresses .

Property deemed eligible for City refuse service under 240 - no further action needed  
■ Service address information d to generate mailin letters to property owners '■.  
;to notify property owners of their ineligibility to continue receiving City refuse service - owners i  
may choose to challenge finding of ineligibility ■

Source: OIG analysis of DOL methodology

City of Chicago Office of the Inspector General

Public Inquiries

Rachel Leven (773) 478-0534  
rleven@chica20insDectorgeneral.org  
<mailto:rleven@chica20insDectorgeneral.org>

To Suggest Ways to Improve City  
Government

Visit our website: <<https://chicagoinspectorgeneral.org/get-involved/help->improve-citv-government/>>

To Report Fraud, Waste, and Abuse in  
City Programs

Call OIG's toll-free hotline 866-IG-TIPLINE (866-448-4754).  
Talk to an investigator from 8:30 a.m. to 5:00 p.m. Monday-Friday. Or visit our website:  
<<http://chicagoinspectorgeneral.org/get-involved/fight->>>



waste-fraud-and-abuse/

#### MISSION

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

administrative and criminal investigations; audits of City programs and operations; and reviews of City programs, operations, and policies.

From these activities, OIG issues reports of findings, disciplinary, and other recommendations to assure that City officials, employees, and vendors are held accountable for the provision of efficient, cost-effective government operations and further to prevent, detect, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

#### AUTHORITY

The authority to produce reports and recommendations on ways to improve City operations is established in the City of Chicago Municipal Code § 2-56-030(c), which confers upon the Inspector General the following power and duty:

*To promote economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the city government by reviewing programs, identifying any inefficiencies, waste and potential for misconduct therein, and recommending to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.*