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Office of Inspector General

City of Chicago

Report of the Office of Inspector General:

Chicago Department of Public Health Food Establishment Inspection Follow- Up Inquiry

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August 2017

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Joseph M. Ferguson Inspector General

OFFICE OF INSPECTOR GENERAL

City of Chicago

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August 8, 2017

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 a follow-up to its November 2016 audit of the frequency of food establishment inspections conducted by the Chicago Department of Public Health (CDPH). Based on the Department's responses, OIG concludes that CDPH has begun implementation of corrective actions related to the audit findings.

The purpose of the 2016 audit was to determine whether CDPH's Food Protection Division conducted routine inspections of food establishments as often as required by the Department's rules and regulations incorporating state law, conducted inspections triggered by complaints and reinspections of known violations in a timely manner, and accurately reported the results of inspections and reinspections through the City's Data Portal. Our audit found that CDPH,

- performed the required number of routine food inspections of only 43.9% of High-Risk, 80.1% of Medium-Risk, and 24.8% of Low-Risk establishments;
- conducted reinspections and complaint-based inspections in a timely manner;
- had a relationship with its software vendor that did not comply with City policies regarding data maintenance with licensing; and
- posted complete and accurate food inspection data to the City's Data Portal. Based upon the results of

our audit, we recommended that CDPH,

- collaborate with the Illinois Department of Public Health (IDPH) to design and implement a permanent food inspection schedule that is feasible in light of the resources that can be made available to CDPH, effective in promoting food safety, and sufficient to preserve CDPH's certification as a local public health department;
- if IDPH and CDPH are unable to agree upon a permanent food inspection schedule, work with the Office of Budget and Management (OBM) to acquire sufficient staff to bring CDPH into compliance with existing state rules;
- work with OBM to propose updated fees, fines, and licensing rates designed to bring the current revenue structure closer to the actual costs of conducting food inspections; and
- ensure that its software vendor relationship, as well as relationships with similar vendors, are in compliance with City policies and implement necessary solutions.

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In response to the audit, CDPH described a number of corrective actions it would take.

In June 2017, OIG inquired with CDPH regarding the status of the corrective actions the Department committed to in response to OIG's audit and any other actions it may have taken. Below, we summarize the four audit findings and recommendations, as well as the Department's response to our follow-up inquiry.

Based on CDPH's follow-up response, OIG concludes that the Department has begun implementing corrective actions within its control which, once fully implemented, may reasonably be expected to resolve a substantial portion of the core findings noted in the audit. However, full implementation will require the cooperation and collaboration of IDPH, a state agency beyond CDPH's control. IDPH has signaled an intention to consider and review regulatory issues raised by OIG's audit findings and recommendations. We respectfully urge IDPH to follow through on its signaled intent, and work with CDPH to develop and implement effective standards that are both practically feasible and designed to provide transparent and accountable information to patrons of Chicago's food establishments.

We thank the staff and leadership of CDPH for their cooperation during the audit and responsiveness to our follow-up inquiries.

Respectfully,

Joseph M. Ferguson Inspector General City
of Chicago

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OIG File #17-0304
Food Establishment Inspection Follow-Up Inquiry

Follow-Up Results

In June 2017, OIG followed up on a November 2016 audit of inspection frequency of food establishments.¹ CDPH responded by describing the corrective actions it has taken since receiving the audit and providing supporting documentation. We summarize the four findings, the associated recommendations, and the status of the Department's corrective actions below. OIG's follow-up inquiry did not observe or test implementation of the new procedures, and thus we make no determination as to their effectiveness, which would require a new audit with full testing of the procedures.

OIG uses four categories for Status of Corrective Action:

- Implemented - The department has implemented actions that may reasonably be expected to resolve the core findings/concerns noted in the audit.
- Partially Implemented - The department has implemented actions in response to the audit, but the actions do not fully address the findings/concerns raised in the audit.
- Pending Implementation - The department has initiated action plans that, if fully implemented, may reasonably be expected to resolve the core findings of the audit. However, the department has not completed implementation.
- Not Implemented - The department has not initiated or implemented any actions responsive to OIG's findings.

FINDING 1: CDPH performed the required number of routine food inspections of only 43.9% of High-Risk, 80.1% of Medium-Risk, and 24.8% of Low-Risk establishments.

OIG Recommendation: CDPH receives funding from the Illinois Department of Public Health (IDPH) through the Local Health Protection Grant (LHPG). In 2015, the City received \$2.5 million in LHPG funds and allocated \$969,211 to the Food Protection Division. LHPG funded 8 of the 38 sanitarian positions that conduct food establishment inspections. Other grants funded 3 sanitarian positions and the City's Corporate Fund funded 27 positions. IDPH reviews the performance of LHPG grantees to ensure that their food inspection programs meet the grant eligibility standards. Chicago has consistently failed to meet the standards. When a grantee fails to comply with the requirements, the administrative Local Health Protection Grant Code provides that the local health department must "develop and follow a written plan of correction acceptable to

The 2016 audit report is available on the OIG website: <<http://chicagoinspectorgeneral.org/wp-content/uploads/2016/11/Audit-of-CDPH-Food-Establishment-Inspections.pdf>>

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[IDPH] to achieve substantial compliance."² Accordingly, each year CDPH fails to meet the state inspection frequency standards, in order to retain its eligibility for LHPG funds, the Department is required to submit a corrective action plan to IDPH describing what progress it expects to make in the coming year toward compliance. During its annual review, IDPH evaluates whether CDPH has met the goals set forth in its annual plan.

OIG recommended that CDPH collaborate with IDPH to abandon the current ad-hoc

approach to the annual decision whether the City qualifies for LHPG funds, and replace it with a permanent food inspection schedule that is both feasible in light of resources that can be made available to CDPH and sufficiently rigorous to promote food safety in an effective manner.

OIG also recommended that, once the City settled its responsibilities under state law and grant-eligibility criteria, CDPH work with OBM to acquire sufficient staff to implement the new schedule. We also recommended that CDPH work with OBM to right-size fee, fine, and licensing rates to bring them into closer alignment with program costs.

Finally, recognizing the possibility that IDPH and CDPH may not agree on a new food inspection schedule, we recommended that CDPH seek resources necessary to bring its food inspection program into compliance with the existing state requirements, either from OBM or from IDPH in the form of additional LHPG funds, or from a combination of both sources.

Status of Corrective Action: Pending Implementation. In its response to the follow-up inquiry,

CDPH stated that it engaged with IDPH regarding the food inspection schedule, but that IDPH was unwilling to make changes at that time "because doing so would require amending the rules governing the [LHPG]." According to CDPH, IDPH anticipates reviewing and updating the rules in 2018 with a goal of implementing changes in 2019 and will consider and vet any recommended changes at that time.

CDPH also stated that it and OBM are refining several proposals to hire 20 additional sanitarians and three supervisors. According to CDPH, this personnel increase, based on historical performance and in consideration of state law allowing for the self-inspection of Low-Risk food establishments, will allow the Department to comply with the state's required inspection frequency.

² 77 Ill. Adm. Code 615.220(e), accessed July 27, 2017, <http://www.ilpa.gov/commission/ica/-/admincode/077/077006150B02200R.html>.

In CDPH's response to the original audit, the Department stated that it would take a number of steps to evaluate the fees and fines related to food inspection operations including 1) confirming the total amounts of revenue currently generated by fines, re-inspection fees, and license fees, 2) calculating an updated estimate for the cost of operating the Food Protection Program, and 3) completing an analysis of the city's fine, fee, and licensing rates as compared to other jurisdictions. The Department completed the analysis and determined that it collected \$7,475,662 in revenue from re-inspection fees, fines, and license fees in 2016. It also estimated a cost of \$10,415,815 to operate the Food Protection Program. Finally, it noted that Chicago tended to have lower fees as compared to other jurisdictions. CDPH stated that it has "asked OBM's consulting team to assist with a comprehensive evaluation of [the] fine and fee collection processes to identify opportunities for improvement."

Finding 2: **CDPH conducted reinspections and complaint-based inspections in a timely manner.**

OIG Recommendation: This finding did not identify concerns for correction, therefore no recommendation was made. However, in response to the original report, CDPH did state they would update its standard operating procedures to "conduct reinspections of establishments with serious violations within seven days of the reinspection date on the inspection report."

Status of Corrective Action: Implemented. CDPH provided an updated copy of their Food Protection Program standard operating procedures which included the proposed update.

Finding 3: **CDPH's relationship with its software vendor did not meet current City policies regarding data maintenance and licensing.**

OIG Recommendation: OIG recommended that CDPH work with the Department of Procurement Services (DPS) and Department of Innovation and Technology (DOIT) to bring the vendor relationship into compliance with City policies. In addition, CDPH should review . other vendor relationships similar to that with the food inspection software vendor to ensure that all meet DPS and DOIT policies

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Status of Corrective Action: Pending Implementation. In CDPH's response to the original audit, the Department stated it had worked with DPS and DOIT and brought the vendor relationship into compliance with City policies. It also stated it would "inventory all software used by Department programs and assess whether all such relationships are in compliance with City policies." CDPH stated in its follow-up inquiry response that it "expects to complete its inventory and assessment by the end of 2017."

Finding 4: **CDPH posted complete and accurate food inspection data to the City's Data Portal.**

OIG Recommendation: This finding did not identify concerns for correction, therefore no recommendation was made.

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City of Chicago Office of Inspector General

Public Inquiries

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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 and 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.