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INSPECTOR

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VIA I 1 LCTPONIC MAIL May 2, 2.019

John F. Tu I ly Commissioner
Department of Streets and Sanitation 121 North LaSalle
Street, Room 1107 Chicago, Illinois 60602

Dear Commissioner Tu I ly.

An OIG inquiry has determined that the Department of Streets and Sanitation (DSS) is ^ violating the Municipal Code of Chicago (MCC) by providing free garbage collection service to at least 1,182 nonprofit entities. Section 7-28-235 of the MCC, effective January 1, 2016, requires all recipients of City garbage collection service to pay \$9.50 per month. Because of DSS' noncompliance, the City is losing at least \$134,748 in garbage fees each year, totaling \$449,160 as of April 30, 2019.

Furthermore, OIG found that DSS' list of nonprofit entities receiving free garbage collection is incomplete. OIG identified 25 properties not included on DSS' list that nonetheless receive free City garbage service, and there may be many more.¹ Actual revenue loss is thus greater than \$449,160 but cannot be calculated because the total number of properties receiving free service is unknown.

Finally, DSS' current provision of free garbage service only to those nonprofits fortunate enough to have received it

in the past is inherently unfair. It perpetuates a discretionary benefit that DSS historically granted to entities who knew to request it, or otherwise acquired it, while similarly situated nonprofits are denied this benefit and must pay for private garbage collection.

OIG provided a list of the 2S properties to DSS,

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Advisory Committee regarding; Garbage Collection for Certain Nonprofit Entities. <<http://Fritit.ii.-r->>.

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I. THE MUNICIPAL CODE LIMITS DSS' AUTHORITY TO PROVIDE GARBAGE COLLECTION SERVICE.

In our 2014 audit of garbage ordinance enforcement, OIG concluded that DSS was providing garbage collection service to approximately 1,393 nonprofit entities without legal authorization.⁻¹ DSS disagreed, stating that its authorizing ordinance, MCC Chapter 2-100, gave it: broad discretion to provide service to these entities at an annual cost to the City of \$3,316,274.

In response to OIG's January 2015 audit follow-up, DSS maintained its view that its Commissioner is authorized to provide garbage service to any nonprofit entity at their discretion.

In 2015, City Council adopted MCC §7-28-235, requiring properties receiving City garbage service to pay a fee of \$9.50 per month per unit or premises. This requirement went into effect on January 1, 2016. Section 7-28-235 specifies that the City collects garbage for small residential buildings and "all other premises receiving city refuse collection services as of January 1, 2016."² In other words, those nonprofit entities previously receiving City service may continue receiving it, while other

nonprofits are treated the same as commercial and large residential buildings they must hire a private garbage collector at their own expense.

At our request, the Department of Law corroborated OIG's interpretation of the ordinance: nonprofits continuing to receive City service are legally obligated to be charged and to pay \$9.50 per month. DSS, however, told OIG it has "not instituted

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II. DSS PROVIDES FREE GARBAGE COLLECTION TO AT LEAST 1,182 NONPROFITS, COSTING THE CITY \$134,748 EACH YEAR IN LOST REVENUE.

DSS provided OIG with a list of 1,182 nonprofit entities whose garbage it collects, free of charge, as of January 2019. Based on DSS' descriptions, the entities include,

Entire/School"

6 A review of the entity names suggests 3 of the 94 are actually miscellaneous day care facilities

7 Based on the entity names, the uncategorized descriptions include one corn; nunnery garden, one park, one library, one residence, and one American Legion post

8 The four other schools are described as "School" "Girls High School." or "Elementary School"

"OIG searched City's garbage billing records for a sample of these properties; records did confirm they were not billed

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Advisory Concerning City Garbage Collection for Certain Nonprofit Entities

audit of DSS' garbage collection performance measurement.⁹ In a follow-up to our 2015 audit, DSS stated that it had a complete inventory of its garbage and recycling carts,¹⁰ but these gaps in its nonprofit list suggest that it still cannot account for all properties with City carts

IV. SUGGESTIONS

A. DSS SHOULD COMPLY WITH THE MUNICIPAL CODE PROVISIONS LEGALLY REQUIRING IT TO BILL EVERY NONPROFIT CURRENTLY RECEIVING FREE GARBAGE SERVICE.

DSS is authorized by law to provide garbage collection service to nonprofit entities that were receiving it as of January 1, 2016, but only if it charges the monthly fee of \$9.50 per premises. OIG suggests that DSS immediately notify those nonprofit entities of the required fee and begin to charge those that wish to continue to receive City service.

B. DSS SHOULD CONDUCT A FULL INVENTORY OF PROPERTIES RECEIVING FREE CITY GARBAGE SERVICES.

To ensure that it collects garbage only from those nonprofits that received City service as of January 1, 2016, DSS needs a complete and accurate list of those entities. OIG identified 25 nonprofits that are receiving service but are not on DSS' current list. The fact that the list is incomplete reveals that DSS still does not know all the properties from which it collects garbage—a problem OIG has raised several times in recent years.

OIG suggests that DSS identify all the properties missing from its list of nonprofit entities receiving free garbage collection and, unless it can prove that they received service as of January 1, 2016, require them to hire a private garbage collector. To ensure the integrity of the list going forward, DSS should develop written procedures for updating it as entities change ownership or location, and should terminate City service for properties no longer eligible.

- City of Chicago, Office of Inspector General. "Department of Streets and Sanitation Garbage Collection Performance Measure; Recent Audit," April 2019, accessed April 16, 2019, <https://igcoicane.a/2015/01/27/audit-of-dss-garbage-collection-performance-measure/>

City of Chicago Office of Inspector General. "Department of Streets and Sanitation Garbage Collection Performance Measure Follow-Up inquiry." September 2015, accessed April 16, 2019. <https://igchicaci.org/V.OIG/t9/IS/loiw-iio-0:-ciss-ciarbae-coHeci-ion-nc-i;ormarice-audit/>

C. IF DSS CONTINUES TO COLLECT GARBAGE FOR
NONPROFITS, IT SHOULD WORK WITH CITY COUNCIL TO CODIFY ELIGIBILITY
CRITERIA.

DSS' current provision of free garbage service only to those nonprofits fortunate enough to have received it in the past is inherently unfair. It perpetuates a discretionary benefit that DSS historically granted to entities who knew to request it, or otherwise acquired it, while similarly situated nonprofits are denied this benefit and must pay for private garbage collection.

If DSS wishes to continue collecting garbage for nonprofits, it should work with City Council to codify eligibility standards similar to MCC § 11-12-540(8), which provides water fee discounts to certain nonprofits based on size, charitable work, and other criteria. DSS should then make all eligible entities aware of the benefit by publicizing it to the City's nonprofit community.

We invite you to respond in writing before June 3, 2019. Any such response will be made public along with this OIG Advisory.

Respectfully,

Joseph M. Ferguson Inspector General City
of Chicago

Joe Deal, Chief of Staff, Office of the Mayor
Edward Siskel, Corporation Counsel, Department of Law

MISSION

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- performance audits of City programs and operations by its Audit and Program Review Section,
- inspections, evaluations and reviews of City police and police accountability programs, operations, and policies by its Public Safety Section; and
- compliance audit and monitoring of City hiring and employment activities by its Hiring Oversight Unit

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- to prevent, detect, identify, expose, and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

AUTHORITY

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and 240.

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