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October 27, 2003

Thomas R. Frieden, M.D., M.P.H.
Commissioner
New York City Department of Health and Mental Hygiene
125 Worth Street
New York, NY 10013

Re: Report 2003-F-21

Dear Dr. Frieden:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law and Article III of the General Municipal Law, we have reviewed the actions taken by officials of the New York City Department of Health and Mental Hygiene (Department) as of September 22, 2003, to implement the recommendations in our audit report, *Inspections of Food Service Establishments* (Report 2000-N-15). Our report, which was issued February 19, 2002, assessed whether the Department was performing the required inspections of food service establishments (FSEs) throughout the City.

Background

The Department promotes and protects the health and quality of life of New York City (City) residents and visitors by enforcing compliance with the City's Health Code through the operation of a variety of public health programs and services that involve the monitoring, prevention and control of diseases. Pursuant to the Health Code and other governmental regulations, the Department is responsible for preventing outbreaks of food borne diseases and ensuring the cleanliness of FSEs in the City by inspecting them on a regular basis. An FSE is a commercial facility where food is prepared and is eaten either on or off premises.

The Department conducts unannounced initial inspections of FSEs. If an FSE fails the initial inspection (i.e., certain violations are identified), a compliance, or follow-up inspection is performed to determine if the conditions that existed during the initial inspection have been rectified. If an FSE has failed to meet standards for two consecutive inspections (initial and compliance), a final inspection is performed. An FSE that fails a final inspection may be subject to closure.

Summary Conclusions

In our prior report, we found that the Department could not document certain performance statistics reported to the public and had not committed to writing many of the goals or requirements of its food inspections program. In addition, we found that compliance inspections to check on known violations were not completed within acceptable timeframes.

In our follow-up review, we found that Department officials have made progress in implementing the audit recommendations. The Department now maintains documentation supporting the number of FSEs inspected and reported to the public and has clarified its operational protocol for determining the frequency of inspections of FSEs. Further, Department officials made progress in formalizing their policies and procedures for inspecting FSEs and in completing inspections within acceptable timeframes.

Summary of Status of Prior Audit Recommendations

Department officials have implemented three and partially implemented two of the five prior audit recommendations.

Follow-up Observations

Recommendation 1

Modify the inspection database to enable a determination of the population of food service establishments that were permitted and open during specific periods of time, such as the time period of the Mayor's Management Report.

Status – Implemented

Agency Action – Department officials provided databases of all permitted FSEs and those pending permits as of July 1, 2002 and July 1, 2003. As constructed, these databases enable the Department to determine which FSEs required inspections during the fiscal year ended June 30, 2003 and to determine the population of FSEs at a specific point in time or within a specific time period.

Recommendation 2

Retain documentation supporting the number of food service establishments inspected and reported to the public, such as in the Mayor's Management Report.

Status – Implemented

Agency Action – Department officials provided a report detailing the number of inspections completed for each month during fiscal year 2003. We reviewed the database used to calculate the inspection numbers and, using a specific formula, duplicated the results that were contained on the report.

Recommendation 3

Commit to writing all policies and procedures for the inspection of food service establishments.

Status – Partially Implemented

Agency Action – Department officials provided written documentation of some new policies and procedures such as new pre-permit inspections and permit requirements, and the new scoring system to determine if an FSE has passed inspection. However, while they offered differing requirements or goals for the completion of compliance inspections following failed initial inspections, the associated policies or procedures have not been formalized and committed to writing.

Recommendation 4

Clarify the applicability of the December 15, 1997 protocol for determining the frequency of inspections of food service establishments.

Status – Implemented

Agency Action – Department officials provided written clarification of the protocol.

Recommendation 5

Complete compliance inspections within the applicable time frame following failed initial inspections.

Status – Partially Implemented

Agency Action – Department officials provided a database of inspections completed from July 1, 2002 through May 31, 2003. Based on our analysis, we determined that of the 971 FSEs that failed inspections during the period July 1, 2002 through December 31, 2002, the Department completed a subsequent inspection within 60 days for 895 FSEs (92 percent). We also determined that 39 FSEs that had failed inspections during the above six-month period had not been re-inspected through May 31, 2003. While the Department's inspection performance improved since our prior audit when 25 percent of failed inspections were not followed up within 60 days, additional improvement is warranted.

Major contributors to this report were Stuart Dolgon, Charles Johnson and Geraldine Walker.

We would appreciate your response to this report within 30 days, indicating any actions planned or taken to address the unresolved matters discussed in this report. We thank Department management and staff for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Kevin M. McClune
Audit Director

cc: C. Troob
I. Winston