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BUREAU OF AUDIT

June 19, 2019

By Electronic Mail

Commissioner Lorelei Salas
New York City Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Letter Report on the Compliance of the New York City Department of Consumer Affairs with Local Law 65 of 2015 Regarding Translation of the Business Owner's Bill of Rights as it Relates to Agency Inspections (Audit Number SZ18-127AL)

Dear Commissioner Salas:

This Letter Report concerns the New York City Comptroller's audit of the New York City Department of Consumer Affairs' (DCA's) compliance with Local Law 65 of 2015, which governs the translation of the *Business Owner's Bill of Rights* as it relates to inspections by New York City agencies.¹ The objective of this audit was to determine whether DCA is complying with Local Law 65, which is intended to make City agencies' business-inspection protocols and interactions accessible to immigrants and non-English speakers. Our audit of DCA is one in a series of audits we are conducting of the City's compliance with Local Law 65.

Background

New York City, with a population of more than 8.5 million people, is home to one of the most diverse populations in the world, with more than 3.2 million foreign-born residents from more than 200 countries. According to the New York City Department of City Planning (DCP), nearly one-half of all New Yorkers speak a language other than English at home, and almost 25 percent of City residents age five and over, or 1.8 million persons, are not proficient in English. For individuals with limited English proficiency, interacting with City government can often be a challenge.²

¹ DCA is currently listed as such in Chapter 64 of the New York City Charter. However, in January 2019, the Mayor announced that DCA will become the Department of Consumer and Worker Protection, and the agency currently refers to itself as such on its public website. NYC Consumer Affairs, <https://www1.nyc.gov/site/dca/about/overview.page>, accessed April 24, 2019.

² Mayor's Office of Immigrant Affairs, "State of Our Immigrant City" annual report, March 2018; New York City Department of City Planning <https://www1.nyc.gov/site/planning/about/language-access.page>

Accordingly, in 2015, the City Council enacted and Mayor de Blasio signed Local Law 65 of 2015, amending Section 15 of the City Charter to require (1) translation of the *Business Owner's Bill of Rights*, a “plain language” document, developed by the Mayor’s Office of Operations delineating standards of service for City inspections; and (2) training, also developed by the Mayor’s Office of Operations, in specific protocols for City inspectors to follow during their interactions with non-English speakers during agency inspections. Local Law 65 explicitly applies to six City inspectional agencies, including DCA, and provides for translation services in “at least” the six languages most commonly spoken by limited English proficient individuals as determined by DCP, based on census data (LEP languages).

Thereafter, with the City’s enactment of Local Law 30 of 2017, as of July 1, 2017 through the present, all City agencies that provide direct public services or emergency services, including DCA, must develop and implement language access plans, in consultation with the Mayor’s Office of the Language Services Coordinator and the Mayor’s Office of Immigrant Affairs, that include translation and interpretation services in the top 10 LEP languages—the 6 designated by DCP and 4 others determined by the Mayor’s Office of the Language Services Coordinator, based on language access data collected by the City Department of Education.³ DCA’s Language Access Plan accordingly adopts Local Law 30’s 10-LEP language standard for purposes of both its business-inspection activities subject to Local Law 65 and the various other services it provides directly to the public.

DCA inspects numerous types of businesses throughout the City, including but not limited to amusement park arcades, catering businesses, businesses that sell cigarettes, electronics stores, garages and parking lots, newsstands, secondhand car dealers, and sidewalk cafés, to ensure that they have the proper licenses to operate and are in compliance with applicable laws.

As required, the Mayor’s Office of Operations developed the standardized customer service training curriculum for City agency inspectors. As determined by DCP, the Mayor’s Office of Language Services Coordinator, and data collected by the City Department of Education, the 10 designated Citywide languages in New York City among residents with limited English proficiency are:

- 1) Spanish
- 2) Chinese (includes Cantonese, Mandarin, Taiwanese and Formosan)
- 3) Russian
- 4) Bengali
- 5) Haitian Créole (also called French Créole)
- 6) Korean

³ Local Law 30 of 2017 is codified at Title 23, Chapter 11 and at section 23-301 of the New York City Administrative Code and in amendments to sections 15(c) and 18(b), of the City Charter.

- 7) Arabic
- 8) Urdu
- 9) French
- 10) Polish

The objective of this audit was to determine whether DCA is complying with Local Law 65, which is intended to make City agencies' business-inspection protocols and interactions accessible to immigrants and non-English speakers.

Findings and Recommendations

Our audit found that DCA generally complied with Local Law 65. Our review of DCA's Language Access Plan dated 2018, which, as required by Local Law 30 of 2017, documents DCA's steps to provide services to the LEP populations it serves, found that DCA had made continuous efforts to provide meaningful language access during inspections for LEP customers. Its Language Access Plan describes the steps that DCA had taken to provide its services to the LEP population.

During our site visits to DCA's Manhattan location at 42 Broadway, where inspectors are located, we found that the *Business Owner's Bill of Rights* is posted in the office areas. The *Business Owner's Bill of Rights* notifies individuals of their right to consistent enforcement of agency rules; compliment or complain about an inspector or inspectors; contest a notice of violation before the relevant local tribunal; an inspector who behaves in a professional and courteous manner; an inspector that can answer reasonable questions relating to the inspection; an inspector with a sound knowledge of the applicable laws, rules and regulations; access information in languages other than English; and request language interpretation services for agency inspections of the business.

Furthermore, the *Business Owner's Bill of Rights* was fully translated into each of the 10 designated Citywide languages of LEP residents in New York City. Additionally, posted on DCA's website is its *Visiting Inspection Program*, where DCA informs its customers that they have the right to ask for an inspection in their LEP language. Also, DCA's website provides a link to the Mayor's Office of Operations' website, where its *Business Owner Bill of Rights* can be viewed and downloaded in the top 10 designated Citywide languages. We reviewed the *Business Owner's Bill of Rights* and found that it notifies owners of their rights as follows:

1. Courteous and professional treatment by employees
2. Inspectors who are polite, professionally dressed, and properly identified
3. Information about how long inspections will take and the cost of all related fees
4. Knowledgeable inspectors who enforce agency rules uniformly
5. Receive information about agency rules from inspectors or other employees

6. Contest a violation through a hearing, trial or other relevant process
7. Request a review of inspection results or re-inspection as soon as possible
8. Receive explanation from inspectors on violation details and instructions for viewing inspection results
9. Access information in languages other than English and request language interpretation services for inspections
10. Comment, anonymously and without fear of retribution, on the performance or conduct of our employees

We also found that DCA trains its inspectors on the agency's policies and procedures pertaining to providing language access services to business owners during inspections. In June 2018, DCA updated its inspectors' training manual to reflect the training requirements of Local Law 65 of 2015 and Local Law 30 of 2017. The training material describes DCA's language access policies and procedures and includes the standardized service training curriculum that was developed by the Mayor's Office of Operations for the Citywide Interagency Language Access Protocol. Additionally, in 2017, DCA introduced its Visiting Inspector Program (VIP). VIP helps business owners understand the relevant laws pertaining to their businesses and also provides them with a free, educational compliance inspection. During such an inspection, inspectors advise the business owner on compliance with laws and regulations and how to avoid violations. Moreover, through the program, business owners are notified of their ability to request inspections in languages other than English.

Correspondingly, DCA provides business owners with a *Language Preference* form that includes the top 10 designated Citywide languages, allowing the owners to indicate a language preference other than English for agency inspections. Inspectors are also equipped with an *Interpretation Service Available* sheet, informing LEP individuals of their right to free language assistance services during agency inspections. We found that inspectors had been given training on the use of the telephonic interpretation services through Language Line Services, LLC and were able to communicate in languages other than English with the LEP clients during agency inspections. This communication was accomplished by requiring the inspectors to provide information in a LEP language.

In addition, when we communicated with inspectors in languages other than English we found that they were able to assist us. The inspectors asked us to indicate on the "I speak card" what language we spoke and then took us to the language access phones to answer our questions or call the language access line so that we could speak to an operator to translate our questions.⁴

⁴ The "I speak card" is a business card listing a minimum of 10 different languages that the inspectors carry.

Our findings are outlined in the table entitled Compliance Summary below.

COMPLIANCE SUMMARY		
Criteria	Compliance	Notes
<p><i>Business Owner's Bill of Rights</i> translates into the top 10 designated Citywide languages. (As specified in Local Law 65 of 2015 and Local Law 30 of 2017)</p>	Yes	<p>The <i>Business Owner's Bill of Rights</i> is fully translated into each of the 10 designated Citywide languages of New York City. The translation is provided on DCA's website by a link to the Mayor's Office of Operations' website, where the bill of rights can be viewed and downloaded in the top 10 designated Citywide languages in addition to English. Further, DCA provides a <i>Visiting Inspection Program</i> that informs its consumers that services will be provided in the LEP languages.</p>
<p>Agency provides training for its inspectors on language access policies and procedures for interacting with LEP individuals based upon the standardized customer service training curriculum developed by the Mayor's Office of Operations. (As prescribed by Local Law 65)</p>	Yes	<p>DCA updated its training manual and procedures June 2018 and employees received the training as required by Local Law 30, which provides for translation in the six languages required by Local Law 65 and four additional languages. Training materials are available via the agency's intranet. They describe DCA's language access policies and procedures and the Citywide Interagency Language Access Protocol. We reviewed a copy of DCA's employee-training material and training sign-in sheet, which is used to document that each inspector had signed his or her name to indicate that they have taken the mandatory training. This was done for the initial updated training of all inspectors. Recent hires perform the intranet training and email the course receipts.</p>

We recommend that DCA continue to maintain its compliance with Local Law 65 to ensure it effectively meets the needs of residents with limited English proficiency when interacting with city inspectors.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. 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. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope period for this audit was May 1, 2018 through April 12, 2019, the last day of our fieldwork. Our methodology for this audit consisted of the following steps:

- We reviewed applicable laws, rules, policies and procedures to determine our criteria in accordance with Local Law 65.
- We reviewed and analyzed the *Business Owner Bill of Rights* and standard training curriculum for inspectors developed by the Mayor's Office of Operations (Citywide Interagency Language Access Protocol).
- We researched and determined the 10 designated Citywide languages in the City among residents with limited English proficiency, as determined by DCP, the Mayor's Office of Language Services Coordinator, and data collected by the City's Department of Education.
- We reviewed and analyzed DCA's website and tested its ability to translate the *Business Owner's Bill of Rights* into the top 10 designated Citywide languages for residents with limited English proficiency.
- We reviewed and analyzed DCA's July 2018 Language Access Plan to determine what steps DCA took to comply with Local Law 65.
- We reviewed the Language Access Plan to determine DCA's training protocol for its inspectors.
- We reviewed and analyzed the employee manual for language access training and/or written policies and procedures.
- We reviewed a copy of the employee-training material and training sign in sheet and verified that the employees were employed by DCA as of that time.
- We conducted interviews with DCA's staff members to discuss the agency's efforts and verify its compliance with Local Law 65.
- We asked inspectors various questions in different languages to determine whether they could communicate with the public in languages other than English.

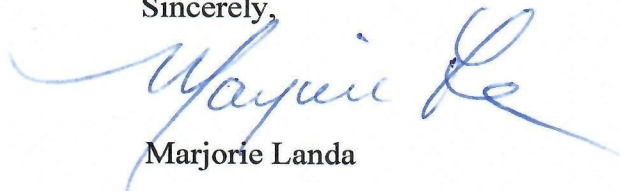
Based on our understanding of the Local Law 65 requirements, we outlined the criteria necessary for agencies to be in compliance. The table below outlines the core criteria that agencies must meet to achieve compliance under Local Law 65. A summary of these core criteria forms the basis for the compliance summary reported for each audited agency.

CORE CRITERIA	
Compliance	Detailed Criteria
<i>Business Owner's Bill of Rights</i>	Includes notice of business owners right to: <ol style="list-style-type: none"> 1. Consistent enforcement of agency rules. 2. Compliment or complain about an inspector or inspectors. 3. Contest a notice of violation before the relevant local tribunal. 4. An inspector who behaves in a professional and courteous manner. 5. An inspector that can answer reasonable questions relating to the inspection. 6. An inspector with a sound knowledge of the applicable laws, rules and regulations. 7. Access information in languages other than English 8. Request language interpretation services for agency inspections of the business.
<i>Translated Business Owner's Bill Of Rights</i>	<i>Business Owner's Bill of Rights</i> is translated into the top ten designated citywide LEP languages (Spanish, Chinese, Russian, Haitian Creole/French Creole, Bengali, Korean, Arabic, Urdu, French & Polish)
<i>Training of Agency Inspectors</i>	Agency trains its inspectors on language access policies and procedures of providing adequate services to and communicating effectively with limited-English speakers during agency inspections.

The matters covered in this letter report were discussed with DCA officials during and at the conclusion of this audit. DCA officials were notified of our findings during the course of the audit and agreed that an exit conference was not necessary. On May 24, 2019, we submitted a draft letter report to DCA with a request for comments. We received a written response from DCA on June 7, 2019. In its response, DCA agreed with our recommendation and stated that it would “continue to comply with Local Law 65 to effectively meet the needs of New Yorkers with limited English proficiency when interacting with DCA’s inspectors.”

The full text of DCA’s comments is included as an addendum to this report.

Sincerely,



Marjorie Landa

- c: Kenny Minaya, Chief of Staff, DCA
 Sandra Abeles, First Deputy Commissioner, DCA
 Casey Adams, Director of City Legislative Affairs, DCA
 Jeff Thamkittikasem, Director, Mayor’s Office of Operations
 George Davis, III, Deputy Director, Mayor’s Office of Operations



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June 7, 2019

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**RE: Draft Letter Report on the Compliance of The New York City
Department of Consumer Affairs with Local Law 65 of 2015 Regarding
Translation of the Business Owner's Bill of Rights as it Relates to
Agency Inspections (SZ18-127AL)**

Dear Deputy Comptroller Landa:

Thank you for the opportunity to respond to the draft letter report dated May 24, 2019, regarding the compliance of the New York City Department of Consumer Affairs (DCA) with Local Law 65 of 2015.

We appreciate your office acknowledging our efforts to provide meaningful language access during inspections for New Yorkers with limited English proficiency. DCA will continue to comply with Local Law 65 to effectively meet the needs of New Yorkers with limited English proficiency when interacting with DCA's inspectors.

If you require further information, please contact Kenny Minaya, Chief of Staff, at (212) 436-0219.

Sincerely,


Lorelei Salas
Commissioner