



CITY OF NEW YORK  
**OFFICE OF THE COMPTROLLER**  
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AUDIT

BUREAU OF AUDIT

May 13, 2020

**By Electronic Mail**

Oxiris Barbot, MD  
Commissioner  
New York City Department of Health and Mental Hygiene  
42-09 28th Street, 14th Floor  
Long Island City, NY 11101

**Re: Final Letter Report on the Compliance of the New York City Department of Health and Mental Hygiene with Local Law 65 of 2015 Regarding Translation of the Business Owner's Bill of Rights as It Relates to Agency Inspections (Audit Number SZ20-090AL)**

Dear Commissioner Barbot:

This Final Letter Report concerns the New York City Comptroller's audit of the New York City Department of Health and Mental Hygiene's (DOHMH'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. The objective of this audit was to determine whether DOHMH 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 DOHMH 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.<sup>1</sup>

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<sup>1</sup> Mayor's Office of Immigrant Affairs, "State of Our Immigrant City" annual report, March 2020, for Calendar Year 2019; 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 DOHMH, 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 DOHMH, must develop and implement language access plans, in consultation with the Mayor’s Office of Language Access 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 Access Services Coordinator, based on language access data collected by the City Department of Education.<sup>2</sup> DOHMH’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.

DOHMH is responsible for protecting and promoting the health and well-being of all New Yorkers. Among other things, DOHMH joins with communities to develop and implement public health programs, enforce health regulations, respond to public health emergencies, and provide limited direct public services such as critical preparedness and response roles, with the primary goal of protecting the public’s health. Direct public services, such as tuberculosis testing and treatment, seasonal flu shots, and childhood and adult vaccinations are provided at four tuberculosis clinics, eight sexual health clinics, one immunization clinic, and more than 1,200 public schools. In addition, DOHMH issues birth and death certificates, and inspects restaurants and child care centers. DOHMH attempts to reduce deaths and disabilities from chronic diseases, such as heart disease and cancer, by educating New Yorkers about the dangers of smoking, the consumption of unhealthy foods, and the benefits of physical activity. DOHMH also contracts with community-based organizations to deliver mental health, developmental disability, and alcohol and substance use disorder treatment services. DOHMH is responsible for inspecting restaurants, child care facilities, mobile food vendors, and school cafeterias. After permits and licenses are issued DOHMH inspects animal facilities, beaches, camps, pools, spas, and establishments that sell tobacco and e-cigarettes.

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<sup>2</sup> 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.

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

The objective of this audit was to determine whether DOHMH 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 DOHMH generally complied with Local Law 65 and Local Law 30. In one respect, however, DOHMH was less than fully compliant with Local Law 30 and DOHMH's Language Access Plan in that one of its publications, *Food Service Establishment Business Owner's Bill of Rights*, was translated into 7 of the top 10 LEP languages. For full compliance, DOHMH will need to add translations of that document into three additional languages. Our findings are further detailed below.

Our review of DOHMH's 2018 Language Access Plan, which, as required by Local Law 30 of 2017, documents DOHMH's steps to provide services to the LEP populations it serves, found that DOHMH had made continuous efforts to provide meaningful language access during inspections for LEP customers. DOHMH adopted the Citywide standardized customer service training, and incorporated and designed a curriculum to ensure that its inspectors were able to comply with Local Law 65 and Local Law 30. We found that DOHMH has the *Business Owner's Bill of Rights* prominently displayed through a PowerPoint presentation on a large screen in its office area.

The *Business Owner's Bill of Rights* was fully translated into each of the 10 designated Citywide LEP languages. DOHMH's website also provides a link to the New York City Department of Small Business Services' website, where its *Business Owner's 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 [DOHMH] employees

Additionally, DOHMH provided business owners with a *Food Service Establishment Business Owner's Bill of Rights*, which is specific to owners of restaurants, soup kitchens, or other food service operators. We reviewed the *Food Service Establishment Business Owner's Bill of Rights* and found that it notifies food service establishment owners of their rights as follows:

1. Courteous and professional treatment by inspectors. Please treat inspectors similarly.
2. Inspectors who identify themselves and the purpose of the inspection upon arrival.
3. Information about how long the inspection will take.
4. Knowledgeable, fair and impartial inspectors who enforce agency rules uniformly.
5. Information about City food safety rules, violations and possible remedies.
6. Directions for contesting violation(s) at the OATH Health Tribunal.
7. Inspections that are as unobtrusive as possible, while still allowing the inspection to be completed.
8. Answers to reasonable questions about the inspection and instructions for viewing results. (If equipment was moved or disassembled during the inspection, the Inspector will return or reassemble it.)
9. Access to information in non-English languages. If needed, the inspector will use a language assistance program to communicate with you.
10. The chance to comment, anonymously and without fear of retribution, on inspectors' performance or conduct.

However, DOHMH's *Food Service Establishment Business Owner's Bill of Rights* was translated into only 7 of the top 10 LEP languages. Specifically, it was translated into Spanish, Chinese, Russian, Bengali, Haitian Créole, Korean, and Arabic in accordance with Local Law 65. For DOHMH to be in full compliance with Local Law 30, which was enacted after Local Law 65, DOHMH would have to translate the *Food Service Establishment Business Owner's Bill of Rights* into Urdu, French, and Polish. According to DOHMH, since those three languages are not used often, the agency translates the *Food Service Establishment Business Owner's Bill of Rights* to those languages only when a business owner requests such a translation.

We also found that DOHMH trains its inspectors on the agency's policies and procedures pertaining to providing language access services to business owners during inspections. In June 2018, DOHMH 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 DOHMH'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. Furthermore, DOHMH informs new food service establishment business owners that it has a service that provides business owners with a consultative, educational inspection for a fee.<sup>3</sup> During such an inspection, DOHMH's public health inspectors advise the food service establishment on identifying and resolving food safety problems, protecting customers' health, and avoiding common violations, and they notify business owners of their ability to request inspections in languages other than English.

In addition, DOHMH provides business owners with a *Language Access* brochure that includes the top 10 designated Citywide languages and allows the owners to indicate a language preference other than English for agency inspections. Inspectors are also equipped with a *Language ID* sheet which informs LEP clients of their right to free language assistance services during agency inspections. We found that DOHMH trains its inspectors on the use of telephonic interpretation services through Language Line Services, LLC so that inspectors can communicate in languages other than English with LEP clients during agency inspections. If inspectors do not speak the language of the business owner, they can have the business owner indicate their preferred language on the "I speak" card, then call Language Line Services, LLC to have an interpreter translate the inspection process.<sup>4</sup>

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<sup>3</sup> DOHMH offers this service for a fee of \$100.00.

<https://www1.nyc.gov/assets/doh/downloads/pdf/permit/consultative-inspections.pdf>

<sup>4</sup> Testing of the adequacy of DOHMH's training will be completed and documented in another audit that will be scheduled at a later date.

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

<b>COMPLIANCE SUMMARY</b>		
<b>Criteria</b>	<b>Compliance</b>	<b>Notes</b>
<p><i>Business Owner's Bill of Rights</i> translates into the top 10 designated Citywide languages.</p> <p>(As specified in Local Law 30 of 2017 and Local Law 65 of 2015)</p>	<p>Yes, overall*</p> <p>Full compliance with Local Law 30 would require translation in three additional languages.</p>	<p>The <i>Business Owner's Bill of Rights</i> is fully translated into each of the 10 designated Citywide languages. The translation is provided on DOHMH's website by a link to the New York City Department of Small Business Services' website, where the <i>Business Owner's Bill of Rights</i> can be viewed and downloaded in the top 10 designated Citywide languages in addition to English.</p> <p>Further, DOHMH has a <i>Food Service Establishment Business Owner's Bill of Rights</i>, which is translated into 7 of the top 10 LEP languages as required by Local Law 65.</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.</p> <p>(As specified by Local Law 65)</p>	<p>Yes</p>	<p>DOHMH updated its training manual and procedures in June 2018, and employees received the training as required by Local Law 30. Training materials that describe DOHMH's language access policies and procedures and the Citywide Interagency Language Access Protocol are available via the agency's intranet.</p> <p>We reviewed a copy of DOHMH'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 DOHMH continue to maintain its overall compliance with Local Law 65 and Local Law 30 to ensure it effectively meets the needs of residents with limited English proficiency when interacting with City inspectors.

In addition, DOHMH should translate its *Food Service Establishment Business Owner's Bill of Rights* into Urdu, French, and Polish to be in full compliance with Local Law 30.

## 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 November 2019 through March 13, 2020, 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 and Local Law 30.
- We reviewed and analyzed the *Business Owner's Bill of Rights* and standard training curriculum for inspectors developed by the Mayor's Office of Operations (Citywide Interagency Language Access Protocol).
- We reviewed and analyzed the *Food Service Establishment Business Owner's Bill of Rights* to determine whether it was translated in the designated languages as per Local Law 65 and Local Law 30.
- We researched and determined the 10 designated Citywide languages among residents with limited English proficiency, as determined by DCP, the Mayor's Office of Language Access Services Coordinator, and data collected by the City's Department of Education.
- We reviewed and analyzed DOHMH'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 DOHMH's 2018 Language Access Plan to determine what steps DOHMH took to comply with Local Law 65 and Local Law 30.
- We reviewed the 2018 Language Access Plan to determine DOHMH's training protocol for its inspectors.

- We reviewed and analyzed the employee manual for language access training information 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 DOHMH as of that time.
- We conducted interviews with DOHMH’s staff members to discuss the agency’s efforts and verify its compliance with Local Law 65 and Local Law 30.

Testing of the adequacy of DOHMH’s training will be completed and documented in another audit that will be scheduled at a later date.

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.

<b>CORE CRITERIA</b>	
<b>Compliance</b>	<b>Detailed Criteria</b>
<b><i>Business Owner’s Bill of Rights</i></b>	Includes notice of business owners’ right to: <ol style="list-style-type: none"> <li>1. Consistent enforcement of agency rules</li> <li>2. Compliment or complain about an inspector or inspectors</li> <li>3. Contest a notice of violation before the relevant local tribunal</li> <li>4. An inspector who behaves in a professional and courteous manner</li> <li>5. An inspector who can answer reasonable questions relating to the inspection</li> <li>6. An inspector with a sound knowledge of the applicable laws, rules and regulations</li> <li>7. Access information in languages other than English</li> <li>8. Request language interpretation services for agency inspections of the business</li> <li>9. Access information in languages other than English and request language interpretation services for inspections</li> <li>10. Comment, anonymously and without fear of retribution, on the performance or conduct of [DOHMH] employees</li> </ol>
<b>Translated <i>Business Owner’s Bill Of Rights</i></b>	The <i>Business Owner’s Bill of Rights</i> is translated into the top 10 designated Citywide LEP languages (Spanish, Chinese, Russian, Haitian Creole/French Creole, Bengali, Korean, Arabic, Urdu, French, and Polish).
<b>Training of Agency Inspectors</b>	Agency trains its inspectors on language access policies and procedures for providing adequate services to and communicating effectively with limited-English speakers during agency inspections.



The matters covered in this letter report were discussed with DOHMH officials during and at the conclusion of the audit, and they agreed that an exit conference was not necessary. On April 24, 2020, we submitted a draft letter report to DOHMH officials with a request for comments. We received a written response from DOHMH on May 8, 2020. In their response, DOHMH officials agreed with the audit's findings and recommendations, stating, "We are pleased that your audit found that DOHMH generally complied with Local Law 65 of 2015 and Local Law 30 that was enacted in 2017. To be fully compliant Local Law 30 DOHMH is in the process of translating its *Food Service Establishment Business Owner's Bill of Rights* into French, Polish and Urdu as the audit recommends. DOHMH is committed to continue to provide the public with necessary language access to obtain City services and to have this access available during DOHMH inspections for Limited English Proficiency clients." The full text of DOHMH's response is included as an addendum to this report.

Sincerely,



Marjorie Landa

- c: Emiko Otsubo, Executive Deputy Commissioner/COO, DOHMH
- Maura Kennelly, Acting Associate Commissioner, DOHMH
- Laura Rivera, Assistant Commissioner, Communications, DOHMH
- Mario Gonzalez, Audit Manager, Audit Services, DOHMH
- Sara Packman, Assistant Commissioner, DOHMH
- Jeff Thamkitikasem, Director, Mayor's Office of Operations
- Brady Hamed, Chief of Staff, Mayor's Office of Operations
- George Davis III, Deputy Director, Mayor's Office of Operations
- Florim Ardolli, Assistant Director, Mayor's Office of Operations



NEW YORK CITY DEPARTMENT OF  
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May 8, 2020

Marjorie Landa  
Deputy Comptroller for Audit  
Office of the New York City Comptroller  
1 Centre Street, Room 1100  
New York, NY 10007-2341

Re: Draft Letter Report on the Compliance of the New York City Department of Health and Mental Hygiene with Local Law 65 of 2015 Regarding Translation of the Business Owner's Bill of Rights as it Relates to Agency Inspections (Audit Number SZ20-090AL)

Dear Deputy Comptroller Landa:

We have received and reviewed your draft letter report on the New York City Department of Health and Mental Hygiene's (DOHMH'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. The audit objective was to determine whether DOHMH 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.

We are pleased that your audit found that DOHMH generally complied with Local Law 65 of 2015 and Local Law 30 that was enacted in 2017. To be fully compliant Local Law 30 DOHMH is in the process of translating its *Food Service Establishment Business Owner's Bill of Rights* into French, Polish and Urdu as the audit recommends.

DOHMH is committed to continue to provide the public with necessary language access to obtain City services and to have this access available during DOHMH inspections for Limited English Proficiency clients.

Sincerely,

A handwritten signature in black ink, appearing to be 'Emiko Otsubo', written over a white background.

Emiko Otsubo  
Chief Operating Officer / Executive Deputy  
Commissioner

Cc:  
Oxiris Barbot, MD  
Maura Kennelly  
Sara Packman  
Commissioner of Health, Department of Health and Mental Hygiene  
Associate Commissioner, Public Affairs, Office of External Affairs  
Assistant Commissioner, Bureau of Audit Services