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BUREAU OF AUDIT

June 8, 2020

By Electronic Mail

Vincent S. Sapienza
Commissioner
New York City Department of Environmental Protection
96-05 Horace Harding Expressway
Corona, NY 11368

Re: Final Letter Report on the Compliance of the New York City Department of Environmental Protection with Local Law 65 of 2015 Regarding Translation of the Business Owner's Bill of Rights as It Relates to Agency Inspections (Audit Number SZ20-089AL)

Dear Commissioner Sapienza:

This Final Letter Report concerns the New York City Comptroller's audit of the New York City Department of Environmental Protection's (DEP'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 DEP 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 DEP 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.¹

¹ 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 DEP, 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 DEP, 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. The plans must 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.² DEP’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.

DEP is responsible for protecting public health and the environment by, among other things, supplying clean drinking water, collecting and treating wastewater, and reducing air, noise, and hazardous material pollution. DEP manages the City’s water supply; builds and maintains the City’s water distribution network, fire hydrants, storm and sanitary sewage collection systems, and its green infrastructure systems; and manages the 14 wastewater treatment plants located in the City and the 7 treatment plants located in the upstate watershed. Further, DEP bills and collects payments for approximately 836,000 water and sewer accounts. At DEP’s borough offices, the public can pay water and sewer bills, get account information, request an inspection, request a water meter title read,³ apply for permits, and file complaints. Further, as relevant to Local Law 65 requirements, DEP inspects businesses that are required to install backflow prevention devices.⁴ These businesses include laundries and dry cleaners, commercial car washes, medical and dental offices, funeral parlors, auto repair shops, and breweries.

² Local Law 30 of 2017 is codified at Title 23, Chapter 11, Section 23-301 of the New York City Administrative Code and in amendments to Sections 15(c) and 18(b) of the City Charter.

³ Prior to buying property in the City, buyers may request a Property Transfer Meter Reading (otherwise known as a title reading) at least 30 days prior to closing to help protect the buyer from being held responsible for charges that were incurred by the seller.

⁴ Backflow prevention devices prevent contaminated water or chemicals from flowing back into the public drinking water supply system.

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 DEP 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 DEP was partially compliant with Local Law 65 and Local Law 30. While DEP had posted the *Business Owner's Bill of Rights* at its borough offices and provided training for its inspectors on language access policies and procedures, the *Business Owner's Bill of Rights* was only available in English and was not available on DEP's website. For full compliance, DEP will need to translate the document into the 10 LEP languages as required by Local Law 65 and Local Law 30 and make it available on DEP's website. Our findings are further detailed below.

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

Specifically, we found that DEP trains its inspectors on the agency's policies and procedures pertaining to providing language access services to business owners during inspections. In May 2018, DEP 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 DEP'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.

In addition, DEP provides business owners with a *Language Access* information sheet 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 business owners of their right to free language assistance services during agency inspections. We found that DEP trains its inspectors on the use of telephonic interpretation services through Voiance Language Services, LLC (Voiance), 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 Voiance to have an interpreter translate the inspection process.⁵

Notwithstanding DEP's above-described successful efforts to provide meaningful language access during inspections for LEP customers, however, the agency has not translated its *Business Owner's Bill of Rights* into the top 10 LEP languages, as Local Law 65 requires, and has not fully disseminated that document. Our observations supporting this finding follow.

During our visits, we found that DEP posted the *Business Owner's Bill of Rights* in the office areas of each of its five borough offices, at 1932 Arthur Ave in the Bronx, 96-05 Horace Harding Expressway in Queens, 60 Bay Street in Staten Island, 250 Livingston Street in Brooklyn, and 1250 Broadway in Manhattan. Inspectors are located at each borough office.

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

⁵ Testing of the adequacy of DEP's training will be completed and documented in another audit that will be scheduled at a later date.

10. Comment, anonymously and without fear of retribution, on the performance or conduct of [DEP] employees

However, the *Business Owner's Bill of Rights* was not translated into any of the 10 designated Citywide languages of LEP residents in New York City. Additionally, DEP's website does not include the *Business Owner's Bill of Rights*, nor does it provide information to businesses that may be subject to DEP inspection. Moreover, DEP's website does not provide a link to either the Mayor's Office of Operations' website or the New York City Department of Small Business Services' website, where the *Business Owner's Bill of Rights* is in English and the top 10 LEP languages can be found.

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.</p> <p>Posting and translation of the <i>Business Owner's Bill of Rights</i> on agency's website.</p> <p>(As specified in Local Law 65 of 2015 and Local Law 30 of 2017)</p>	No	<p>DEP's <i>Business Owner's Bill of Rights</i> is not translated into any of the top 10 designated Citywide languages of New York City.</p> <p>DEP's website provides neither the required translations nor a link to the New York City Department of Small Business Services' website or the Mayor's Office of Operations' website where users can view and download the <i>Business Owner's Bill of Rights</i> in the top 10 designated Citywide languages in addition to English.</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 prescribed by Local Law 65)</p>	Yes	<p>DEP updated its training manual and procedures in May 2018, and employees received the training required by Local Law 30, i.e., translation in the six languages required by Local Law 65 and four additional languages determined by the Mayor's Office of the Language Access Services Coordinator. Training materials available via the agency's intranet describe DEP's language access policies and procedures and the Citywide Interagency Language Access Protocol. We reviewed a copy of DEP's employee-training manual and determined that the training was in compliance with requirements of Local Law 65 and Local Law 30.</p>

We recommend that DEP translate the *Business Owner's Bill of Rights* into the top 10 LEP languages to be in full compliance with Local Law 65 and Local Law 30 and ensure it effectively meets the needs of business owners with limited English proficiency when interacting with City inspectors.

In addition, DEP should post the *Business Owner's Bill of Rights* in English and the top 10 LEP languages to its website and provide links to the websites of other appropriate agencies, such as the Mayor's Office of Operations or the New York City Department of Small Business Services, where the *Business Owner's Bill of Rights* can be found in English and the top 10 LEP languages.

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 22, 2018 through April 28, 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 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 DEP'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 DEP's current May 2018 Language Access Plan to determine what steps DEP took to comply with Local Law 65.

- We reviewed the Language Access Plan to determine DEP’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 for inspectors and verified that the employees were employed by DEP as of that time.
- We conducted interviews with DEP’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 DEP’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 and Local Law 30. 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 owner’s 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 who 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 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 [DEP] employees
<i>Translated Business Owner’s Bill Of Rights</i>	<i>Business Owner’s Bill of Rights</i> is translated into the top 10 designated Citywide LEP languages (Spanish, Chinese, Russian, Haitian

	Créole/French Créole, Bengali, Korean, Arabic, Urdu, French and Polish).
Training of Agency Inspectors	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 DEP officials during and at the conclusion of the audit, and they agreed that an exit conference was not necessary. On May 20, 2020, we submitted a draft letter report to DEP officials with a request for comments. We received a written response from DEP on June 1, 2020. In its response, DEP agreed with the audit's findings and recommendations, stating, "DEP has added a link to the Mayor's Office of Operations site (the agency responsible for this document) that contains the Business Owner's Bill of Rights in English as well as translations. In addition, DEP is printing all available translated copies of the Business Owner's Bill of Rights and will have them available at each of its offices that serve the public. Also, DEP will continue to comply with Local Law 65 to effectively meet the needs of New Yorkers with limited English proficiency when accessing DEP's services." The full text of DEP's response is included as an addendum to this report.

Sincerely



Marjorie Landa

- c: Michael DeLoach, Deputy Commissioner, Public Affairs and Communications, DEP
- William Morris, Director, Management Analysis, DEP
- Sara Pecker, Director, Special Projects and Initiatives, DEP
- Jeff Thamkittikasem, Director, Mayor's Office of Operations
- Brady Hamed, Chief of Staff, Mayor's Office of Operations
- Florim Ardolli, Assistant Director, Mayor's Office of Operations



Vincent Sapienza, P.E.
Commissioner

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June 1, 2020

Ms. Marjorie Landa
Deputy Comptroller for Audit
1 Centre Street, Room 1000
New York, NY 10007

Re: Draft Letter Report on the Compliance of the New York City Department of Environmental Protection with Local Law 65 of 2015 Regarding Translation of the Business Owner's Bill of Rights as It Relates to Agency Inspections (Audit Number SZ20-089AL)

Dear Ms. Landa:

Thank you for the opportunity to respond to the draft report dated May 20, 2020, regarding the compliance of the New York City Department of Environmental Protection (DEP) with Local Law 65 of 2015.

We appreciate your office acknowledging our efforts to provide meaningful language access to the agency's services for New Yorkers with limited English proficiency. As recommended in the report, DEP has added a link to the Mayor's Office of Operations site (the agency responsible for this document) that contains the Business Owner's Bill of Rights in English as well as translations. In addition, DEP is printing all available translated copies of the Business Owner's Bill of Rights and will have them available at each of its offices that serve the public. Also, DEP will continue to comply with Local Law 65 to effectively meet the needs of New Yorkers with limited English proficiency when accessing DEP's services.

If you require any further information, please contact William Morris, Director of Management Analysis, at (718) 595-3697.

Sincerely,

A handwritten signature in black ink, appearing to be 'MD' with a flourish, representing Michael DeLoach.

Michael DeLoach