



CITY OF WILMINGTON

Certificates of Inspection

Internal Audit Review

February 13 2019

City Auditor's Office

Terence J. Williams
City Auditor
(302) 576-2165

Highlights

Why We Did This Audit

The Internal Audit Department (IA) performed an audit of Certificates of Inspection (COI) at the request of the City of Wilmington's Fire Marshal's Office (CoW FMO). The audit was in accordance with the 2017 Internal Audit Plan.

Methodology

The objectives were met by compiling and analyzing the COI data collected from the FMO's 2017 compliance audit; observing the data entry of COI forms into MUNIS; a review of City and State Code; and via discussions with personnel from the FMO, the Law Department, and the Department of Information Technologies.

Audit Review Committee:

Robert C. Johnson, Chair

Ciro Adams
Marchelle Basnight
Angelique Dennis
Bud Freel
Ronald Pinkett
Tanya Washington

Objective and Scope

IA conducted a Performance Audit of the City's COI Process. The audit objectives were to determine whether operating procedures and internal controls were in place and functioning appropriately in the administration of the COI process; and to review COIs issued by the COW FMO to ensure Inspection reports were submitted timely, accurately and whether the appropriate filing fees were paid. The scope of the audit included COI forms and applicable fees for calendar year 2016. IA believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We conducted our audit in accordance with Generally Accepted Government Auditing Standards ("GAGAS"). These 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.

Background

The State of Delaware's Administrative Code requires annual inspection, testing, and maintenance for all fire alarm signaling, fire suppression, and any other fire protection systems, devices, and equipment installed within the State of Delaware; hereafter, collectively referred to as "fire protection systems." Typically, this requirement applies to commercial buildings, public facilities such as restaurants or daycares, residential, multi-unit complexes and apartment dwellings. The CoW FMO minimally estimates that there are approximately 4K or more systems within the City limits that require annual inspection.

The fire protection systems' annual inspection, testing, and maintenance service must be completed by a company licensed by the State FMO upon payment of a licensure fee and a passing grade on a written test for licensure. According to State Code, when an annual inspection is completed, within 30 days of the inspection, the licensed inspection company *must* submit an Annual COI form along with the appropriate fee to either the State FMO or the applicable jurisdictional FMO's which include the Cities of Dover, Newark, New Castle, and Wilmington.

Chapter 12 of City Code describes the Fire Prevention and Protection requirements that specifically apply to the CoW. When performing inspections within the City, licensed fire inspection companies are required to comply with both Chapter 12 of the City Code as well as all other ordinances and regulations regarding businesses that operate within City limits.

As part of Management's FY 2017 strategic plan, and under the direction of the newly appointed Deputy Chief of Fire Prevention, the CoW FMO committed to enhance City services with the objective of increasing public safety via building inspections and the issuance of the appropriate violations.

In May 2017, the Office issued a letter to all State of Delaware licensed fire inspection companies, requesting proof of calendar 2016 COI compliance. The inspection companies were mandated to submit a copy of each annual inspection performed within City limits for the 2016 along with documentary evidence of fee payment. Sixty inspection companies submitted 1,398 COI forms and provided proof of payment for \$32,870 in fees. The dates of inspections reported spanned calendar years 2006 to 2017. Approximately, \$18K in *delinquent* fees were collected and COIs were reported as a direct result of the CoW FMO 2017 compliance audit.

Key Statistics:

Note: The FMO Compliance Audit commenced in May 2017 which caused an increase in fee payments in CY 2017 for CY 2016 compliance. IA performed a 5-year trend analysis on COI fees and payments to identify potential problem areas within the COI process.



Certificate of Inspection Analysis	
Average amount of COI fees collected per year	52K
Estimated <i>average</i> revenue losses due to COI fee non-compliance	(\$10.1K) per year
% of CY 2016 COIs that were delinquent (submitted beyond 30-day deadline)	57%
Average CY 2016 delinquency (# of days beyond 30 day deadline)	223 days
IAD estimated penalties for 2016 COI delinquency, according to City Code Sec 12-65*	\$125K to \$11.1M
Approximate # of inspections that may go unreported (or unperformed) per year	Between 407 to 603
Active Fire Inspection companies that don't have an active CoW Business License	35%
Active Fire Inspection companies that don't have a CoW Wage Tax Account	88%
*penalties are determined and applied by the Superior Court of the State of Delaware	

What we found

Key Findings

Following are key issues that resulted in a process/area to be risk rated a four.

<i>Risk Ranking:</i>		(See Attachment B for full rating definitions)			
Process / Area	Process / Area Owner	1 Strong Controls	2 Controlled Effectively	3 Controlled - Improvement Required	4 Significant Improvement Required
Compliance	James Jobes				✓
Errors & Omissions	James Jobes				✓

Compliance

1. Noncompliance exists with CoW Code and State of Delaware Administrative Code Fire Prevention Regulations as related to licensed fire system inspection companies, inspection reporting, and fee payment requirements.

As a result of the 2017 CoW FMO Compliance Audit, 52 fire system inspection companies submitted 602 COI forms along with \$15K in inspection fees that had not been previously reported for calendar year 2016.

Based upon the length of the delinquency, according to City Code Sec 12-65 “Penalties,” , each licensed inspection company that performed any of the delinquent 585 inspections could, at the discretion of the Superior Court of the State of Delaware and based on City FMO recommendations, face criminal misdemeanor charges (per inspection, per offense) and if found guilty, be required to pay cumulative punitive fines minimally estimated between \$146K and \$11.2M.

As of the date of this report, no actions have been taken by the City’s FMO to issue citations to severely delinquent licensed inspection companies for Code violations, nor have proceedings been held to hold delinquent property owners legally accountable, as applicable.

2. There was no process to determine inspection company compliance with State of Delaware Fire Prevention Regulations regarding annual testing of Fire Protection Systems for commercial properties located within the City. As a result, the following deficiencies exist:
 - FMO lacks a complete inventory of properties within City limits that are required to comply with Delaware State Fire Prevention Regulations.
 - Management lacks reporting tools for tracking and measuring COI compliance.
 - There is no consistency in the identification of properties exempt from the \$25 COI fee requirement such as City-, State-, or Federally-owned buildings. Therefore, the City received and processed \$400 in COI fees for properties that were exempt from the inspection fee requirement.

- 67 inspection forms were submitted for non-qualified properties claiming the exemption, causing the City to be underpaid by \$1.7K.
 - There is no consistency in the identification of properties that qualify for the \$15 reduced inspection fee. As a result, the City processed \$270 fee overpayments for 22 inspections of apartment buildings/complexes that qualified for the reduced inspection fee.
3. Fire inspection companies were noncompliant with the City’s Business License and Wage Tax requirements. Sixty fire inspection companies responded to the FMO’s compliance audit. During our review, we identified the following exceptions:
- Twenty-one inspection companies did not have a CoW Business License.
 - Fifty-three inspection companies did not have a wage tax withholding account.

Errors & Omissions

4. Controls over inspection data are being circumvented. During the internal audit, the process for entering COI data into MUNIS, the City’s financial application was reviewed for consistency, accuracy, and efficiency. The following issues were identified:
- Some inspections were entered according to the property being inspected with no reference to the inspection company. Other inspections were entered according to the inspection company, with no reference to the property. Once processed, there is no systematic method of matching the two data references into one single inspection without having prior knowledge of the approved permit number.
 - Companies that submit a single form of payment for multiple property inspections are being mass entered into the MUNIS system and the individual property detail is not being captured.
 - Relevant user-defined fields were not consistently being utilized by FMO such as: parcel numbers for each property inspected, business name, owner name, contractor (fire inspection company); the proper parcel address as assigned by New Castle County; and “Government-owned” categorization as appropriate.

Additional Observations

1. FMO should consider meeting with the State’s FMO to 1) discuss reformatting the mandatory COI form so that it better meets the needs of the City and 2) discuss the possible redesign of the licensing exam for fire inspection companies so it increases awareness of compliance requirements as they relate to the jurisdiction of Wilmington.
2. The Fire Prevention Division has a small administrative staff that is tasked with entering COI data and tracking compliance. In prior audits, it was recommended that the Division hire additional personnel to assist with data entry and filing needs. Based on the findings of the current audit, the recommendation to hire additional staff to assist with administrative duties, including compliance efforts, remains.
3. During the performance of the internal audit, FMO management demonstrated an openness to outside inquiry and a strong desire to achieve efficiency and transparency in the COI process. The decision to introduce an electronic system to better track and monitor compliance occurred prior to the completion of the audit which indicates that Management is proactively aware of process deficiencies and is adequately prepared to reduce risks in a timely manner.

Management Responses to Audit Recommendations

Recommendation #1

Summary of Management Responses

The FMO should develop a policy and procedure for flagging properties that are out of compliance with the annual COI and reporting requirements. Where City jurisdiction takes legal precedence, enforcement measures must be applied according to City Code, up to and including the issuance of a criminal summons for Code violators to face civil or misdemeanor charges and/or fines based on the number of offenses and maximum penalty amounts at the discretion of the Superior Court of Delaware as stated by City Code Sec 12-65 and Title 1 and Title 16 of State Code regulations. Fire Prevention Code violators should also be reported to the State's Fire Prevention Commission for a formal review and application of appropriate enforcement actions and penalties including but not limited to: a cease and desist order, revocation or suspension of City and State business licenses; revocation or suspension of National Institute for Certification in Engineering Technologies (NICET) certification; other enforcement actions as deemed appropriate.

Agree

Management response & action plan: The Wilmington FMO will be developing a written policy outlining the procedure for managing inspections and the procedures to follow utilizing the Mobile Eyes reporting system. The Mobile Eyes vendor portal will be used to submit certificates of inspections. City code will be updated to reflect electronic reporting of COIs (mandatory) as well as updating the code to reflect that the CoW FMO will direct bill each vendor for inspections conducted during the previous month. By direct billing the CoW FMO will only bill for inspections conducted within City limits, alleviating any need for refunds for exempt, out of district, or any other improperly submitted inspection.

Completion Date: June 30, 2019

Recommendation #2 Management should create an electronic inventory of properties within the City that are required to comply with Delaware Fire Prevention regulations regarding fire safety systems and the filing of annual COIs. Once a validated inventory is in place, Management should reconcile payment and inspection records with inventory data and follow-up on inspection companies that are noncompliant. Management should create a process for tracking and reporting on City and State Fire Code compliance for both licensed inspection companies and properties located within City limits.

Management should also work with the City's Department of Information Technologies to identify the best software for managing and monitoring the COI process. With the implementation of OpenGov, the FMO has an opportunity to be transparent with their permitting process and should ensure the public is duly aware of properties deemed to be unsafe or out of compliance.

Agree

Management response & action plan: With the implementation of Mobile Eyes software an electronic inventory will be created of all fire alarm and fire suppression systems within the CoW. A two (2) system verification will be utilized to ensure a complete inventory of all life safety systems is created. Wilmington Fire Department units will be conducting annual building inspections collecting fire alarm and fire suppression system data that will be compared to certificates of inspections submitted by licensed inspection companies using the Mobile Eyes vendor portal.

As part of the new electronic inspection and reporting system, tracking and reporting on City and State Fire Code compliance will be conducted within the Mobile Eyes program providing both the property owner and in other cases inspection companies with violation notices outlining requirements for compliance. FMO will be working with the City's IT Department (MUNIS) to flag apartment complexes (addresses) that qualify for the discount. A list of approved apartment complexes will be provided to licensed vendors. With direct billing from the CoW we will be able to scrutinize our billing, providing another layer of internal audit.

All code and policy changes will be reviewed by the Chief of Fire, Deputy Chief of Fire Prevention, and approved by the CoW's Administrative Board.

Completion Date: June 30, 2019

Recommendation #3

Once Management has developed a reliable system for monitoring COI compliance, the FMO should create an annual process for reporting potentially non-compliant inspection companies to the Department of Finance to investigate each company's business license and income tax withholding requirements. This process can begin with the annual list of "Licensed Public Fire Protection Companies & Testing Applications", published by the State of Delaware's FMO: <https://statefiremarshal.delaware.gov/technical-services/licensed-public-fire-protection-companies-testing-applications> .

The Department of Finance should also penalize non-compliant companies accordingly, while providing the proper notification to the FMO for timely administrative reporting to the State of Delaware's Fire Prevention Commission.

Agree

Management response & action plan: A letter will be sent to all inspection companies operating within the State of Delaware defining the new requirements of the CoW FMO. Individual files will be made for each inspection company operating within the CoW to ensure compliance with business license, wage tax account information, and a file for all enforcement action. Previously there were no files established for the inspection companies. FMO staff could not track any previous violations issued to inspection companies.

As with other processes within the CoW each inspection company will provide on a yearly basis a copy of their CoW Business License. All noncompliant companies will be forwarded to the Finance Department for enforcement.

Completion Date: June 30, 2019

Recommendation #4

Management should ensure that each COI is entered individually into MUNIS according to parcel number and street address. Data should be entered for each of the user-defined fields in MUNIS for each COI permit application without exception.

In addition, the FMO should discontinue mass entries of permit data and work with the Department of Information Technologies to identify the proper method for entering fees for multiple properties that are paid on one check.

Agree

Management response & action plan: The FMO will be developing a written policy outlining the procedure for managing inspections and the procedures to follow utilizing the Mobile Eyes reporting system. The Mobile Eyes vendor portal will be used to submit COIs.

This portal will be set up with mandatory fields capturing all important data that is needed to ensure compliance with city and state code.

Completion Date: June 30, 2019

Audit Team

Yvette R. Johnson, Senior Auditor
Tamara Thompson, Audit Manager