

Special Audit of the Environmental Health Department
Report No. 04 - 113
Executive Summary

Background

The Office of Internal Audit and Investigations conducted an audit of the Environmental Health Department (EHD). This was a special audit in response to a complaint made under City Ordinance 2-10 ROA 1994, the “Whistleblower Ordinance”. In the complaint, two City employees made several allegations against the EHD. These allegations included: non-compliance with the Food and Beverage Ordinance regarding restaurant inspections, unfair treatment with regard to personal usage of City-issued cell phones and misuse of Air Quality grant funds.

Our audit testwork was limited to restaurant inspections conducted by the Consumer Health Protection Division (CHPD) during fiscal years (FYs) 2003 and 2004, 2004 EHD performance measures, CHPD employee cell phone usage during FYs 2003 and 2004 and the Air Quality Air Pollution Control federal FY 2004 grant activity through July 31, 2004.

Objective

The objectives of our audit were to determine:

- Is EHD compliant with Department policies and procedures, City Rules, Regulations and Ordinances, for performing restaurant inspections?
- Is there consistency between FYs 2003 and 2004 relating to the number of restaurant inspections conducted and the results or grades associated with those inspections?
- Has EHD accomplished its performance measures, specifically related to its restaurant inspection function?
- Is EHD complying with Department policies and Administrative Instructions regarding City cell phones?
- Is there consistent treatment among employees with regard to employee personal use of City cell phones?
- Have Air Quality – Air Pollution Control grant funds been used inappropriately for unallowable expenditures?

Findings

CHPD’s risk-based procedure in effect prior to July 1, 2004 relating to the frequency of food establishment inspections did not comply with the Food and Beverage Ordinance. The current procedure cannot realistically meet the Ordinance, given the

current staffing. There are various viewpoints regarding the downgrade and permit/suspension procedures that make it unclear what authority the field inspectors actually have.

The requirements of the Food and Beverage Ordinance regarding unsatisfactory grades and upgrading procedures are not consistently applied to the inspection of all establishments.

CHPD has not compiled data to evaluate the performance of the Division for several of the food service establishment goals.

EHD has not complied with Administrative Instruction No. 8-1-1 regarding personal use of City cell phones.

Based on the limited scope of items we reviewed relating to the FY 2004 Air Quality – Air Pollution Control Grant, we noted no items that indicate the grant funds were spent inappropriately or for unallowable expenditures.

Recommendations

EHD should either amend the Food and Beverage Ordinance to reflect the number of inspections that can actually be completed, given the number of employees conducting inspections or determine if additional inspectors are needed in order to meet the current Ordinance requirements.

EHD should train inspectors on the requirements of the Ordinance and department policy to ensure consistency. If an exception is granted on an inspection, the reasons for the variation from the Ordinance should be thoroughly documented on the inspection form.

EHD should ensure that food establishment inspection performance measures are measurable and related data should be maintained in order to evaluate the performance of the CHPD.

EHD should comply with Administrative Instruction No. 8-1-1, revised July 15, 2005, requiring employees to reimburse the City for charges incurred as a result of exceeding plan minutes.

Management responses are included in the audit report.

SPECIAL AUDIT REPORT

OF THE

ENVIRONMENTAL HEALTH DEPARTMENT

REPORT NO. 04 - 113



CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT AND INVESTIGATIONS



City of Albuquerque
Office of Internal Audit and Investigations
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

August 31, 2005

Accountability in Government Oversight Committee
City of Albuquerque
Albuquerque, New Mexico

Audit: Special Audit
Environmental Health Department
04-113

FINAL

INTRODUCTION

The Office of Internal Audit and Investigations (OIAI) conducted an audit of the Environmental Health Department (EHD). This was a special audit in response to a complaint made under City Ordinance 2-10 ROA 1994, the "Whistleblower Ordinance". The complaint was made by two City employees (Employees X and Y) who made several allegations against EHD. These allegations include: non-compliance with the Food and Beverage Ordinance regarding restaurant inspections, unfair treatment with regard to personal usage of City-issued cell phones and misuse of Air Quality grant funds.

In accordance with the Ordinance, Employee X reported these and several other allegations to the Assistant City Attorney, the EHD Department Director, the Human Resources Director and the Chief Administrative Officer. Employees X and Y then submitted their complaint to the OIAI under the provisions of the "Whistleblower Ordinance". OIAI conducted a preliminary review of the complaint and determined to further review the allegations through a Special Audit.

A Special Audit is one that is not included in the annual audit plan. This report will become public record upon final approval by the Accountability in Government Oversight Committee. Under Section 8 of the Ordinance, "Elected City officials and City employees are prohibited from taking retaliatory action against an employee because the employee participated in an action protected under this Ordinance."

AUDIT OBJECTIVES

The objectives of our audit were to determine:

- Is EHD compliant with Department policies and procedures, City Rules, Regulations and Ordinances, for performing restaurant inspections?
- Is there consistency between fiscal years (FYs) 2003 and 2004 relating to the number of restaurant inspections conducted and the results or grades associated with those inspections?
- Has EHD accomplished its performance measures, specifically related to its restaurant inspection function?
- Is EHD complying with Department policies and Administrative Instructions regarding City cell phones?
- Is there consistent treatment among employees with regard to employee personal use of City cell phones?
- Have Air Quality – Air Pollution Control grant funds been used inappropriately for unallowable expenditures?

SCOPE

Our audit did not include an examination of all the functions, activities, and transactions of EHD. Our audit test work was limited to restaurant inspections conducted by the Consumer Health Protection Division (CHPD) during FYs 2003 and 2004, 2004 EHD performance measures, CHPD employee cell phone usage during FYs 2003 and 2004 and the Air Quality – Air Pollution Control federal FY 2004 grant activity through July 30, 2004.

This report and its conclusions are based on information taken from a sample of transactions and do not purport to represent an examination of all related transactions and activities. The audit report is based on our examination of EHD's activities through the completion of fieldwork and does not reflect events or accounting entries after that date.

The audit was conducted in accordance with Government Auditing Standards, except Standard 3.49 requiring an external quality control review.

METHODOLOGY

We collected data for all routine and pre-opening restaurant inspections in order to conduct analytical procedures. A sample of inspection reports that contained four or more critical violations was then judgmentally selected for further review. The reports in this sample had all

resulted in an "Approval" grade. For FY 2003, 15 of a total population of 40 were reviewed. All seven reports matching this criteria were reviewed for FY 2004. Another sample, this one included inspection reports that resulted in an "Unsatisfactory" grade, was also inspected for further review. Ten of 87 and 10 of 85 inspections matching this criteria were reviewed for FYs 2003 and 2004, respectively. Additionally, all performance measures that specifically related to CHPD's restaurant inspection function were reviewed.

A judgmentally-selected sample of 20 detail cell phone bills were reviewed for employees whose bills exceeded the usual monthly amount. Interviews were also conducted to determine how the CHPD handles personal use of City-issued cell phones.

Sixteen invoices from a population of 236 expenditures charged to the Air Quality – Air Pollution Control grant were judgmentally selected for testwork. As of July 30, 2004, 18 journal vouchers had been posted to this grant's activity number. Six of them were judgmentally selected for testing.

FINDINGS

The following findings concern areas that we believe would be improved by the implementation of the related recommendations.

1. EHD SHOULD ENSURE OPERATING PROCEDURES COMPLY WITH THE FOOD AND BEVERAGE ORDINANCE.

CHPD is responsible for conducting the inspection of food service and food processing establishments in accordance with Ordinance Chapter 9: Health, Safety and Sanitation, Section 6: Food and Beverage.

CHPD's current general policies, procedures and guidelines (procedures) were compared with the applicable sections of the Ordinance to determine if the procedures currently being conducted are in compliance with the Ordinance. Variations were noted in the following areas: inspection frequency, downgrade procedures and suspension of permits.

Frequency of Inspections

Ordinance Chapter 9, Article 6, Section 1-12 (A) states, "The enforcement authority shall inspect each establishment at least once every four months and shall make as many re-inspections as necessary for enforcement of 9-6-1-1 et seq."

Prior to July 1, 2004, CHPD's written procedures do not address the frequency of inspections. The practice for conducting inspections was based on the menu complexity and the food service population. The following schedule was used:

High volume / risk	3 inspections / year
Medium volume / risk	2 inspections / year
Low volume / risk	1 inspection / year

This policy was not in compliance with the Ordinance requirements. It was used due to the low staffing levels in CHPD. As a result, many facilities did not receive the number of inspections necessary to comply with the Ordinance.

A memorandum dated July 9, 2004 from the CHPD Manager to the EHD Director stated:

The practice of classifying establishments as high, medium or low risk and using this as a basis for the number of inspections each is to receive annually is discontinued effective July 1, 2004. Twenty-five food permit inspections are to be completed each week as a minimum. Every permitted food establishment is to be inspected three (3) times per year as stated in the Food Ordinance.

The memorandum then provided a calculation of the number of inspections that are required to be conducted each year by the CHPD in order to comply with the Ordinance:

Food facility inspections – 2,930 permits x 3 inspections / year	8,790
Swimming pool inspections – 600 permits x 1 inspection / year	600
Body art facility inspections – 103 permits x 1 inspection / year	<u>103</u>
Total inspections required	9,493
Number of inspections expected to be completed under CHPD’s new procedures (using the following assumptions: 45 work weeks, 25 inspections / week and 6 current inspectors in the field)	(<u>6,750</u>)
Negative variance	<u>2,743</u>

In addition to these permit inspections, CHPD averages over 400 additional complaint inspections and approximately 500 temporary food special event inspections annually.

The new policy is written to comply with the Ordinance; however, given the numbers above, it does not appear that it is possible. The CHPD Manager stated that it is the goal of the Division to comply with the Ordinance; however, realistically they will inspect each food facility at least once a year. As a result, facilities may not receive the required number of inspections to comply with the Ordinance.

We recommend EHD either amending the Ordinance to reflect the number of inspections that can realistically be completed, given the number of employees conducting inspections

or consider increasing the number of inspectors on staff in order to meet the current Ordinance requirements.

Downgrade Procedures and Permit Suspension

Ordinance Chapter 9, Article 6, Section 1-12 (F) (2) states, “Immediately following each inspection, the enforcement authority shall post the appropriate grade based upon the inspection findings.”

CHPD General Policies, Procedures and Guidelines, effective April 1, 2004, requires the Inspector to “Call the CHPD Manager and inform him of your intentions to downgrade.”

Section 9-6-1-13 item (C) of the Food and Beverage Ordinance, states in part,:

An establishment’s operating permit shall be immediately suspended in lieu of a third downgrading during any 36-month period under the same business management. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this section, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended...Notwithstanding the other provisions of Section 9-6-1-1, whenever the enforcement authority finds an imminent health hazard or other conditions in the operation of a food-service or food processing establishment which, in his judgment, constitute a substantial hazard to the public health, he may without any prior warning, notice, or hearing, issue a written notice to the permit holder or operator citing such condition... and, if deemed necessary, such order shall state that the permit is immediately suspended and all food-service or food processing operations are to be immediately discontinued. . .

CHPD General Policies, Procedures and Guidelines, effective April 1, 2004, require the following procedure regarding the suspension of permits.

1. Try to get the facility to voluntarily close.
2. If the facility refuses, only the CHPD Manager or the EHD Director will order the suspension of the permit and the facility closed.
3. The facility shall comply immediately.

Essentially, an inspector must first contact the Division Manager prior to issuing a downgrade and the Manager or Director prior to suspending an operating permit. There are various viewpoints regarding these policies and if they comply with the Ordinance.

Several inspectors feel as though they should have the authority to issue a downgrade or permit suspension without first consulting with the Division Manager because the Ordinance defines enforcement authority in Section 9-6-1-2 as “The Mayor or his

designated agent(s).” Article 6 of the Food and Beverage Ordinance Appointment Section, individually names the inspectors as the authorized personnel designated by the Mayor to enforce the Ordinance. Also, the essential functions named in the job description for an Environmental Health Specialist includes “monitor and inspect assigned facilities, issue citation and secure facilities for failure to comply with codes and regulations.” Inspectors feel they can not perform their duties efficiently if they are first required to contact the Manager or Director to discuss their intentions.

The CHPD Manager stated that the procedures were implemented to prevent an inspector from downgrading a facility or suspending a permit on their own, without first consulting the Division Manager as a means to gain consistency in the downgrading and permit suspension process. Also, the “Blue Ribbon Task Force” recommended in their March 2004 report that field inspectors should not have the ability to close an establishment without the approval and signature of the Department Director. The Blue Ribbon Task Force was assembled by the Mayor in 2003 and was intended to, “Evaluate the state of the EHD and its code in Albuquerque.” The Task Force was made up of restaurant and industry professionals and EHD representatives.

We recommend that CHPD clarify their procedures to define who the enforcement authority is that is referred to in the Ordinance and what that authority entails. Also, inspectors in the field should be instructed as to exactly what their authority is.

RECOMMENDATION

EHD should either amend the Ordinance to reflect the number of inspections that can realistically be completed, given the number of employees conducting inspections or increase the number of inspectors on staff in order to meet the current Ordinance requirements.

EHD should specify in their procedures who has the authority to enforce the requirements of the Ordinance regarding downgrades and permit suspensions.

EXECUTIVE RESPONSE FROM EHD

“EHD/CHPD respectfully notes they do not have the authority or ability to amend an ordinance. In July, 2004, when EHD/CHPD abandoned the risk-based assessment methodology for determining the number of restaurant inspections, it was an acknowledgement that the methodology was outside the current ordinance.

As a result of setting performance expectations for inspectors, CHPD completed 7,400 inspections in FY/05, 3,900 more than were completed in FY/04. The increase was accomplished with five full-time inspectors and

two supervisors up until March, 2005 and seven full-time inspectors and two supervisors for the rest of the fiscal year. CHPD anticipates that, in FY/06, a minimum of 8,400 inspections will be completed, an average of 1,200 per inspector. Depending on the number of inspections actually required during FY/06, CHPD should be able to comply with the ordinance requirements with existing staff or, at most, one additional inspector.

Policy Guidelines state who has the authority to enforce the requirements of the Ordinance. Because the decision to downgrade or suspend a restaurant's permit can have serious effects on that establishment, the decision is not made without concurrence of a supervisor."

2. EHD SHOULD ENSURE THAT INSPECTORS CONSISTENTLY APPLY OPERATING PROCEDURES AND THE REQUIREMENTS OF THE FOOD AND BEVERAGE ORDINANCE.

We reviewed the total number of routine and pre-opening inspections that took place in FY 2003 and 2004 and the grades associated with those inspections in order to determine if the CHPD, as a whole, is consistent in their inspection results. See Exhibits A and B. The results were as follows:

Fiscal Year	% of inspections approved	% of inspections unsatisfactory	% of non-graded inspections	Total
2003	95.44%	3.64%	.92%	100%
2004	96.04%	3.96%	0%	100%

Based on the above information, the CHPD is consistent as a Division in the inspection results it issues. Unsatisfactory grades only varied by a minimal .32% between the fiscal years.

We then reviewed the inspection grades by inspector and found significant variances in the inspection results. See Exhibit C. During FY 2003, the percentage of unsatisfactory grades issued ranged from 0% to 11.25%. The range for FY 2004 was 0% to 14.38%. There did not appear to be correlation between the grades issued and the areas of the City that were being inspected.

Our testwork indicated there is a lack of consistency between individual inspectors. This may be caused by a lack of training of the Ordinance requirements, a lack of enforcement of the requirements by the inspectors or simply inspector judgment. The establishments being inspected may perceive this inconsistency as unfairness. We recommend increased

training for the inspectors to further assist them in determining the type of violations they may encounter.

Another example of inconsistency was noted when we reviewed specific inspection reports. We reviewed a sample of reports that had ≥ 4 critical violations and received an "Approved" grade. A critical violation is a violation of a 4 or 5 point item on the inspector's grading sheet. Ordinance Chapter 9, Article 6, Section 1-12 (F) (2) in part states,

Unsatisfactory. An establishment having two consecutive violations of the same 4 or 5 point item and/or four consecutive violations of the same 1 or 2 point item, and / or four or more violations of 4 or 5 point items during any one inspection.

The results of this sample were as follows:

- Seventeen of 22 inspections tested contained ≥ 4 critical violations and received an "Approved" grade. Some of the inspections were marked "In Compliance" and other were put "On Notice"; however, they were all approved. One of the inspections contained a statement that "The owner has agreed to send a minimum of 4 people to training at the end of October 2002 in lieu of downgrade." Another inspection stated, "Decision not to downgrade was made after discussion between inspector and CHPD Manager. All violations must be corrected within 7 days or less. Failure to correct violations may result in permit suspension."
- One of 22 inspections tested included 4 critical violations. One of the violations was corrected while the inspector was on site. The report stated that a follow-up inspection would occur within 10 days. CHPD could not provide documentation that a follow-up did occur.
- Four of 22 inspections tested contained ≥ 4 critical violations and received an "Approved" grade; however, one or more of the violations was immediately corrected while the inspector was on site, bringing the remaining number of critical violations to less than 4. The "Approved" grade given to these establishments is in compliance with the Ordinance.

Our next sample consisted of 20 inspections that had resulted in an "Unsatisfactory" grade and were downgraded. In all cases reviewed, the establishment had properly received an unsatisfactory grade in accordance with the Ordinance; however, there were several cases where it did not appear that the establishment should have then been upgraded as a result of the next inspection. Ordinance Chapter 9, Article 6, Section 1-12 (F) (2) in part states:

Unsatisfactory is a temporary grade with a maximum of ten days duration; failure to meet the standards for a higher grade within this period of time shall lead to immediate suspension of the establishment's operating permit.

The results of this sample were as follows:

- One of 20 inspections received a downgrade. CHPD did perform a reinspection; however, it was not within the 10-day time limit mandated by the Ordinance. The reinspection was conducted approximately 18 days after the initial inspection and resulted in an approved grade.
- One of 20 inspections received a downgrade. The facility was re-inspected 9 days later and 4 critical violations still existed. The facility was then inspected again 3 days later, no violations were noted and the facility was upgraded. In accordance with the Ordinance, the establishment's operating permit should have been suspended after the second inspection.
- Two of 20 inspections that received a downgrade were re-inspected within the 10 day time limit and were upgraded to approved. One of the inspections still contained a critical violation at the time of reinspection. The inspector did make a comment that the 3 compartment sink should be used until the mechanical dishwasher is sanitizing properly. The other inspection did not contain a critical violation at reinspection; however, there was a note that the dishwasher was still out of service.
- One of 20 inspections that received a downgrade was reinspected within the 10 day time limit. There was a note on the reinspection stating, "In order to upgrade the facility, a letter of documentation was provided indicating that a mop sink would be installed within next 2 weeks. In the meantime dispose of mop water by flushing it down the toilet." The facility was approved.
- Fifteen of 20 inspections initially received downgrades. Upon re-inspection the establishments had corrected all critical violations and were appropriately upgraded to approved.

Based on the results of the sample, the Ordinance is not being consistently applied. The form that is currently being used to record inspection results may be a cause of the inconsistency. The form is formatted to differentiate between critical and non-critical violations. In accordance with the Ordinance, the grade of the facility is affected by the number of critical violations. For example, the inspector may mark four violations as critical on the form. In accordance with the Ordinance, this facility should be downgraded; however, the inspector may feel the probability of the violation causing a food-borne illness does not exist and in turn, approves the facility.

RECOMMENDATION

EHD should reinforce through training the requirements of the Ordinance to all of its employees that are conducting inspections. If an exception is granted, the reasons for the variation from the Ordinance should be thoroughly documented on the inspection form.

EHD should review the form being used and consider revising it to make it more applicable to the ultimate goal of the inspections, keeping the food establishments in the City safe.

EXECUTIVE RESPONSE FROM EHD

“EHD/CHPD agrees that consistency in applying procedures and in the enforcement of the Ordinance requirements is of utmost importance. Training to address staff consistency began in July 2004. The frequency of training, which covers all aspects of the inspection procedure and enforcement requirements, has increased to a weekly cycle at staff meetings. Supervisors have conducted, and will continue to conduct, side-by-side training sessions with each inspector.

“Documentation has been, and continues to be, a CHPD priority, especially documentation provided by inspectors on the inspection forms. CHPD management has stressed, and will continue to stress, the importance of inspectors documenting in detail the results of inspections and the observations made by inspectors during inspections.

“The inspection form was revised in early 2004 to reflect the correct weighting of each violation as provided in Section 9.6.1.12(F)(2) of the Food Ordinance.”

3. EHD SHOULD ENSURE THAT PERFORMANCE MEASURES ARE MEASURABLE AND DATA MAINTAINED IN ORDER TO EVALUATE PERFORMANCE.

We reviewed the following CHPD performance measures that specifically relate to food service establishment inspections.

Strategy Outcome - Improve the abilities of food service establishments to provide a safe, wholesome product.

Measures

- The percentage of facilities having a reduction of repeat CDC (critical) major violations.
- There will be a reduction in repeat major violations in “on notice” establishments through implementation of compliance improvement plans.
- Food establishment inspections. The risk-based food service establishment intervention protocol requires all high-risk establishments to have 3 interventions per year, the medium risk two interventions per year and the low, one per year.
- A customer satisfaction survey will be developed and administered to owners/operators.

Actual data was not available from CPHD for the first 2 measures named above due to difficulty in measuring the results. Until recently, the system used to record activity information into the database did not allow for the segregation of various types of services conducted by CHPD, such as routine inspections, consultation and complaint investigation.

The risk-based approach discussed above used to determining inspection frequency is no longer being used as of July 1, 2004. The customer satisfaction survey was not conducted during FY 2004. Some of the measures named above are Food and Drug Administration (FDA) standardization requirements. CHPD was planning on becoming FDA standardized when they developed the measures; however, CHPD has since decided against using the standardized measures.

The Office of Management and Budget website states:

“The City has adopted a framework called ‘Vision in Action’ to develop five-year goals pursuant to provisions in the City Charter. The framework calls for:

- Measuring progress made in reaching these goals
- Connecting City services to goal achievement
- Determining effectiveness of those services in improving related community and customer conditions
- Linking the City budget to the performance goals”.

CHPD is unable to measure their performance when the related data is not able to be compiled. In some cases, the results of the progress towards the goal is not applicable, as the procedures have changed. We recommend CHPD develop objectives that are measurable and directly related to the goals of the Division. Accurate data should then be maintained to report on the status of the goal.

RECOMMENDATION

EHD should ensure that food establishment inspection performance measures should be measurable and related data should be maintained in order to evaluate the performance of the CHPD.

EXECUTIVE RESPONSE FROM EHD

“EHD/CHPD agrees that performance measures must be measurable and verifiable with current data that is directly related to the particular measure. CHPD has taken steps to correct this and implemented new performance measures in the FY/06 performance plan. The changes coincide with data being collected.”

4. EHD SHOULD COMPLY WITH ADMINISTRATIVE INSTRUCTION NO. 8-1-1 REGARDING CELL PHONE USAGE.

Administrative Instruction (AI) No. 8-1-1: Guidelines for Telecommunication Program, dated November 1, 2001, was in effect at the time the whistleblowers made their allegations. This is the policy that was used as criteria at the time of our testwork. AI No. 8-1-1 has been updated as of July 15, 2005. AI No. 8-1-1 dated November 1, 2001, in part stated,

City telephone equipment, cellular telephones and pagers are provided for OFFICIAL CITY BUSINESS USE ONLY. Keep personal calls to a minimum. City employees are prohibited from making toll sensitive long distance and cellular telephone calls or cellular data transactions on City owned telecommunications equipment. The only personal calls permitted on City telephones must be for emergency purpose. Employees must reimburse personal long distance and personal cellular telephone calls to the City Treasury immediately upon receipt of the bill for such usage. Payments can be made through Department financial procedures or by submitting payment directly to the City Treasury.

City employees that participate in cellular ‘calling plans’ are required to limit their cellular calls to the number of minutes provided by their specific plan. An employee that exceeds the usage limit of their cellular plan will reimburse the City for the entire dollar amount over the plan limit. If the employee can attribute the excess usage to a specific City project, or work related event, they can complete a City expense reimbursement form, documenting the business reason they had for exceeding the calling plan, and upon approval by their department director, can be reimbursed for their business expense.

EHD did not have its own documented policy. The EHD Director described the Department's procedure relating to cell phone use. He stated that the Information Systems Division (ISD) provided him with an exception report of cell phone users whose monthly bill exceeds \$100. Detailed bills may be requested from ISD, they are not automatically received by the Department. This information was then discussed with the appropriate Division Manager, who addressed the issue with the employee.

This practice was not in compliance with Administrative Instruction 8-1-1. EHD's procedures only included reviewing bills greater than \$100 and seeking reimbursement, if the personal use is excessive. The Administrative Instruction did not name any minimum dollar amount; all amounts over the plan limit should be reimbursed to the City.

We reviewed a sample of detailed monthly cell phone bills to determine compliance with EHD's procedures and the Administrative Instruction.

We noted that the following employees have reimbursed the City for personal cell phone charges incurred during FYs 2003 and 2004 totaling:

<u>Employee</u>	<u>Amount</u>
Employee X	\$ 1,125.49
Employee Y	\$ 813.58

This is a violation of Administrative Instruction 8-1-1. Although the actual cost of the personal phone calls were eventually reimbursed to the City, the time that the employees spent on the personal phone calls during working hours, is not recoverable.

We also noted the following:

- *Case 1* - One employee incurred \$21.60 in roaming charges that caused the monthly billing to exceed the normal amount. The total of the bill was \$75.71, below the \$100 amount referred to in the EHD procedure. We were unable to determine if the roaming charges were a result of conducting City-related business. The employee did not reimburse the City for the roaming charges.
- *Case 2* - One employee made several phone calls to their personal residence during August 2003. The employee was on a 15 minutes / month call plan and additional minutes were billed at a per minute charge. The total amount of the bill was \$77.91, so this bill was below the \$100 amount referred to in the EHD procedure. We were unable to determine if the calls made to the personal residence were City-related business. The employee did not reimburse the City for these additional per minute charges.

- *Case 3* - One employee made numerous calls to their personal residence during the following months:

<u>Month and Year</u>	<u>Total Amount of Bill</u>
September 2002	\$ 72.56
November 2002	\$ 142.00
December 2002	\$ 112.00
January 2003	\$ 79.00
February 2003	\$ 104.00

We were unable to determine if the calls made to the personal residence were City-related business. Under the EHD procedure, the September 2002 and January 2003 bills would not have been reviewed because they did not exceed \$100. The November 2002, December 2002 and February 2003 bills should have been reviewed.

Based on the testwork above, EHD did not adhere to Administrative Instruction No. 8-1-1 requiring all amounts over the plan limit to be reimbursed to the City. Also, EHD's procedure was not followed in *Case 3* noted above resulting in inconsistent application of the policy.

RECOMMENDATION

EHD should review all cell phone bills and usage, including those mentioned above, and seek reimbursement from employees if it is determined the calls were personal and the employee exceeded their calling plan minutes, in accordance with the Administrative Instruction revised July 15, 2005. EHD should document and review their procedures to ensure they comply with the requirements of the Administrative Instruction.

EXECUTIVE RESPONSE FROM EHD

“EHD concurs. In FY/04, EHD worked with telecommunications staff to review employee cell phone usage plans and adjusted the plans, where necessary, to more appropriately reflect each employee’s City business needs.”

Procedures are in effect to monitor cell phone usage. The current plan has been reviewed to ensure the procedures comply with the requirements of Administrative Instruction No 8-1-1 dated July 15, 2005.”

OTHER – AIR QUALITY GRANT FUNDS

The whistleblowers allegations included misuse of Air Quality grant funds. The Environmental Protection Agency (EPA) conducted a review of the City's financial records to ensure federal funds were being used appropriately. The review involved the testing of selected transactions for grants during federal FYs 2002 and 2003. Their final report, issued January 11, 2005, in part, stated, "There were two categories of unallowable costs identified during the evaluation process. One category involved costs for which there was no supporting documentation; the other involves un-allowable costs incurred outside the budget period." This resulted in the City repaying EPA \$342,378 (consisting of \$128,710 in costs lacking supporting documentation and \$213,668 in unallowable costs) in April 2005.

Based on the limited scope of items we reviewed relating to the FY 2004 Air Quality – Air Pollution Control grant, we noted no items that indicate the grant funds were spent inappropriately or for unallowable expenditures.

CONCLUSION

In order to meet the ultimate goal of keeping the food establishments in the City safe, EHD should determine the appropriate number of inspections that should be performed by the CHPD. In order to ensure that the inspections and their results are consistent, EHD should train inspectors and require uniform methods. EHD should ensure that performance measures are measurable and data maintained in order to evaluate performance. EHD should comply with Administrative Instruction No. 8-1-1, revised July 15, 2005, requiring employees to reimburse the City for charges incurred as a result of exceeding plan minutes.

We appreciate the assistance and cooperation of the Environmental Health Department personnel during the audit.

Budget Auditor

REVIEWED:

Principal Auditor

APPROVED:

Carmen L. Kavelman, CPA, CISA, CGAP
Acting Director

APPROVED FOR PUBLICATION:

Chairperson, Accountability in
Government Oversight Committee

EXHIBIT A

**Routine & Pre-Opening Inspection Grades - FY
2003**

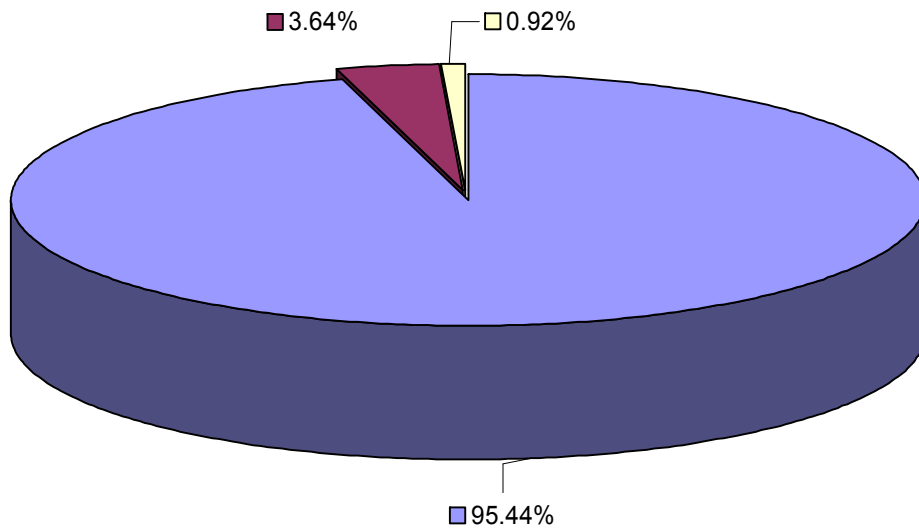
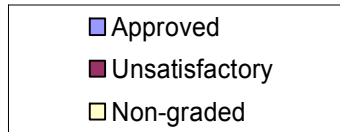


EXHIBIT B

**Routine & Pre-Opening Inspection Grades - FY
2004**

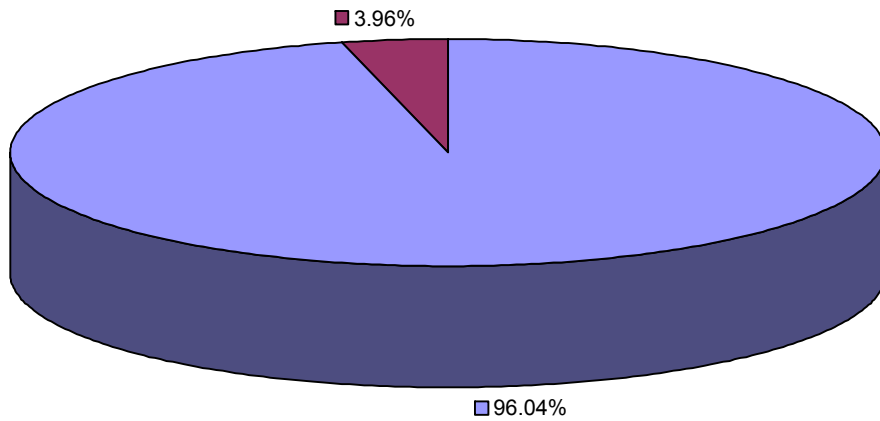
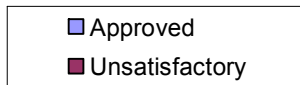


EXHIBIT C

% of Inspections Resulting in Unsatisfactory Grade - By Inspector

