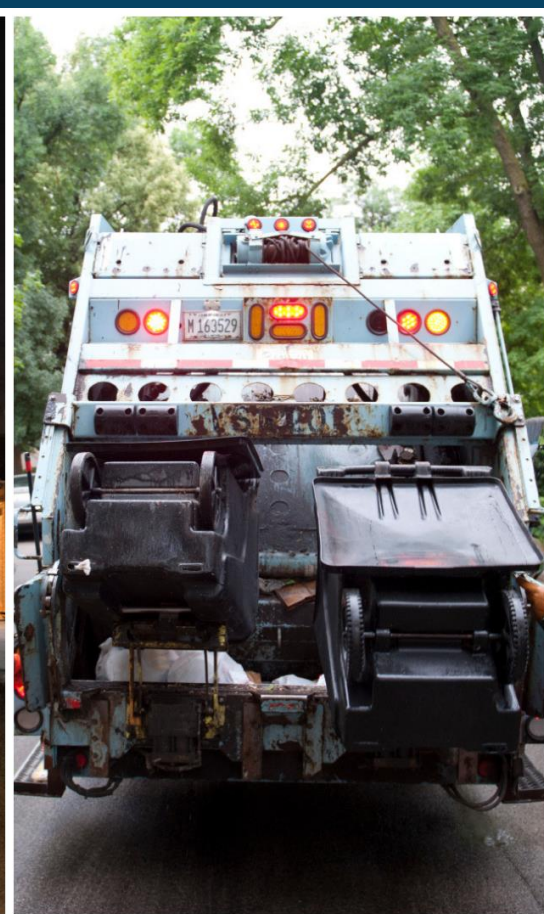
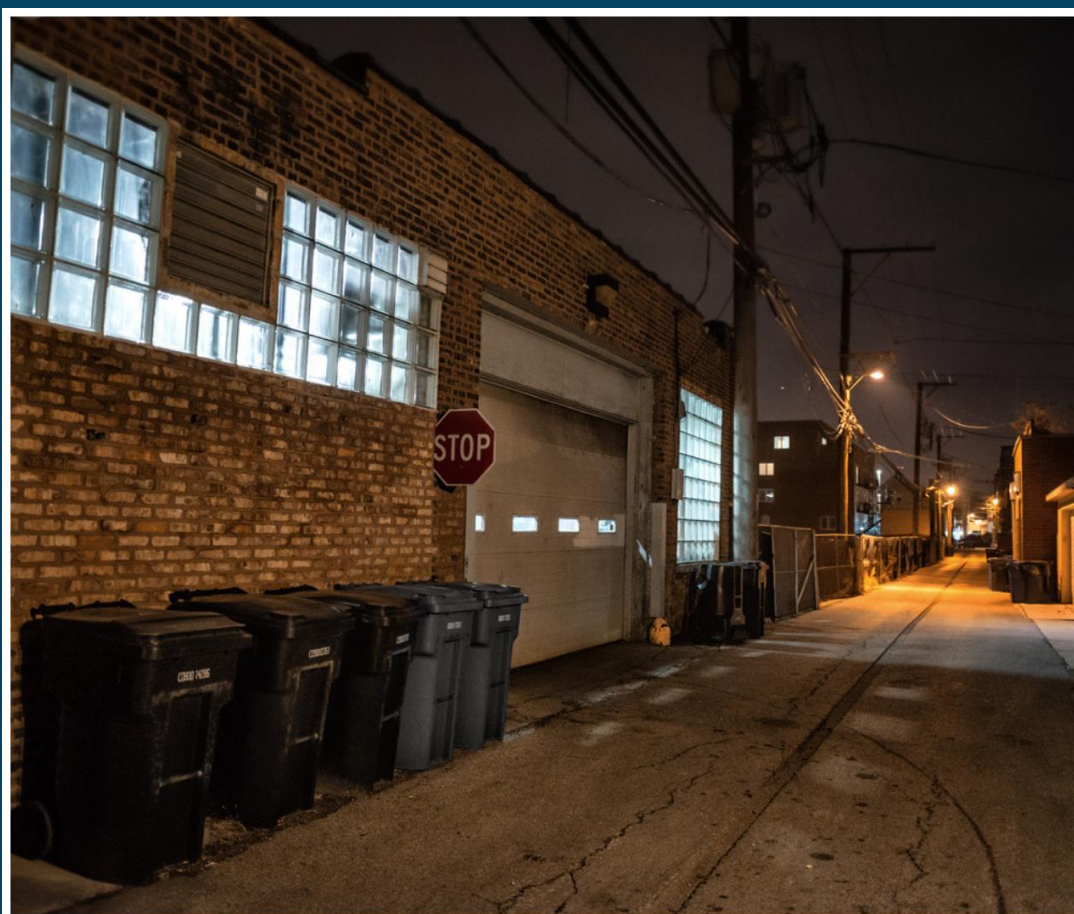


MAY 2019

CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

ADVISORY CONCERNING
THE DEPARTMENT OF STREETS AND SANITATION
PROVIDING FREE GARBAGE COLLECTION TO
CERTAIN NONPROFIT ENTITIES





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VIA ELECTRONIC MAIL

May 2, 2019

John F. Tully
Commissioner
Department of Streets and Sanitation
121 North LaSalle Street, Room 1107
Chicago, Illinois 60602

Dear Commissioner Tully:

An OIG inquiry has determined that the Department of Streets and Sanitation (DSS) is violating the Municipal Code of Chicago (MCC) by providing free garbage collection service to at least 1,182 nonprofit entities. Section 7-28-235 of the MCC, effective January 1, 2016, requires all recipients of City garbage collection service to pay \$9.50 per month. Because of DSS' noncompliance, the City is losing at least \$134,748 in garbage fees each year, totaling \$449,160 as of April 30, 2019.

Furthermore, OIG found that DSS' list of nonprofit entities receiving free garbage collection is incomplete. OIG identified 25 properties not included on DSS' list that nonetheless receive free City garbage service, and there may be many more.¹ Actual revenue loss is thus greater than \$449,160 but cannot be calculated because the total number of properties receiving free service is unknown.

Finally, DSS' current provision of free garbage service only to those nonprofits fortunate enough to have received it in the past is inherently unfair. It perpetuates a discretionary benefit that DSS historically granted to entities who knew to request it, or otherwise acquired it, while similarly situated nonprofits are denied this benefit and must pay for private garbage collection.

¹ OIG provided a list of the 25 properties to DSS.

I. THE MUNICIPAL CODE LIMITS DSS' AUTHORITY TO PROVIDE GARBAGE COLLECTION SERVICE.

In our 2014 audit of garbage ordinance enforcement, OIG concluded that DSS was providing garbage collection service to approximately 1,393 nonprofit entities without legal authorization.² DSS disagreed, stating that its authorizing ordinance, MCC Chapter 2-100, gave it broad discretion to provide service to these entities at an annual cost to the City of \$3,316,274.

In response to OIG's January 2015 audit follow-up, DSS maintained its view that its Commissioner is authorized to provide garbage service to any nonprofit entity at their discretion.

In 2015, City Council adopted MCC § 7-28-235, requiring properties receiving City garbage service to pay a fee of \$9.50 per month per unit or premises. This requirement went into effect on January 1, 2016. Section 7-28-235 specifies that the City collects garbage for small residential buildings and "all other premises receiving city refuse collection services as of January 1, 2016."³ In other words, those nonprofit entities previously receiving City service may continue receiving it, while other nonprofits are treated the same as commercial and large residential buildings—they must hire a private garbage collector at their own expense.

At our request, the Department of Law corroborated OIG's interpretation of the ordinance: nonprofits continuing to receive City service are legally obligated to be charged and to pay \$9.50 per month. DSS, however, told OIG it has "not instituted garbage fees on any non-profit organizations," despite the MCC requirement.

II. DSS PROVIDES FREE GARBAGE COLLECTION TO AT LEAST 1,182 NONPROFITS, COSTING THE CITY \$134,748 EACH YEAR IN LOST REVENUE.

DSS provided OIG with a list of 1,182 nonprofit entities whose garbage it collects, free of charge, as of January 2019. Based on DSS' descriptions, the entities include,

² City of Chicago, Office of Inspector General, "Department of Streets and Sanitation Garbage Ordinance Enforcement Audit," June 2014, accessed April 16, 2019, <https://igchicago.org/2014/06/23/audit-of-dsss-garbage-service-enforcement/>.

³ Small residential buildings include individual homes and multi-unit buildings up to four units, as well as certain townhomes and bed-and-breakfasts. MCC § 7-28-235(a).

- 911 religious entities;⁴
- 94 private schools;⁵
- 48 uncategorized entities;⁶
- 45 recreational or community centers;
- 28 government offices;
- 23 day care centers;
- 17 shelters;
- 12 medical/rehab centers; and
- 4 other schools.⁷

DSS stated, “At this time, the continued service without charge to non-profits is seen as a courtesy to institutions that provide a community benefit. The adding of garbage fees to non-profits may be re-considered as part of the 2019 Budget Recommendations.” OIG maintains, and the Department of Law concurs, that City Council already made the decision to add the fee, and amended the municipal code accordingly. In light of the clear legislation on this point, the position that the DSS Commissioner retains authority to waive the fee at their discretion is untenable.

As a result of DSS’ noncompliance with the plain language of the MCC § 7-28-235, the City loses \$134,748 in uncollected revenue annually from these 1,182 entities alone, totaling \$449,160 in the 40 months since the City instituted the fee.⁸

III. DSS’ LIST OF NONPROFIT ENTITIES RECEIVING FREE GARBAGE SERVICE IS INCOMPLETE.

OIG found that DSS’ list of nonprofit entities whose garbage it collects is incomplete. Using Google Maps and Google Street View in various neighborhoods, OIG identified 25 nonprofit properties with City of Chicago garbage carts and confirmed they were neither on DSS’ list nor billed for garbage service. OIG did not conduct an exhaustive search, so there may be many more.

We conclude that DSS does not, in fact, know all the properties from which it collects garbage. We found similarly incomplete lists in our 2014 audit, as well as our 2015

⁴ The 911 religious entities consist of 909 categorized as “Religious entity,” 1 categorized as “Baptist Church,” and 1 categorized as “Religious Entity/School.”

⁵ A review of the entity names suggests 3 of the 94 are actually miscategorized day care facilities.

⁶ Based on the entity names, the uncategorized entities include one community garden, one park, one library, one firehouse, and one American Legion post.

⁷ The four other schools are described as “School,” “Girls High School,” or “Elementary School.”

⁸ OIG searched City’s garbage billing records for a sample of these properties and confirmed they were not billed.

audit of DSS' garbage collection performance measurement.⁹ In a follow-up to our 2015 audit, DSS stated that it had a complete inventory of its garbage and recycling carts,¹⁰ but these gaps in its nonprofit list suggest that it still cannot account for all properties with City carts.

IV. SUGGESTIONS

A. DSS SHOULD COMPLY WITH THE MUNICIPAL CODE PROVISIONS LEGALLY REQUIRING IT TO BILL EVERY NONPROFIT CURRENTLY RECEIVING FREE GARBAGE SERVICE.

DSS is authorized by law to provide garbage collection service to nonprofit entities that were receiving it as of January 1, 2016, but only if it charges the monthly fee of \$9.50 per premises. OIG suggests that DSS immediately notify those nonprofit entities of the required fee and begin to charge those that wish to continue to receive City service.

B. DSS SHOULD CONDUCT A FULL INVENTORY OF PROPERTIES RECEIVING FREE CITY GARBAGE SERVICES.

To ensure that it collects garbage only from those nonprofits that received City service as of January 1, 2016, DSS needs a complete and accurate list of those entities. OIG identified 25 nonprofits that are receiving service but are not on DSS' current list. The fact that the list is incomplete reveals that DSS still does not know all the properties from which it collects garbage—a problem OIG has raised several times in recent years.

OIG suggests that DSS identify all the properties missing from its list of nonprofit entities receiving free garbage collection and, unless it can prove that they received service as of January 1, 2016, require them to hire a private garbage collector. To ensure the integrity of the list going forward, DSS should develop written procedures for updating it as entities change ownership or location, and should terminate City service for properties no longer eligible.

⁹ City of Chicago, Office of Inspector General, "Department of Streets and Sanitation Garbage Collection Performance Measurement Audit," April 2015, accessed April 16, 2019, <https://igchicago.org/2015/04/27/audit-of-dss-garbage-collection-performance/>.

¹⁰ City of Chicago, Office of Inspector General, "Department of Streets and Sanitation Garbage Collection Performance Measurement Follow-Up Inquiry," September 2015, accessed April 16, 2019, <https://igchicago.org/2016/09/15/follow-up-of-dss-garbage-collection-performance-audit/>.

**C. IF DSS CONTINUES TO COLLECT GARBAGE FOR
NONPROFITS, IT SHOULD WORK WITH CITY COUNCIL TO
CODIFY ELIGIBILITY CRITERIA.**

DSS' current provision of free garbage service only to those nonprofits fortunate enough to have received it in the past is inherently unfair. It perpetuates a discretionary benefit that DSS historically granted to entities who knew to request it, or otherwise acquired it, while similarly situated nonprofits are denied this benefit and must pay for private garbage collection.

If DSS wishes to continue collecting garbage for nonprofits, it should work with City Council to codify eligibility standards similar to MCC § 11-12-540(8), which provides water fee discounts to certain nonprofits based on size, charitable work, and other criteria. DSS should then make all eligible entities aware of the benefit by publicizing it to the City's nonprofit community.

We invite you to respond in writing before June 3, 2019. Any such response will be made public along with this OIG Advisory.

Respectfully,



Joseph M. Ferguson
Inspector General
City of Chicago

cc: Joe Deal, Chief of Staff, Office of the Mayor
Edward Siskel, Corporation Counsel, Department of Law

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AUTHORITY

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and 240.

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