



OFFICE OF INSPECTOR GENERAL
City of Chicago



REPORT OF THE OFFICE OF INSPECTOR GENERAL:

***CITY OF CHICAGO
LANGUAGE ACCESS ORDINANCE
COMPLIANCE AUDIT***

SEPTEMBER 2017

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To the Mayor, Members of the City Council, City Clerk, City Treasurer, and residents of the City of Chicago:

The City of Chicago Office of Inspector General (OIG) has completed an audit of the City's compliance with the Language Access Ordinance, Municipal Code of Chicago Chapter 2-40 (Ordinance). The Ordinance requires City departments to create and implement plans to provide persons with limited English proficiency meaningful access to vital documents and services. We conducted this audit with the cooperation of the Mayor's Office of New Americans (ONA), which assists departments in complying with the Ordinance.

Based on the audit results, OIG concluded that the City is not in compliance with the requirements of the Language Access Ordinance. Specifically, ONA has focused its efforts on the seven City departments it deems fully subject to the legal requirements, and has not ensured that the other departments have complied with the Ordinance's mandate to implement those requirements "to the degree practicable." Moreover, none of the seven prioritized departments are in full compliance. OIG thus makes a number of recommendations, including that the Mayor's Office both clarify which requirements of the Ordinance apply to each of the various City departments, and endow ONA or another entity with the power and duty to enforce compliance with the language access requirements, as other cities have done with their own comparable ordinances. In its response, ONA committed to continue to work closely with the seven prioritized departments and to initiate quarterly meetings to evaluate language access efforts. It also agreed to expand implementation to a "second tier" of departments, which will include all those with responsibilities under the Ordinance. Finally, ONA agreed to publicly report on departmental language access services.

In recent years, the Mayor and City Council have enacted ordinances and launched initiatives in support of Chicago's immigrant communities, and Chicago has joined dozens of other jurisdictions, including New York, Los Angeles, and Philadelphia, in declaring itself a "sanctuary city." This is consequently an opportune moment for the City to strengthen its language access efforts and demonstrate its commitment to welcoming immigrant communities.

We thank the Mayor's Office of New Americans for its cooperation during this audit.

Respectfully,

Joseph M. Ferguson
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Acronyms

| | |
|------|--|
| 311 | 311 City Services |
| BACP | Department of Business Affairs and Consumer Protection |
| CCHR | Chicago Commission on Human Relations |
| CDPH | Chicago Department of Public Health |
| CMAF | Chicago Metropolitan Agency for Planning |
| CNAP | Chicago New Americans Plan |
| CPL | Chicago Public Library |
| DFSS | Department of Family and Support Services |
| DOJ | United States Department of Justice |
| LAAC | Language Access Advisory Committee |
| LEP | Limited English Proficient |
| MCC | Municipal Code of Chicago |
| MOPD | Mayor’s Office for People with Disabilities |
| OIG | Office of Inspector General |
| ONA | Mayor’s Office of New Americans |

I. EXECUTIVE SUMMARY

The Office of Inspector General (OIG) conducted an audit to determine whether the City is in compliance with the Language Access Ordinance, Municipal Code of Chicago Chapter 2-40 (Ordinance). The Mayor's Office of New Americans (ONA) assists departments in their efforts to comply with the Ordinance.

Governmental agencies establish language access policies to provide Limited English Proficient (LEP) individuals meaningful access to vital public documents and services.¹ Chicago's Language Access Ordinance aims to ensure access for the city's nearly 400,000 LEP residents by requiring departments to take reasonable steps to develop and implement department-specific policies, known as "language access plans." As such, the purpose of the Ordinance dovetails with the City's other immigrant-support programs, including its Welcoming City Ordinance and its stated commitment to serving as a "sanctuary city."

OIG found that the City is not in compliance with the requirements of the Language Access Ordinance. Specifically, ONA has focused its efforts on the seven City departments it deems fully subject to the Ordinance, and has not ensured that the other departments have implemented its requirements to the degree practicable, as mandated under the Ordinance. None of the seven prioritized departments are in full compliance with the Ordinance. Each prioritized department met the requirement to designate a Language Access Coordinator, but only six of the seven submitted language access plans and none did so in a timely manner. Furthermore, no department has met the Ordinance's requirement of implementing procedures to solicit community comment on language access efforts, and none of the submitted plans undertake the four-factor analysis required by the Ordinance or include provisions for identifying emerging LEP populations. At the time of the audit, only six departments had submitted their required annual compliance plans, which were under review by ONA.

The Ordinance does not define ONA's responsibilities for ensuring language access compliance beyond collecting departmental compliance plans, and reviewing and summarizing community comments. ONA told OIG it is considering expanding oversight to more departments, but has not set a timeline for this expansion. Most departments may therefore have little incentive to comply with the Ordinance. Incomplete implementation likely impedes LEP individuals from fully accessing City services, thereby undermining the City's efforts to support immigrant communities. This is an opportune moment for the Mayor's Office to capitalize on ONA's lessons learned to date and strengthen the City's language access implementation efforts.

Specifically, OIG recommends that the Mayor's Office undertake the following steps:

1. Clarify which requirements in the Ordinance apply to each of the various City departments.

¹ Individuals who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English are considered "Limited English Proficient" (LEP). LEP.gov, "Commonly Asked Questions and Answers Regarding Limited English Proficient (LEP) Individuals," accessed June 1, 2017, <https://www.lep.gov/faqs/faqs.html>.

2. Endow ONA or another entity with the power and duty to enforce compliance with the language access requirements in the manner that other cities have done.²
3. Inform all departments of their responsibilities under the Ordinance, as well as the resources available to them, such as document translation and interpretation services available through the City's contract with Language Line, Inc.
4. Share ONA's templates and other guidance documents with all City departments.
5. Ensure that departments conduct the required four-factor analysis in developing their language access plans.
6. Evaluate departmental performance and identify opportunities for improved language access.
7. Promote accountability and transparency by publicly reporting on departments' language access services, in the manner that other cities have done.³

In response to our audit finding and recommendations, ONA stated that it would re-engage with the Language Access Advisory Committee (LAAC) to identify a "Tier 2" group of departments consisting of all other departments with responsibilities under the Ordinance. ONA agreed to work with these departments to develop language access implementation plans, and provide them with the same resources and guidance provided to the seven departments it previously identified. ONA maintained that it is the responsibility of each department's management to carry out, comply with, and enforce the requirements of the Ordinance. However, ONA also agreed that it is "critical to consistently evaluate performance and find opportunities for improvement in language access," and committed to holding quarterly meetings with Language Access Coordinators to discuss priorities and identify areas for improvement. City departments are expected to begin collecting department-specific data in order to complete the required four-factor analysis; ONA will also begin collecting monthly reports from Language Line, Inc. in order to better understand the City's level of language access demand. Finally, ONA committed to publicly reporting on departments' language access services through its monthly e-newsletter and website.

The specific recommendations related to each finding, and ONA's response, are described in the "Audit Findings and Recommendations" section of this report.

² See Background section II.D in this report for examples.

³ See Background section II.D in this report for examples.

II. BACKGROUND

Governmental agencies establish language access policies to ensure LEP individuals' meaningful access to vital public documents and services.⁴ Providing such access requires the translation and interpretation of written and oral communication. To this end, Chicago's Language Access Ordinance directs City departments to "develop and implement department-specific language access plans regarding LEP persons."⁵

A. **Chicago's LEP Population**

According to the U.S. Census's 2015 American Community Survey, 21.1% of Chicago's population is foreign-born, while 15.7%, or about 400,000 individuals, speak English "less than very well."⁶ The Chicago Metropolitan Agency for Planning (CMAP) reports that the foreign-born population living in Cook County grew from 9% to 21% between 1970 and 2010.⁷ CMAP observes that much of the region's recent growth is due to immigration, and that its economic prospects are closely linked to the successful civic integration of its immigrant communities.

Recognizing that cooperation with all Chicago residents is essential to "achiev[ing] the City's goals of protecting life and property, preventing crime and resolving problems," the City passed the Welcoming City Ordinance in 2012.⁸ This legislation aims to protect immigrants from undue scrutiny of their citizenship status, to establish procedures concerning "enforcement of federal civil immigration laws," and "to identify conduct that City employees may not engage in when interacting with community members."⁹ The City has undertaken a number of other initiatives—including the Chicago Is With You Task Force, the Legal Protection Fund, and the Municipal ID Program—to address the needs of immigrant communities. Additionally, the City has a contract with Language Line Services, Inc. for professional translation and real-time interpretation services (telephonic, in-person, and video) in more than 200 languages. City departments may use these services as needed. Such measures have bolstered Chicago's reputation as a "sanctuary city" for immigrants.¹⁰

⁴ According to guidance from the U.S. Department of Justice (DOJ), documents are typically considered "vital" if they contain information critical to accessing an agency's programs and/or services. DOJ recommends that agencies continually survey and assess the needs of their service populations to determine which materials should be translated into other languages. Reasonable steps for providing "meaningful access" can be determined using a four-factor analysis developed by DOJ. See LEP.gov, "Commonly Asked Questions and Answers Regarding Executive Order 13166," accessed May 8, 2017, <https://www.lep.gov/faqs/faqs.html>, and U.S. Department of Justice, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," *Federal Register* 67, no. 117 (June 18, 2002): 41455-41472, accessed May 8, 2017, <https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/DOJFinLEPFRJun182002.pdf>.

⁵ MCC § 2-40-020(a).

⁶ The most recent available data is from 2015. United States Census Bureau, American Fact Finder Table DP02 (Chicago city, IL), accessed May 11, 2017, <https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

⁷ Chicago Metropolitan Agency for Planning, "Immigrant Integration Toolkit," September 2014, accessed May 4, 2017, <http://www.cmap.illinois.gov/programs-and-resources/local-ordinances-toolkits/immigrant-integration>.

⁸ MCC Chapter 2-173, "Welcoming City Ordinance."

⁹ MCC § 2-173-005.

¹⁰ The term "sanctuary city" has no legal definition. Rather, it is used colloquially to describe jurisdictions that have adopted policies protecting undocumented immigrants. Additional information on Chicago's efforts to serve as a

B. Federal Regulation of Language Access

Executive Order (EO) 13166 provides that the prohibition against national-origin discrimination enshrined in Title VI of the Civil Rights Act of 1964 requires all federally-assisted and conducted programs¹¹ to provide LEP persons with meaningful access to governmental services.¹² In addition to establishing their own language access policies, federal agencies that extend financial assistance to private, state, or local entities¹³ must provide guidance on the language access obligations of their recipients.¹⁴ In observance of EO 13166's requirements, federal entities such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Commerce have implemented language access plans and created recipient guidance materials.¹⁵

C. Chicago's Language Access Ordinance

In the 2011 Chicago New Americans Plan (CNAP), Mayor Emanuel expressed his support for a comprehensive citywide language access policy, outlining 27 initiatives designed to make Chicago a more welcoming city for immigrants and "promote [the City's] economic growth and cultural vitality."¹⁶ In July 2014, the Mayor established a Language Access Advisory Committee (LAAC), made up of community, legal, and civic leaders, to "evaluat[e] options for both short- and long-term language access policies."¹⁷ In Spring 2015, the Committee issued its recommendations, providing the foundation of the City's Language Access Ordinance.¹⁸

sanctuary city is available online at: https://www.cityofchicago.org/city/en/depts/mayor/supp_info/office-of-new-americans/sanctuary-city-supportive-resources.html.

¹¹ Every undertaking conducted by a federal agency falls into the category of "federally conducted programs or activities." Executive Order 13166 incorporates the definition of federal programs used in Section 504 of the Rehabilitation Act of 1973. See LEP.gov, "Commonly Asked Questions and Answers Regarding Executive Order 13166," accessed May 8, 2017, https://www.lep.gov/faqs/042511_Q&A_LEP_General.pdf.

¹² U.S. Office of the President, Executive Order 13166, "Improving Access to Services for Persons With Limited English Proficiency," *Federal Register* 65, no.159 (August 16, 2000): 50121-50122. <https://www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf>.

¹³ Federal financial assistance may include grants, loans, training, or the detailing of federal personnel to act on behalf of a non-federal governmental entity.

¹⁴ The U.S. Department of Justice published LEP guidance for federal agencies and recipients of federal financial assistance. U.S. Department of Justice, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," *Federal Register* 67, no. 117 (June 18, 2002): 41455-41472. <https://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>.

¹⁵ A full list of federal language access policies and LEP recipient guidance is available at www.lep.gov/guidance/fed_plan_index.html and https://www.lep.gov/guidance/guidance_index.html.

¹⁶ City of Chicago, Office of the Mayor, "The Chicago New Americans Plan: Building a Thriving and Welcoming City," December 4, 2012, accessed April 26, 2017, <https://www.cityofchicago.org/content/dam/city/depts/mayor/Office%20of%20New%20Americans/NewAmericanBookletfullplan.pdf>.

¹⁷ City of Chicago, Mayor's Press Office, "Mayor Emanuel Announces Language Access Policy Advisory Committee," July 28, 2014, accessed April 26, 2017, https://www.cityofchicago.org/city/en/depts/mayor/press_room/press_releases/2014/jul/mayor-emanuel-announces-language-access-policy-advisory-committee.html.

¹⁸ City of Chicago, Language Access Advisory Committee, "Bridging the Gap: Recommendations from Chicago's Language Access Advisory Committee," accessed April 26, 2017, https://www.cityofchicago.org/content/dam/city/depts/mayor/Office%20of%20New%20Americans/Recommendations_from_LAP_Committee.pdf.

ONA—established in July 2011 as part of the Mayor’s Office—was chosen to oversee the implementation of the CNAP recommendations, including a language access policy.¹⁹ ONA is “dedicated to improving services and engaging Chicago’s diverse immigrant and refugee communities through enhanced collaboration with community organizations, academic institutions, and the private sector.”²⁰ ONA supports multiple City initiatives designed to empower Chicago’s immigrant population.

On May 6, 2015, the City Council passed legislation creating MCC Chapter 2-40, entitled “Citywide Language Access to Ensure the Effective Delivery of City Services,” in order to “promote the general health, safety, and economic prosperity of Chicago.”²¹ The Ordinance went into effect on May 20, 2015. We provide its full text in Appendix A.

The Ordinance requires all City departments that provide “direct public services” to ensure meaningful LEP access by taking “reasonable steps to develop and implement language access plans.” It defines “direct public services” as “services administered by a City department directly to program beneficiaries and/or participants.” Departments that provide services to the public that are “not programmatic in nature, such as emergency services,” are directed to implement language access plans “to the degree practicable.”²² Each “pertinent” department is required to provide services in “any non-English language spoken by a limited or non-English proficient population that constitutes 5% or 10,000 individuals, whichever is less, in Chicago” as determined by sources such as the U.S. Census, department intake data, or community feedback.²³

Based on its effective date of May 20, 2015, the Ordinance set the following deadlines for departmental compliance:

- Within 45 days (by July 4, 2015), departments were required to “designate a Language Access Coordinator [...] to oversee the creation and execution of a department-specific internal language access policy and implementation plan.”
- Within 180 days (by November 16, 2015), departments were required to develop a “department-specific internal language access policy and implementation plan” in accordance with a prescribed “four factor analysis.”²⁴

¹⁹ City of Chicago, Mayor’s Press Office, “Mayor Emanuel Announces Creation of Office of New Americans,” July 19, 2011, accessed May 4, 2017, https://www.cityofchicago.org/city/en/depts/mayor/press_room/press_releases/2011/july_2011/mayor_emanuel_announcescreationofnewamericanstosupportchicagosim.html.

²⁰ City of Chicago, Mayor’s Office of New Americans, “What We Do,” accessed May 5, 2017, https://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html.

²¹ City of Chicago, Office of the City Clerk, Legislative Information Center, Ordinance Record Number SO2015-1531, March 18, 2015, accessed May 5, 2017, <https://chicago.legistar.com/Legislation.aspx>.

²² The Ordinance does not define what services qualify as “programmatic.”

²³ For example, applying these minimum requirements to 2015 American Community Survey data yields three languages: Spanish, Polish, and Chinese (Mandarin). United States Census Bureau, American Fact Finder Table B16001 (Chicago city, IL), accessed May 11, 2017, <https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

²⁴ The Ordinance’s four-factor analysis follows guidance from the DOJ. U.S. Department of Justice, “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination

- Beginning one year after submitting a departmental language access plan (by November 16, 2016, at the latest), departments are required, on an annual basis, to “prepare and submit to [ONA] a compliance plan, detailing progress in the year concluded and plans for the year ahead.”

Finally, MCC § 2-40-050 requires departments to solicit community comments regarding their language access efforts, and requires ONA to collect, review, and summarize the comments.

D. Other Municipalities’ Language Access Ordinances

Other major U.S. cities—including New York City, Boston, San Francisco, and the District of Columbia—also have language access ordinances.²⁵ While Chicago adopted many elements present in these other ordinances, some cities impose more requirements related to public engagement and accountability. For example, Boston requires departments to hold a “listening forum” at least once per year to receive public feedback on departmental language access efforts. The District of Columbia and San Francisco publish annual public reports on language access compliance. New York City, Boston, San Francisco, and the District of Columbia identify bodies responsible for coordinating and overseeing agency compliance, and the latter three cities (akin to federal Executive Order 13166) endow their language access management bodies with explicit enforcement functions. While ONA has adopted a monitoring role, Chicago’s ordinance does not identify an entity responsible for its enforcement, nor does it require annual public reporting on the City’s efforts towards language access compliance.

Affecting Limited English Proficient Persons,” *Federal Register* 67, no. 117 (June 18, 2002): 41455-41472. <https://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>. The four factors in MCC § 2-40-020(2) are,

- i. “the number or proportion of LEP persons served or encountered in the eligible service population;
- ii. the frequency with which LEP persons come into contact with the department;
- iii. the nature and importance of the program, activity or service to the LEP person (including consequences of lack of language services or inadequate interpretation/translation); and
- iv. the resources available to the department and the costs of providing various types of language services.”

²⁵ City of New York, “Citywide Policy on Language Access to Ensure the Effective Delivery of City Services,” July 22, 2008, accessed May 22, 2017, http://www.nyc.gov/html/om/pdf/2008/pr282-08_eo_120.pdf; City of Boston, “An Ordinance Establishing Language and Communications Access for City Services,” August 3, 2016, accessed May 8, 2017, <http://meetingrecords.cityofboston.gov/sirepub/mtgviewer.aspx?meetid=328&doctype=MINUTES>; City of San Francisco, Office of Civic Engagement and Immigrant Affairs, “Language Access Ordinance Annual Compliance Reports,” accessed May 9, 2017, <http://sfgov.org/oceia/lao-annual-compliance-reports>; and District of Columbia, Office of Human Rights, “Language Access Program 2015 Annual Compliance Review,” 2015, accessed May 8, 2017, <https://ohr.dc.gov/page/languageaccess/2015report>.

III. OBJECTIVES, SCOPE, AND METHODOLOGY

A. Objectives

The objective of the audit was to determine if the City is in compliance with the language access requirements of MCC Chapter 2-40, “Citywide Language Access to Ensure the Effective Delivery of City Services.”

B. Scope

The scope of the audit included the City’s efforts toward implementation of and compliance with the language access requirements of the Ordinance.

C. Methodology

OIG assessed the City’s compliance with the Ordinance by obtaining and reviewing documentary and testimonial evidence provided by ONA. OIG then compared departmental language access plans to the requirements of the Ordinance.

D. Standards

We conducted this audit in accordance with generally accepted Government Auditing Standards issued by the Comptroller General of the United States. 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.

E. Authority and Role

The authority to perform this audit is established in the City of Chicago Municipal Code § 2-56-030 which states that OIG has the power and duty to review the programs of City government in order to identify any inefficiencies, waste, and potential for misconduct, and to promote economy, efficiency, effectiveness, and integrity in the administration of City programs and operations.

The role of OIG is to review City operations and make recommendations for improvement.

City management is responsible for establishing and maintaining processes to ensure that City programs operate economically, efficiently, effectively, and with integrity.

IV. FINDING AND RECOMMENDATIONS

Finding: The City is not in compliance with the requirements of the Language Access Ordinance.

OIG found that the City is not in compliance with the requirements of the Language Access Ordinance. Although ONA has assisted some departments in meeting their responsibilities under the Ordinance, significant compliance gaps exist.

1. ONA concentrated its compliance efforts on seven departments and made no effort to address implementation of the Ordinance to “the degree practicable” by other departments.

As described in the background section of this report, departments that provide “direct public services” are subject to all requirements of the Ordinance, which defines “direct public services” as “services administered by a City department directly to program beneficiaries and/or participants.” ONA, in collaboration with the LAAC, identified the following seven departments (“seven prioritized departments”) as providing direct public services, and therefore subject to the full requirements of the Ordinance:²⁶

- 311 City Services (311)
- Department of Business Affairs and Consumer Protection (BACP)
- Chicago Commission on Human Relations (CCHR)
- Chicago Department of Public Health (CDPH)
- Chicago Public Library (CPL)
- Department of Family & Support Services (DFSS)
- Mayor’s Office for People with Disabilities (MOPD)²⁷

The Ordinance further states, “[t]hose departments that provide services to the public that are not programmatic in nature, such as emergency services, shall implement [the Language Access Ordinance] to the degree practicable.” However, the Ordinance defines neither “services to the public that are not programmatic in nature,” nor “to the degree practicable.” Nor has ONA defined these terms. Although ONA states that it considers any department that provides public services but is not one of the seven prioritized departments to fit the definition of “not programmatic in nature,” ONA has not sought compliance “to the degree practicable” from these other departments, stating that their compliance was voluntary.²⁸

²⁶ ONA stated that it selected these seven departments because they “provide essential services via programs leading to unplanned and/or wide-ranging interactions with constituents.”

²⁷ For the purposes of this report, we refer to both 311 and CCHR as “departments,” though the former is a program within the Office of Emergency Management and Communications, and the latter is a commission.

²⁸ City departments that receive federal funding may have language access plans pursuant to the federal guidelines described in the background section of this report. For example, CPD Special Order S06-14-03 (effective January 1, 2016) outlines the Department’s procedures for responding to incidents involving LEP persons. In this audit, OIG solely evaluated compliance with the Ordinance; we did not assess the sufficiency of other language access plans.

ONA has provided substantial guidance to the seven prioritized departments, providing templates designed to assist with identifying documents for translation, collecting records of language access service, building departmental language banks, drafting language access plans, and creating annual compliance plans. However, ONA has not established compliance requirements, deadlines, or a clear course of action to expand its language access oversight to departments beyond those seven. While ONA has answered language access-related inquiries from other departments, it has not shared its templates with them nor proactively informed them of whether they “provide public services” and must implement a language access policy “to the degree practicable.” To be sure, the Ordinance does not define ONA’s responsibilities for ensuring language access compliance beyond collecting departmental compliance plans, and reviewing and summarizing community comments. ONA told OIG that it is considering expanding oversight to other departments, but has not established a timeline for this expansion. Most departments therefore have little incentive to comply with the Ordinance. Incomplete implementation of the Ordinance likely impedes LEP residents from fully accessing important services, thereby undermining the City’s efforts to support immigrant communities.

2. While all seven prioritized departments designated a Language Access Coordinator, one has not submitted the required language access and compliance plans, and none have implemented procedures to solicit community comment.

Despite ONA’s engagement with the seven prioritized departments, they have not fully complied with the Ordinance. At the time of the audit,

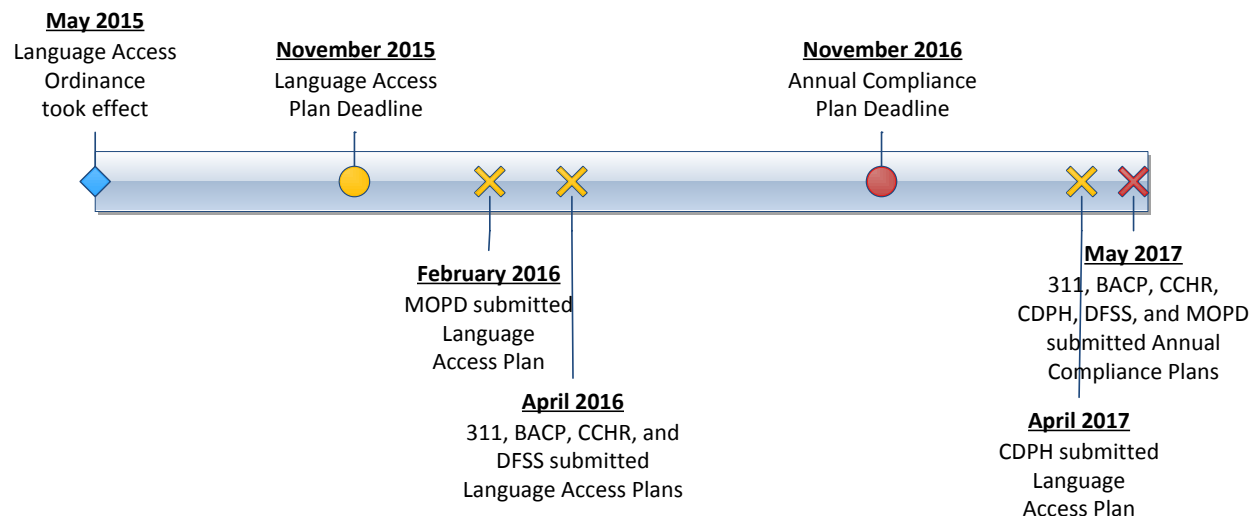
- each of the seven prioritized departments has designated a Language Access Coordinator;
- six have submitted language access plans;²⁹
- six submitted compliance plans during the course of the audit; and
- none have implemented procedures to solicit community comment.³⁰

It should be noted that, while six of the prioritized departments submitted language access and annual compliance plans, none met the submission deadlines for the plans stipulated in the Ordinance. The departments submitted their language access plans between 3 and 18 months after the due date, and their compliance plans 6 months after the due date.³¹ The following timeline depicts the relevant deadlines and the dates of actual submission.

²⁹ ONA has not received a final language access plan from CPL. According to ONA, CPL’s plan is in draft form and has yet to be formally approved by the library’s executive board. ONA is working with CPL to develop a finalized plan.

³⁰ ONA stated that none of the departments had formalized procedures for receiving community comments, but that it would be “formalizing these procedures at all pertinent departments as part of its compliance plan process.”

³¹ While this audit was in progress, ONA prompted the departments to submit annual compliance plans by April 28, 2017. ONA received them in May and they are currently under review.



Source: OIG visualization of information provided by ONA. This timeline does not include deadlines or action dates for the designation of Language Access Coordinators.

ONA stated that it has not yet sought compliance with the Ordinance’s requirement to implement procedures for collecting community comments, and instead identified this as a near-term goal that will be addressed after reviewing the departments’ annual compliance plans.

As a result of this delay in implementing core elements of the Language Access Ordinance, the City is months behind in meeting its goal of providing its LEP communities with meaningful access to services.

3. None of the submitted language access plans were developed with the department-specific four-factor analyses required by the Ordinance, and one plan does not include all six of the required elements.

The Ordinance requires departmental language access plans to be “developed by undertaking the four-factor analysis [...] based on guidance issued by the U.S. Department of Justice.” The four factors are,

- i. “the number or proportion of LEP persons served or encountered in the eligible service population;
- ii. the frequency with which LEP persons come into contact with the department;
- iii. the nature and importance of the program, activity or service to the LEP person (including consequences of lack of language services or inadequate interpretation/translation); and
- iv. the resources available to the department and the costs of providing various types of language services.”

However, none of the seven prioritized departments possessed the historical data necessary to complete this analysis. Instead, ONA stated that it performed the analysis in collaboration with the LAAC using the eligible service population of the entire City—thus meeting the

requirements of the first factor—then used that analysis to develop a language access plan template, which it distributed to the seven departments. ONA stated that it expects departments to begin collecting department-specific data on each of these factors as part of ongoing language access efforts, and to utilize that data when developing future annual compliance plans. ONA articulated this expectation in its compliance plan template.

Furthermore, although the language access plan template ONA developed and provided to the seven prioritized departments incorporates all six elements required by the Ordinance, the plan adopted by one department—DFSS—does not adequately address the “creation of appropriate public awareness strategies for the department’s service populations.” Appendix B of this report summarizes the elements incorporated by each department.

Finally, none of the submitted plans provides for the identification of emerging populations of LEP individuals, as required by the Ordinance.³² Without provisions designed to identify new or growing LEP populations, departmental plans could become obsolete as residents’ language-access needs change over time. Departing from its charge under the Ordinance, ONA has allowed the seven prioritized departments to address this element in their annual compliance plans.

ONA stated that it intends to regularly reconvene the LAAC to discuss lessons learned and steps to address the Ordinance’s requirements at departments beyond the seven prioritized.

Recommendations:

This is an opportune moment for the Mayor’s Office to capitalize on ONA’s lessons learned to date and strengthen the City’s language access implementation efforts.

Specifically, OIG recommends that the Mayor’s Office undertake the following steps:

1. Clarify which requirements in the Ordinance apply to each of the various City departments.
2. Endow ONA or another entity with the power and duty to enforce compliance with the language access requirements in the manner that other cities have done.³³
3. Inform all departments of their responsibilities under the Ordinance, as well as the resources available to them, such as document translation and interpretation services available through the City’s contract with Language Line, Inc.
4. Share ONA’s templates and other guidance documents with all City departments.
5. Ensure that departments conduct the required four-factor analysis in developing their language access plans.
6. Evaluate departmental performance and identify opportunities for improved language access.

³² ONA stated that departments will include these provisions in their annual compliance plans instead.

³³ See Background section II.D in this report for examples.

7. Promote accountability and transparency by publicly reporting on departments' language access services in the manner that other cities have done.³⁴

Management Response:

1. *"The Office of New Americans (ONA) in a joint effort with the Language Access Advisory Committee (LAAC) identified in 2015 the following departments as 'pertinent' and subject to the full obligations of this ordinance:*

- *Mayor's Office for People with Disabilities (MOPD)*
- *Chicago Public Libraries (CPL)*
- *Department of Family and Support Services (DFSS)*
- *Chicago Department of Public Health (CDPH)*
- *Chicago Commission on Human Relations (CCHR)*
- *311 City Services (311)*
- *Business Affairs and Consumer Protection (BACP)*

"All requirements in the ordinance apply to the above-listed City departments, and ONA has and will continue to work closely with these departments on meeting these requirements.

"For the remaining City departments, ONA will identify a 'Tier 2' group of departments by reengaging with the Language Access Advisory Committee (LAAC). ONA will then work with those departments to determine implementation plans based on relevant data and services offered for each additional City department.

"To date, ONA has already provided resources and assisted with interpretation services available through Language Line, Inc. with the following City departments: Chicago Police Department (CPD), Department of Administrative Hearings (DOAH), Department of Planning and Development (DPD), Chicago Department of Aviation (CDA), Office of Emergency Management and Communication (OEMC) and Chicago Department of Transportation (CDOT).³⁵

"CDOT and CDA will be integrated into a Language Access compliance path before the end of 2017.

2. *"As with other legislative mandates, it is the responsibility of the subject department(s) to comply [with] and enforce the requirements of the Ordinance. The authority to carry out initiatives such as the Language Access Ordinance (LAO) lies with the management*

³⁴ See Background section II.D in this report for examples.

³⁵ In a subsequent email, ONA clarified that, "Tier 2 is intended to capture all the other departments that have any responsibilities under the Ordinance."

of each subject department. However, because of the cross-departmental nature of the LAO, ONA will work across departments to coordinate efforts and to emphasize the need to meet the requirements of the Ordinance. In order to do so, ONA will meet with Language Access Coordinators from the various City departments on a quarterly basis to evaluate compliance, discuss opportunities, identify priorities and assist in compliance with the ordinance.

“CPL will provide an updated Language Access Policy and Implementation Plan in the next four weeks (by October 12, 2017).

3. *“As noted in the OIG’s audit, ONA has worked closely with the departments that directly provide services – communicating with them about requirements and resources available to them and providing guidance on compliance and plans. ONA has provided substantial guidance to the seven prioritized departments, providing templates designed to assist with identifying documents for translation, collecting records of language access service, building departmental language banks, drafting language access plans and creating annual compliance plans. ONA will use the new quarterly meetings to build upon the assistance given to date, and to reinforce responsibilities under the LAO.*

“For departments beyond the seven prioritized departments, ONA will identify Tier 2 departments and will provide those departments the same types of resources and guidance provided to the prioritized departments, to the degree necessary for such Tier 2 departments to meet the goals of the LAO.

“To date, ONA has already provided resources and assisted with interpretation services available through Language Line, Inc. with the following City departments: Chicago Police Department (CPD), Department of Administrative Hearings (DOAH), Department of Planning and Development (DPD), Chicago Department of Aviation (CDA), Office of Emergency Management and Communication (OEMC) and Chicago Department of Transportation (CDOT).

“Additionally, ONA will start to collect monthly reports from Language Line, Inc. on services requested by City departments to better understand the City’s demand and need in language translation/interpretation.

4. *“As noted in the OIG’s audit, ONA has worked closely with the departments that directly provide services – communicating with them about requirements and resources available to them, providing them with templates, and providing guidance on compliance and plans.*

For departments beyond the seven prioritized departments, ONA will identify Tier 2 departments and will share templates and other guidance documents, to the extent helpful for such Tier 2 departments to meet the goals of the LAO.

5. *“ONA and LAAC carried out the four-factor analysis for the seven prioritized City departments based on the eligible service population of the entire City of Chicago. ONA*

then included the results of this in the Language Access Plan Implementation Plan template (which was shared with the OIG) that was distributed with prioritized City departments to help them create their plans. This analysis concluded that language-requiring services should be provided in Spanish, Polish, Mandarin, Hindi and Arabic. Departments had the option to include additional languages related to department-specific needs, but they were not required to do so.

ONA will continue to provide templates and guidance to on how to conduct the four factor analysis to City departments. Language Access Coordinators (LACs) at each City Department have materials and guidance on the four factor analysis. LACs will conduct the required four factor analysis and ONA will be available to assist and guide departments to conduct the four factor analysis. ONA will review analysis at quarterly meetings to ensure departments are meeting requirements.³⁶

6. *“ONA agrees that it is critical to consistently evaluate performance and find opportunities for improvement in language access. To date, ONA has reviewed all language access implementation plans from the seven prioritized departments and has conducted follow-up meetings with Language Access Coordinators at each of the seven departments to discuss areas for improvement and solutions to existing challenges.*

Quarterly meetings, starting in September 2017, will provide an opportunity to share ideas and identify areas of improvement amongst departments. Quarterly meetings will also be used to evaluate performance and City departments will need to report out on a checklist of expectations and provide progress reports. City departments identified as Tier 2 will also be invited to join quarterly language access meetings.

7. *“ONA will publicly report on departments’ language access services through our monthly e-newsletter. ONA’s monthly e-newsletter is provided to those who opt-in to receiving regular external communications from ONA.³⁷ ONA’s e-newsletter is typically distributed once or twice a month. ONA will also publicly report on departments’ language access services through ONA’s official City of Chicago website at: www.cityofchicago.org/newamericans. ONA will also look into what other cities do to determine best practices and incorporate these into the ONA website reporting.”*

³⁶ In a subsequent communication with OIG, ONA clarified that, “...each department will be expected to collect department-specific data to complete the four-factor analysis.”

³⁷ To subscribe, use the “Subscribe to the ONA newsletter” link at https://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html.

V. APPENDIX A: MUNICIPAL CODE OF CHICAGO CHAPTER 2-40: “CITYWIDE LANGUAGE ACCESS TO ENSURE THE EFFECTIVE DELIVERY OF CITY SERVICES”

The following contains the full text of the Language Access Ordinance.³⁸

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| <p style="text-align: center;">Municipal Code of Chicago</p> <p style="text-align: center;">CHAPTER 2-40</p> <p style="text-align: center;">CITYWIDE LANGUAGE ACCESS TO ENSURE THE EFFECTIVE DELIVERY OF CITY SERVICES *</p> <p>* Editor's note - Coun. J. 11-16-11, p. 13798, Art. III, § 3, repealed Ch. 2-40, which pertained to the department of general services. See new Chapter 2-51.</p> <p style="padding-left: 40px;">2-40-010 Definitions.</p> <p style="padding-left: 40px;">2-40-020 Language access plans.</p> <p style="padding-left: 40px;">2-40-030 Use of plain language.</p> <p style="padding-left: 40px;">2-40-040 Compliance plan.</p> <p style="padding-left: 40px;">2-40-050 Community comment.</p> <p style="padding-left: 40px;">2-40-060 No private right of action.</p> <p>2-40-010 Definitions.</p> <p>For purpose of this Chapter, the following terms shall have the following definitions:</p> <p>"Direct public services" means services administered by a City department directly to program beneficiaries and/or participants.</p> <p>"Essential public documents" means those documents most commonly distributed to the public that contain or elicit important and necessary information regarding the provision of basic City services.</p> <p>"LEP" means limited-English proficiency.</p> <p>(Added Coun. J. 5-6-15, p. 108469, § 1)</p> <p>2-40-020 Language access plans.</p> <p>(a) All City departments that provide direct public services shall ensure meaningful access to such services by taking reasonable steps to develop and implement department-specific language access plans regarding LEP persons. Those departments that provide services to the public that are not programmatic in nature, such as emergency services, shall implement this Chapter to the degree practicable.</p> <p>(b) Each pertinent City department shall have flexibility to determine appropriate language assistance for its service population. In implementing a program of language assistance, the department shall:</p> <ol style="list-style-type: none">1. designate a Language Access Coordinator within 45 days of the effective date of this Chapter to oversee the creation and execution of a department- specific internal language access policy and implementation plan;2. develop such language access policy and implementation plan within 180 days of the effective date of this Chapter. Such plan shall be developed by undertaking the four-factor analysis outlined below, which is based on guidance issued by the U.S. Department of Justice effective June 12, 2002 (67 FR 41455). The four factors are:<ol style="list-style-type: none">i. the number or proportion of LEP persons served or encountered in the eligible service population;ii. the frequency with which LEP persons come into contact with the department;iii. the nature and importance of the program, activity or service to the LEP person (including consequences of lack of language services or inadequate interpretation/translation); andiv. the resources available to the department and the costs of providing various types of language services;3. provide services in any non-English language spoken by a limited or non-English proficient population that constitutes 5% or 10,000 individuals, whichever is less, in Chicago, as those languages are determined based on a variety of relevant sources, including, but not limited to, United States Census data, intake data collected by City departments, data on telephonic language translation service requests or usage, research provided by the Language Access Advisory Committee, and community feedback; |
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³⁸ American Legal Publishing Corporation, “Municipal Code of Chicago: Chapter 2-40,” accessed May 3, 2017, [http://library.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/title2citygovernmentandadministration/chapter2-40citywidelanguageaccesstoensur?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:chicago_il\\$anc=JD_Ch.2-40](http://library.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/title2citygovernmentandadministration/chapter2-40citywidelanguageaccesstoensur?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il$anc=JD_Ch.2-40).

4. ensure that the language access policy and implementation plan includes the following elements for LEP individuals:
 - i. identification and translation of essential public documents provided to or completed by program beneficiaries and/or participants;
 - ii. interpretation services, including the use of telephonic interpretation services;
 - iii. training of frontline workers and managers on language access policies and procedure;
 - iv. posting of signage in conspicuous locations about the availability of free interpretation services;
 - v. establishment of an appropriate monitoring and measurement system regarding the provision of department language services;
 - vi. creation of appropriate public awareness strategies for the department's service populations.

(c) The language access plans developed under this section shall also include provisions for addressing the needs of emerging populations with high rates of LEP persons not covered in subsection (b)(3).

(Added Coun. J. 5-6-15, p. 108469, § 1)

2-40-030 Use of plain language.

Department language access policies shall reflect principles of plain language communication. For example, signs and flyers shall be easy to understand, and not include arcane or technical language, unnecessary polysyllabic words, legal jargon or other text requiring an advanced reading level.

(Added Coun. J. 5-6-15, p. 108469, § 1)

2-40-040 Compliance plan.

Beginning one year after developing a language access policy and implementation plan and continuing each year thereafter, each participating department's Language Access Coordinator shall prepare and submit to the Mayor's Office of New Americans a compliance plan, detailing progress in the year concluded and plans for the year ahead.

(Added Coun. J. 5-6-15, p. 108469, § 1)

2-40-050 Community comment.

In furtherance of the City's commitment to providing effective language assistance and incorporating comments from individuals in the community to ensure such assistance, departments covered under this Chapter shall create procedures for individuals to provide comment on the language assistance offered or provided to them by the department, such as comments on the type, effectiveness, or quality of language assistance made available. The comments may be collected through a variety of methods, such as, in-person interaction, telephone, a hotline developed for this purpose, or a form, made available in hard copy and online via the Internet. The comments given to all departments regarding language assistance will be collected by the Mayor's Office of New Americans for review and summary.

(Added Coun. J. 5-6-15, p. 108469, § 1)

2-40-060 No private right of action.

Nothing in this Chapter shall be construed to create a private right of action.

(Added Coun. J. 5-6-15, p. 108469, § 1)

VI. APPENDIX B: REQUIRED PLAN ELEMENTS

The following table illustrates which of six Ordinance-required elements are included in each departmental language access plan, as well as the preparation template that ONA shared with them.

| Required Elements | ONA Template | 311 | BACP | CCHR | CDPH | CPL ³⁹ | DFSS | MOPD |
|---|--------------|-------------------|------|------|------|-------------------|-------------------|-------------------|
| I. Identification and translation of essential public documents provided to or completed by program beneficiaries and/or participants | Yes | Yes | Yes | Yes | Yes | – | Yes | Yes ⁴⁰ |
| II. Interpretation services, including the use of telephonic interpretation services | Yes | Yes | Yes | Yes | Yes | – | Yes | Yes |
| III. Training of frontline workers and managers on language access policies and procedure | Yes | Yes | Yes | Yes | Yes | – | Yes ⁴¹ | Yes |
| IV. Posting of signage in conspicuous locations about the availability of free interpretation services | Yes | N/A ⁴² | Yes | Yes | Yes | – | Yes | Yes |
| V. Establishment of an appropriate monitoring and measurement system regarding the provision of department language services | Yes | Yes | Yes | Yes | Yes | – | Yes | Yes |
| VI. Creation of appropriate public awareness strategies for the department's service populations | Yes | Yes | Yes | Yes | Yes | – | No | Yes |

³⁹ At the time of the audit, CPL had not yet submitted its language access plan.

⁴⁰ MOPD's plan states that it will translate documents upon receipt of funding from ONA. By making translation contingent on additional funding, the department risks excluding LEP populations from meaningful access to these documents.

⁴¹ DFSS's plan states that yearly training "will be reviewed and potentially offered."

⁴² This element is inapplicable to 311, which has no public-facing offices in which to post signage.

CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

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| Public Inquiries | Danielle Perry (773) 478-0534 dperry@chicagoinspectorgeneral.org |
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The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

- administrative and criminal investigations;
- audits of City programs and operations; and
- reviews of City programs, operations, and policies.

From these activities, OIG issues reports of findings and disciplinary and other recommendations to assure that City officials, employees, and vendors are held accountable for the provision of efficient, cost-effective government operations and further to prevent, detect, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

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