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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 6, 2015

Mr. Richard A. Ball
Commissioner
Department of Agriculture and Markets
10B Airline Drive
Albany, NY 12235

Re: Food Safety Monitoring
Report 2015-F-10

Dear Commissioner Ball:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Agriculture and Markets (Department) to implement the recommendations contained in our audit report, *Food Safety Monitoring* (2013-S-27).

Background, Scope, and Objectives

The Department's mission is to foster a competitive food and agriculture industry that benefits producers and consumers, while promoting public health and safety. The Department's Division of Food Safety and Inspection (Division) is responsible for enforcing State laws and Department regulations related to food safety, which is a critical factor in maintaining the health and well-being of the people of New York State. The Division's objective is to ensure a safe and properly labeled food supply - from the producer to the retailer to the consumer.

The Division fosters cooperative working relationships with other food safety agencies and organizations, including the Department of Health and the Department of Environmental Conservation. The Division is responsible for inspections at markets and processing facilities and divides its major responsibilities into two units: Food Safety Inspection and Farm Products and Grading.

Between January 30, 2014 and May 4, 2015, the Division conducted 44,034 inspections, received 2,833 consumer complaints for investigation, and tested 2,118 food samples for potential food safety violations. As of May 19, 2015, the Division had 4,409 inspections past due and an additional 157 new establishments were awaiting an initial inspection. As of May 28, 2015, the Division was responsible for inspecting 34,123 establishments. Division officials stated that they

currently have a staff of 78 inspectors and would need to complete 41,266 inspections per year in order to account for re-inspections and achieve their inspection goals.

Our initial audit report was issued on January 30, 2014 and covered the period of April 1, 2011 through September 18, 2013. The objective was to determine whether the Department adequately monitors the processing, distribution, and sale of food products in New York State. During the original audit, we found that the Division was unable to meet the demands of its inspection frequency schedule, and identified instances of both existing and new establishments preparing food prior to obtaining the required inspection as a result. In addition, the Division's staff of 82 inspectors was below the level recommended by the U.S. Food and Drug Administration and the Division lacked formal performance measurement systems.

The objective of our follow-up was to assess the extent of implementation, as of May 28, 2015, of the three recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Department officials made significant progress in addressing the problems we identified in the initial audit. Of the three prior audit recommendations, two were implemented and one was partially implemented.

Follow-Up Observations

Recommendation 1

Establish performance measures for food inspection activities, including Department-wide policy governing such things as work scheduling and time allowances for local travel.

Status - Partially Implemented

Agency Action - The Division is currently working on developing 28 Standard Operating Procedures (SOPs), which both address our recommendations as well as improve the Division's overall quality management system. The Division hopes to have the SOPs completed by July 2016. Thus far, the Division has issued two SOPs concerning consumer complaints and timeliness of report submissions. These two procedures established reporting timelines for critical areas and timeframes for investigation of consumer complaints, which range from one to 90 days, depending on the severity as it relates to public health.

The Division has also implemented a policy outlining expectations for staff time spent working at one's official station (i.e., not in the field performing inspections). The policy establishes a goal of between one and two hours each day for work performed at an inspector's official station and requires inspectors to obtain supervisory approval if they need to work more than three hours during a day at their official station or regional office.

Division officials stated that due to the geographic diversity and nature of their responsibilities, it is impractical to meaningfully establish specific Division-wide performance metrics. They cite the varied length of time necessary to conduct inspections based on key factors, including establishment size, sanitary conditions at the firm, and the variety of processing options. However, as a compensating control, officials stated supervisors are responsible for auditing each inspector's daily log at least once a month and comparing inspectors' reports to their daily logs.

Recommendation 2

Establish procedures to further prioritize and ensure timely completion of inspections of new establishments.

Status - Implemented

Agency Action - The Division uses a database to manage inspection workload. The database allows inspectors to check for new establishments daily. Inspectors are required to visit new establishments within two weeks of their entry into the database. Office of Information Technology Services staff also use the database to produce monthly reports of establishments in need of an initial inspection. These reports are monitored by supervisors who work with inspectors to ensure timely inspections of new establishments are conducted. In addition, new establishment numbers are now issued in order, which makes it easier to identify which establishments have been waiting the longest for an inspection.

Recommendation 3

Increase efforts to provide coordinated real-time access to data among divisions and obtain training on how to use that data to perform necessary analytics to monitor performance, including activities such as inspections and complaint response.

Status - Implemented

Agency Action - The Division has developed pivot tables and queries to facilitate the analysis of data and the monitoring of inspection activities through reports that are generated every six months and shared with supervisors. The reports track the number of instances, and timeliness, for certain activities conducted by inspectors, such as deficiencies noted and food samples taken. Supervisors use the data to monitor and identify those inspectors who are in need of improvement and create a training plan for them. Currently, supervisors do not have the access or knowledge to run queries on their own to perform analysis of the regions for which they are responsible. However, the Division is working toward making this access available. Once supervisors are provided access, it should facilitate earlier identification of problem patterns and other potential issues.

Major contributors to this report were Walter Irving, Heather Pratt, Holly Thornton, Patrick Lance, and Nicole Tommasone.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

John F. Buyce,
Audit Director, CPA, CIA, CFE, CGFM

cc: Joseph Morrissey, Agriculture and Markets