



Office of the City Auditor

**Report to the City Council
City of San José**

**AN AUDIT OF THE SAN JOSÉ
FIRE DEPARTMENT'S
BUREAU OF FIRE PREVENTION**

**The San José Fire Department Needs To
Improve Controls To Ensure The
Completeness Of Its Inspection Database**

**The San José Fire Department Can Improve
Its Inspection Program**

**The San José Fire Department Can Improve
Its Enforcement Efforts**

**Report 03-10
November 2003**



CITY OF SAN JOSÉ, CALIFORNIA

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November 26, 2003

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of the City Council
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Transmitted herewith is a report on *An Audit Of The San José Fire Department's Bureau of Fire Prevention*. This report is in accordance with City Charter Section 805. An Executive Summary is presented on the blue pages in the front of this report. The City Administration's response is shown on the yellow pages before the appendices.

If you need any additional information, please let me know. The City Auditor's staff members who participated in the preparation of this report are Mike Edmonds, Martin Krone, and Greg Elliott.

Respectfully submitted,

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Executive Summary

In accordance with the City Auditor's 2003-04 Audit Workplan, we audited the San José Fire Department's (SJFD) Bureau of Fire Prevention (Bureau). Specifically, we audited the Bureau's Code Enforcement Division's fire safety inspection program. In addition, we audited the SJFD's school and multiple housing inspection program. We conducted our audit in accordance with Generally Accepted Government Auditing Standards and limited our work to those areas specified in the Scope and Methodology section of this report.

Finding I

The San José Fire Department Needs To Improve Controls To Ensure The Completeness Of Its Inspection Database

The San José Fire Department (SJFD) inspects various facilities throughout the City to ensure compliance with State and local fire safety codes. Many of these facilities are subject to fire permit fees and the SJFD maintains a listing of these facilities in a database known as the Fire Inspection Billing System (FIBS). The SJFD uses the FIBS database to identify those facilities that are subject to inspection and to schedule those inspections.

Based on our review of the FIBS database, we found

- The SJFD is not inspecting at least 679 facilities that appear to require a fire safety permit;
- The SJFD is not inspecting another estimated 1,256 manufacturing facilities that may require a fire safety permit;
- The SJFD lacks assurance that it is adding all of the new businesses that require a fire safety permit to its FIBS database; and
- The SJFD has no assurance that deletions from its FIBS database are properly authorized.

Consequently, the SJFD cannot provide adequate assurance that it has identified all the facilities that are subject to inspections and properly entered them into its FIBS database. As a result, the SJFD is not 1) identifying and eliminating all potential fire hazards; 2) collecting at least \$204,000 in annual fire inspection fees; and 3) ensuring equitable treatment for all facilities operating in San José. In our opinion, the SJFD should ensure that its FIBS database contains a complete listing of all the facilities that it should inspect by implementing the following recommendations: 1) follow up on the facilities that are not in the FIBS database that we identified from comparing the FIBS database to the Business License database; 2) if Recommendation #1 results in a significant number of facilities being added to the FIBS database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number; 3) periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety permit; 4) develop written procedures to ensure that facilities identified from the New Accounts Report as potentially needing a fire safety permit are inspected, assessed, and entered into the FIBS database; and 5) establish written procedures to ensure that facility deletions from the FIBS database are properly authorized.

RECOMMENDATIONS

We recommend that the SJFD:

- Recommendation #1** **Follow up on the facilities that are not in the FIBS database that we identified from comparing the FIBS database to the Business License database. (Priority 2)**
- Recommendation #2** **If Recommendation #1 results in a significant number of facilities being added to the FIBS database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number. (Priority 2)**
- Recommendation #3** **Periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety inspection. (Priority 2)**

We recommend that the SJFD:

Recommendation #4 **Develop written procedures to ensure that facilities identified from the New Accounts Report as potentially needing a fire safety permit are**

- **Inspected;**
- **Assessed as to whether a permit is required; and**
- **Entered into the FIBS database if a fire safety permit is required.**

(Priority 3)

Recommendation #5 **Establish written procedures to ensure that all facility deletions from the FIBS database are properly authorized.**

(Priority 3)

Finding II The San José Fire Department Can Improve Its Inspection Program

The California State Health and Safety Code (Health and Safety Code) requires the San José Fire Department (SJFD) to inspect certain facilities on an annual basis. In addition, the SJFD’s Bureau of Fire Prevention (Bureau) has a goal to inspect 80 percent of the facilities in the FIBS database for the Special Occupancy and Permitted Occupancy Units on an annual basis. We found that

- The SJFD did not inspect on an annual basis from 37 to 61 percent of those facilities requiring an annual inspection from 1998-99 through 2001-02 and
- The SJFD did not meet its own 80 percent annual inspection goal for the Special Occupancy Unit and the Permitted Occupancy Unit during three out of the last four years.

We found that the SJFD needs to 1) improve its controls over Record of Inspection (ROI) forms, 2) improve upon its system to prioritize inspections based upon appropriate risk factors, 3) improve its system of tracking the time inspectors spend on inspections and inspection-related activities, and 4) perform a workload analysis to determine the staffing requirements to achieve its inspection goals and objectives. In addition, the SJFD has experienced staffing issues such as turnovers, vacancies, and less than full-time inspectors. Accordingly, the

SJFD should inspect all facilities requiring an annual inspection as mandated by the Health and Safety Code on an annual basis, establish accountability for all ROIs and ensure that an inspection is completed for all assigned ROIs; develop a risk assessment methodology to assign facility inspection frequencies; improve its system of tracking the amount of time inspectors spend on inspection and inspection-related activities; and develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives.

RECOMMENDATIONS

We recommend that the SJFD:

- Recommendation #6** **Require the fire companies to submit information on the number of educational facilities actually inspected annually. (Priority 3)**
- Recommendation #7** **Inspect all facilities requiring an annual inspection on an annual basis. (Priority 2)**
- Recommendation #8** **Change its inspection goals to 100 percent for all facilities requiring an annual inspection. (Priority 3)**
- Recommendation #9** **Establish accountability for all Record of Inspection forms and ensure that an inspection is completed for all assigned Record of Inspection forms. (Priority 3)**
- Recommendation #10** **Develop a risk assessment methodology to assign facility inspection frequencies. (Priority 3)**
- Recommendation #11** **Improve its system of tracking the amount of time inspectors spend on inspections and inspection-related activities. (Priority 3)**
- Recommendation #12** **Develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives. (Priority 3)**

Finding III The San José Fire Department Can Improve Its Enforcement Efforts

The Code Enforcement Division (Division) in the San José Fire Department's (SJFD) Bureau of Fire Prevention (Bureau) records the results of its inspections of facilities throughout the City, including any violations noted, on Record of Inspection (ROI) forms. Based upon our review of ROIs, we found that

- SJFD inspectors are generally not following up on identified violations in a timely manner;
- The SJFD is not consistently applying re-inspection fees; and
- The SJFD is not efficiently enforcing the requirement for facilities to complete their Hazardous Material Business Plan.

In our opinion, the SJFD needs to develop formal policies and procedures on the appropriate follow up by requiring inspectors to give the facility a specific compliance date and for consistently applying re-inspection fees. In addition, the SJFD needs to ensure supervisory review and approval of completed ROIs. Finally, the SJFD needs to develop procedures and controls to ensure that facilities submit their Hazardous Material Business Plan (HMBP) in a timely manner.

RECOMMENDATIONS

We recommend that the SJFD:

- | | |
|---------------------------|--|
| Recommendation #13 | Develop formal policies and procedures that require the inspectors to follow up on identified violations in a timely manner and specify the actual compliance date on the Record of Inspection form. (Priority 3) |
| Recommendation #14 | Develop written policies and procedures for applying re-inspection fees. (Priority 3) |
| Recommendation #15 | Ensure supervisory review and approval of completed Record of Inspection forms. (Priority 3) |

We recommend that the SJFD:

Recommendation #16 Develop procedures and controls to reduce the number of times inspectors return to facilities to confirm that an HMBP is in place and to ensure that facilities submit their HMBP in a timely manner. (Priority 3)

Introduction

In accordance with the City Auditor's 2003-04 Audit Workplan, we audited the San José Fire Department's (SJFD) Bureau of Fire Prevention (Bureau). Specifically, we audited the Bureau's Code Enforcement Division's fire safety inspection program. In addition, we audited the SJFD's school and multiple housing inspection program. We conducted our audit in accordance with Generally Accepted Government Auditing Standards and limited our work to those areas specified in the Scope and Methodology section of this report.

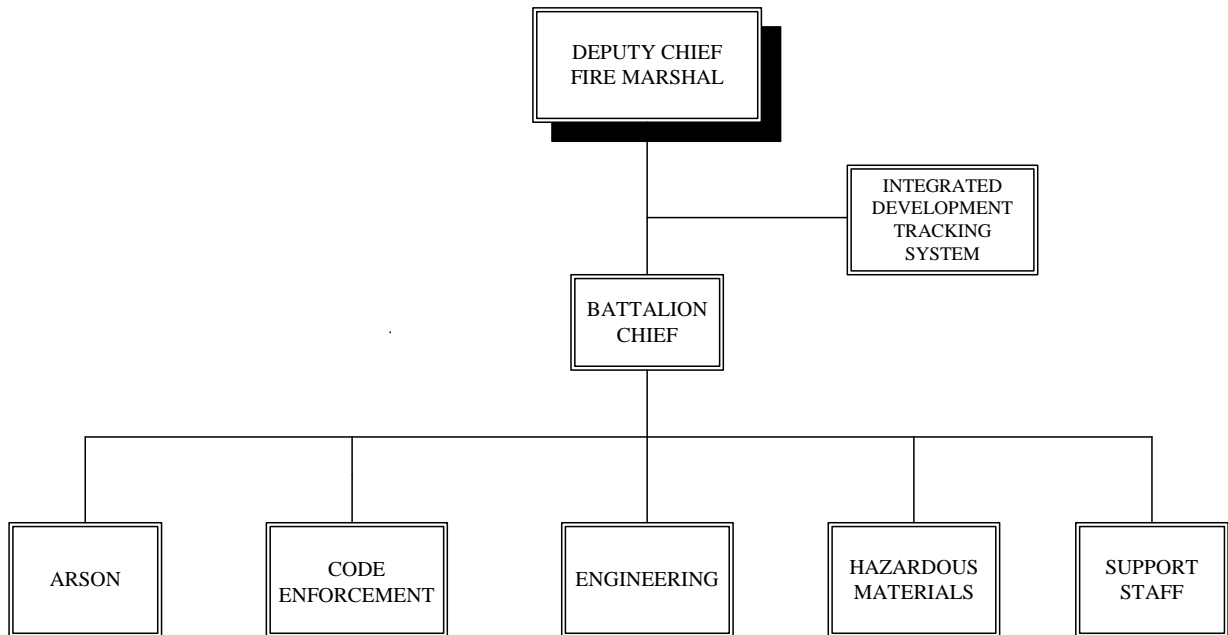
The City Auditor's Office thanks the staff of the San José Fire Department who gave their time, information, insight, and cooperation during the audit process.

Background

The SJFD's overall mission is "To serve the community by protecting life, property, and the environment through prevention and response". The Bureau assists the SJFD in achieving its mission. Fire prevention is accomplished through several means: educational and outreach services provided to the public, investigation of fires to determine causes, including apprehension and support of prosecution of suspected arsonists. Fire prevention is also achieved through code compliance. The Bureau's primary code compliance activities are plan review and inspection services.

The Bureau is organized into five functional areas: 1) Arson, 2) Code Enforcement, 3) Engineering, 4) Hazardous Materials, and 5) Support Staff. The Bureau is budgeted 52 full-time equivalent positions for 2003-04. Exhibit 1 is the Bureau's organizational chart.

Exhibit 1 San José Fire Department Bureau Of Fire Prevention Organizational Chart



Legal Requirements For Fire Prevention Activities

Various state and local laws and regulations govern the SJFD's fire prevention activities. The current San José Municipal Code Section 17.12 (San José Fire Code) incorporates the 2001 California Fire Code, subject to deletions, amendments, exceptions, and additions. The California Building Standards Commission and the Western Fire Chiefs Association publish these regulations.

The San José Fire Code, through its adoption of the California Fire Code, "prescribes regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire explosion, and dangerous conditions arising from the storage, handling and use of hazardous materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises and provisions to assist emergency response personnel."

The California Health and Safety Code (Health and Safety Code) requires the SJFD Chief to enforce State Fire Marshal-adopted building standards and regulations published in the State Building Code for the prevention of fire or for the protection of life and property against fire or panic.

The Health and Safety Code specifies that certain facilities be inspected on an annual basis. Specifically, the Health and Safety Code requires annual inspection of the following types of facilities:

- High-rise buildings¹;
- Jails or places of detention for persons charged with or convicted of a crime²;
- Public and private schools; and
- Apartments (three or more units), hotels, motels, and lodging houses.

Additionally, some occupancies are issued fire permits and the inspection frequency is at the discretion of the Fire Chief. The SJFD issues fire permits for facilities engaging in various activities, operations, practices, or functions in accordance with Section 105 of the California Fire Code and Section 17.12 of the San José Fire Code. These activities, operations, practices, or functions include, but are limited to day care facilities, high-rises, residential care facilities, woodworking facilities, lumber yards and firewood storage areas, and motor vehicle fuel-dispensing stations.

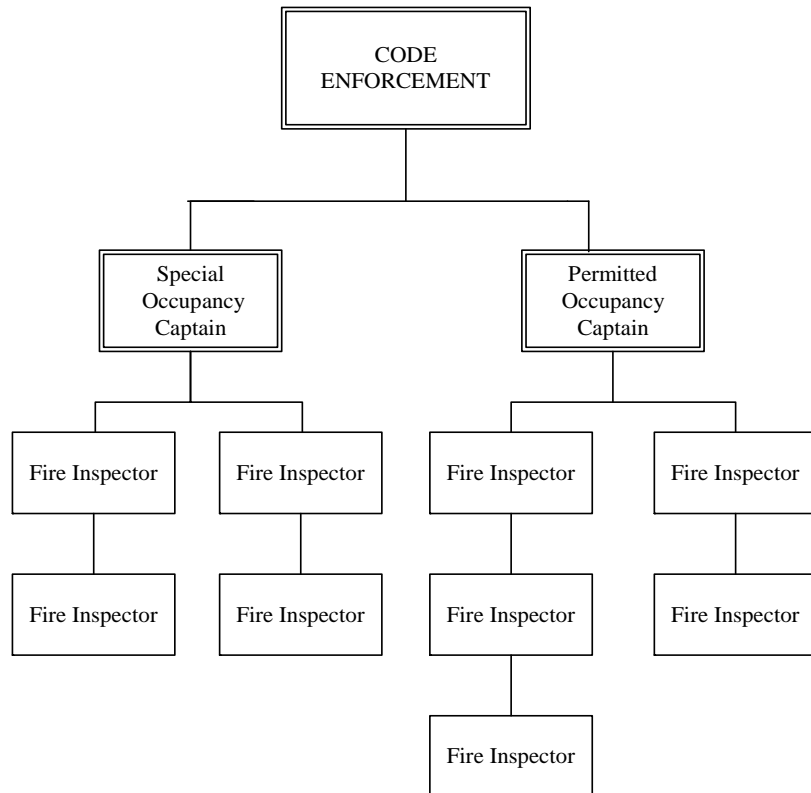
To meet some of its fire prevention inspection responsibilities, the SJFD has established the Code Enforcement Division within the Bureau, which is divided into the Special Occupancy Unit and the Permitted Occupancy Unit. A Fire Captain supervises the inspectors in each unit. Currently, the Special Occupancy Unit has four permanent inspector positions and the

¹ Classified as used for human occupancy located more than 75 feet above the lowest floor level having building access; with the exceptions of buildings being used as hospitals, open parking garages, power plants, look-out towers, steeples, grain houses and similar structures, and buildings used exclusively for jails and prisons.

² The State Fire Marshal is responsible for inspecting these facilities. The Fire Marshal routinely asks the SJFD to inspect these facilities but the SJFD has declined the Fire Marshal's request in writing as outlined and required by Section 13146.1 of the Health and Safety Code.

Permitted Occupancy Unit has five permanent inspector positions. The staffing chart for the Division is shown in Exhibit 2.

Exhibit 2 Fire Department Bureau Of Fire Prevention Code Enforcement Division Organizational Chart



According to Bureau officials, the Special Occupancy Unit inspects the following occupancy types:

- Places of assembly (50 or more people may gather);
- Public high schools, private schools, and day care facilities;
- Institutions;
- Residential Care Facilities; and
- High-rises (see footnote 1 on page 3).

The Permitted Occupancy Unit inspects all other occupancies that require fire permits in accordance with the San José Fire Code. Specifically, the Permitted Occupancy Unit inspects the following occupancy types:

- Commercial business occupancies;
- Hazardous occupancies;
- Factory, manufacturing occupancies;
- Storage occupancies;
- Agricultural buildings, sheds, and private garages and carports; and
- Merchandise occupancies.

According to the Division, it also responds to complaints, reviews adequate spacing for fire truck access, and regulates private and public functions called ‘special events’. Special events include outdoor events [carnivals, festivals, parades, pyrotechnic (fireworks) displays] where there may be potential fire hazards.

Besides the Code Enforcement Division’s responsibilities, the SJFD has assigned the inspections of apartments and public schools (not including public high schools) to the 31 fire companies, which are referred to as the ‘Line’.

The inspections of apartments and schools include but are not limited to ensuring that

- Fire extinguishers have current service dates and adequate pressure,
- Exit systems are maintained in accordance with code requirements,
- Fire doors are kept closed and not chained or obstructed,
- Stairwells are safe,
- Electrical and other potential hazards that could contribute to the cause or spread of fire are eliminated, and
- Fire protection systems are operational and properly maintained.

To assist it in its inspection efforts, the SJFD uses a database known as the Fire Inspection Billing System (FIBS) that identifies the facilities requiring inspection. The SJFD uses the FIBS database to identify those facilities that are subject to inspections and to schedule those inspections.

**Audit Scope,
Objectives, And
Methodology**

We reviewed the San José Fire Department's (SJFD) Bureau of Fire Prevention (Bureau) Code Enforcement Division's (Division) inspection programs for 1998-99 through 2001-02. In addition, we reviewed the SJFD's inspection programs for multiple housing units and educational facilities for 1998-99 through 2001-02.

The objectives of our audit were to determine whether:

- The FIBS database was complete with regards to Permitted and Special Occupancy Unit facilities;
- The SJFD inspected facilities requiring annual inspections in accordance with the California Health and Safety Code;
- The SJFD met the Special Occupancy and Permitted Occupancy Unit inspection goals; and
- The SJFD adequately enforced San José Fire Code requirements.

During the course of our audit, we:

- Reviewed the California Health and Safety Code, the California Fire Code, and the San José Fire Code;
- Interviewed personnel from the SJFD and the City's Information Technology Department;
- Accompanied the SJFD's inspectors on their inspections;
- Reviewed the internal controls for the Record Of Inspection (ROI) form processing and distribution;
- Reviewed the completed ROIs, for 1999-00 and 2002-03 for timeliness of inspections, follow up, supervisory review, and enforcement actions;
- Contacted other fire departments in the State of California;
- Reviewed the City of San José's Business License database as of July 1, 2001 for automotive repair shops,

hotels, motels, and boarding and rooming houses, and manufacturing facilities to determine if they were in the SJFD's Fire Inspection Billing System (FIBS) database; and

- Reviewed the FIBS database for 1998-99 through 2001-02 for total facilities requiring inspections, facilities that received an inspection, and facilities that did not receive an inspection during the four-year period.

We performed only limited testing of the various computer reports and databases we used during our audit. We did not review the general and specific application controls for the computer systems used in compiling the various computer reports and databases we reviewed.

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Finding I

The San José Fire Department Needs To Improve Controls To Ensure The Completeness Of Its Inspection Database

The San José Fire Department (SJFD) inspects various facilities throughout the City to ensure compliance with State and local fire safety codes. Many of these facilities are subject to fire permit fees and the SJFD maintains a listing of these facilities in a database known as the Fire Inspection Billing System (FIBS). The SJFD uses the FIBS database to identify those facilities that are subject to inspection and to schedule those inspections.

Based on our review of the FIBS database, we found

- The SJFD is not inspecting at least 679 facilities that appear to require a fire safety permit;
- The SJFD is not inspecting another estimated 1,256 manufacturing facilities that may require a fire safety permit;
- The SJFD lacks assurance that it is adding all of the new businesses that require a fire safety permit to its FIBS database; and
- The SJFD has no assurance that deletions from its FIBS database are properly authorized.

Consequently, the SJFD cannot provide adequate assurance that it has identified all the facilities that are subject to inspections and properly entered them into its FIBS database. As a result, the SJFD is not 1) identifying and eliminating all potential fire hazards; 2) collecting at least \$204,000 in annual fire inspection fees; and 3) ensuring equitable treatment for all facilities operating in San José. In our opinion, the SJFD should ensure that its FIBS database contains a complete listing of all the facilities that it should inspect by implementing the following recommendations: 1) follow up on the facilities that are not in the FIBS database that we identified from comparing the FIBS database to the Business License database; 2) if Recommendation #1 results in a significant number of facilities being added to the FIBS database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number; 3) periodically compare the FIBS

database with the Business License database using the SIC Codes that are most likely to require a fire safety permit; 4) develop written procedures to ensure that facilities identified from the New Accounts Report as potentially needing a fire safety permit are inspected, assessed, and entered into the FIBS database; and 5) establish written procedures to ensure that facility deletions from the FIBS database are properly authorized.

The SJFD Enforces Regulations Through Permitting And Inspection

The San José Fire Code, through its adoption of the California Fire Code, “prescribes regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire explosion, and dangerous conditions arising from the storage, handling and use of hazardous materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises and provisions to assist emergency response personnel.”

The San José Fire Code authorizes the Bureau “to inspect buildings and premises as often as necessary, for the purpose of ascertaining and causing to be corrected any conditions which could tend to cause fire or contribute to its spread, result in an unauthorized discharge of hazardous materials, or any other violation of this code or any other law or standard affecting fire safety, life safety, or environmental safety.”

The SJFD issues permits which “constitutes permission to maintain, store, use or handle materials, or to conduct processes which produce conditions hazardous to life or property, or to install equipment used in connection with such activities.” The San José Fire Code requires the SJFD to issue a permit to any facility engaging in but not limited to the following activities, operations, practices, or functions:

- Aircraft refueling vehicles, asbestos removal, places of assembly, automobile wrecking yard, candles and open flames in assembly areas, carnivals and fairs, combustible fiber and material storage, commercial rubbish-handling operation, dry cleaning plants, dust-producing operations, open burning, parade floats, repair garages, spraying or dipping utilizing flammable or combustible liquids, and tire storage.

The San José Fire Code allows the SJFD to charge permit fees for plan checking, permit applications, and inspections in accordance with a schedule of fees established by City Council Resolution. The current annual renewable operating permit fee ranges from \$300 to \$1,200 depending on the occupancy type.

**Fire Inspection
Billing System
(FIBS) Database**

The SJFD utilizes the Fire Inspection Billing System (FIBS) database of facilities eligible for fire safety inspections. The SJFD uses the FIBS database to identify those facilities that are subject to inspection and to schedule those inspections. Thus, the FIBS database should include all the facilities in the City that are subject to fire safety inspections.

According to the Information Technology Department, the FIBS database is comprised of three separate master files: Fire Safety, HazMat, and the Line. The Fire Safety master file includes both Permitted Occupancies and Special Occupancies. As of July 1, 2001, the Fire Safety master file included about 5,100 facilities, of which 2,900 facilities are Permitted Occupancies and 2,200 facilities are Special Occupancies.

**The SJFD Is Not
Inspecting At Least
679 Facilities That
Appear To Require
A Fire Safety
Permit**

We audited the FIBS database to determine whether it provides a complete listing of facilities subject to fire safety inspections. To evaluate the completeness of the FIBS database, we identified businesses in the City of San José's Business License database that have Standard Industrial Classifications (SIC Codes) that were likely to require a fire safety inspection and compared them to the FIBS database. These SIC groups included 1) Automotive Repair Shops; 2) Hotels, Motels, and Boarding and Rooming Houses; and 3) Manufacturing Industries.

We found that at least 679 facilities that appear to require a fire safety permit are missing from the FIBS database. These include

- 207 automotive repair shops;
- 48 hotels, motels, and boarding and rooming houses; and
- 424 manufacturing facilities.

The result for each group is described below.

*207 Automotive
Repair Shops Were
Not In The FIBS
Database*

Generally, automotive repair businesses are required to have a fire safety permit. As such, they are subject to inspections and fees. As of July 1, 2001, the Business License database included 661 automotive repair businesses that were likely to require a fire safety inspection. We tested all 661 of these automotive repair businesses and determined that 207 (31%) of these businesses were not in the FIBS database. As a result, these 207 businesses may be operating without a fire safety permit and the SJFD is not routinely inspecting them to ensure that they are operating in accordance with the San José Fire Code.

*48 Hotels, Motels,
And Boarding And
Rooming Houses
Were Not In The
FIBS Database*

Hotels, motels, and boarding and rooming houses are subject to State-required annual inspections. As of July 1, 2001, the City of San José's Business License database included 114 of these types of facilities. We tested all 114 of these facilities and determined that 48 (42%) of these facilities were not in the FIBS database. As a result, these 48 facilities may be operating without a fire permit and the Bureau is not inspecting these facilities to ensure that they are operating in accordance with the San José Fire Code.

*424 Manufacturing
Facilities Were Not
In The FIBS
Database*

Many manufacturing facilities may also be subject to fire safety permit requirements. As of July 1, 2001, the City of San José's Business License database included 1,932 facilities with manufacturing SIC Codes that did not have a FIBS identification number in the Business License database. We sampled 487 of these 1,932 facilities to determine if they were in the FIBS database.³ We found that of the 487 manufacturing facilities sampled, 424 (87%) were not included in the FIBS database.

Exhibit 3 below summarizes our comparison of the FIBS database to the City of San José's Business License database.

³ We randomly selected 141 facilities and judgmentally selected 346 facilities based on name and facility type.

**Exhibit 3 Summary Of The City Auditor’s Comparison Of
The City Of San José’s Business License Database
To The FIBS Database**

<u>SIC Code Class</u>	<u>Population Subject To Testing</u>	<u>Sample</u>	<u>Percentage Of Sample Subject To Testing</u>	<u>Number Of Exceptions</u>	<u>Exceptions As A Percentage Of The Sample</u>
Automotive Repair	661	661	100%	207	31%
Hotels/Motels & Boarding/ Rooming Houses	114	114	100%	48	42%
Manufacturing	1,932	487	25%	424	87%
<u>Total</u>	<u>2,707</u>	<u>1,262</u>	<u>47%</u>	<u>679⁴</u>	<u>54%</u>

The SJFD Is Not Inspecting Another 1,256 Manufacturing Facilities That May Require A Safety Permit

As shown in Exhibit 4, of the 487 manufacturing facilities we tested that were in the City of San José’s Business License database, 424 (87 percent) of these facilities were not in the FIBS database. Moreover, should our sample results be representative of the entire population of 1,932 manufacturing facilities in the Business License database, then we estimate that as many as 1,680 facilities, or 87 percent of the 1,932 manufacturing facilities in the Business License database are missing from the FIBS database and, therefore, the SJFD is not inspecting them. The estimate of 1,680 facilities includes 424 facilities we identified from our sample. Thus, we estimate that another 1,256 manufacturing facilities from the Business License database that may require a fire safety permit are not in the FIBS database.

In our opinion, the SJFD should follow up on the facilities that are not in the FIBS database that we identified from comparing the FIBS database to the Business License database. Specifically, the SJFD should follow up on the 679 facilities that we identified as appearing to require a fire safety inspection. In addition, if the above recommendation results in a significant number of facilities being added to the FIBS

⁴ The 679 exceptions are the sample selections from the Business License database that we could not match to the following fields in the FIBS database: Business License number, FIBS number, Business Name, and Address. We further researched for different spellings of the Business Name.

database, the SJFD should follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number. Finally, the SJFD should periodically compare the FIBS database to the Business License database using the SIC Codes that are most likely to require a fire safety inspection.

We recommend that the SJFD:

Recommendation #1:

Follow up on the facilities that are not in the FIBS database that we identified from comparing the FIBS database to the Business License database. (Priority 2)

Recommendation #2

If Recommendation #1 results in a significant number of facilities being added to the FIBS database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number. (Priority 2)

Recommendation #3

Periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety inspection. (Priority 2)

The SJFD Lacks Assurance That It Is Adding All Of The New Businesses That Require A Fire Safety Permit To Its FIBS Database

The SJFD has several processes to identify new or existing facilities that it may need to inspect. According to inspectors, they are familiar with the geographical areas that they inspect. If they see a 'new' business in the area, they will walk in and visit the facility to assess whether it should be subject to a fire safety inspection. If the facility requires a permit, the inspectors complete a Record of Inspection (ROI) form and request that the facility be added to the FIBS database.

In addition, the SJFD receives information on new businesses from the Treasury Division within the Finance Department. Specifically, the Treasury Division provides the SJFD with a listing of new businesses that may require a fire safety or hazardous material permit. For all new businesses, the Treasury Division requires that both the business owner and property owner complete a Business Tax Registration form. This form contains seven questions that are intended to identify

the existence of potential fire safety or hazardous material risks. These seven questions include “Do you use or store hazardous or flammable materials? (Such as gasoline, solvents, caustic and waste oil, other than normal household use).”

Weekly, the Treasury Division sends the SJFD a report, the Register of New Accounts (New Accounts Report), which lists all the applicants that answered “yes” to any of the seven questions pertaining to fire safety or hazardous materials risks on the Business Tax Registration form. According to the Bureau, inspectors are supposed to inspect these new businesses to determine whether a fire safety or hazardous material permit is required. If an inspector determines that a fire safety or hazardous material permit is required, the inspector completes a ROI, from which the Bureau enters the information into the FIBS database.

In our opinion, the New Accounts Report appears to be a useful control for identifying new facilities that may need to be permitted. Accordingly, we tested facilities on the New Accounts Report for the period October 1, 2002 through March 31, 2003. Specifically, we tested 108 of those facilities that were most likely to require a fire safety permit or are places of assembly to see if the SJFD had inspected them and/or added them to its FIBS database. These facilities included various types of service stations and automotive repair shops; various types of cabinet shops, metal fabrication and finishing shops; painting shops; and restaurants.

Although the New Accounts Report appears to be a useful control, the SJFD is not using it effectively. Specifically, we found that only 44 of these 108 facilities (41%) were in the FIBS database. Furthermore, we found no evidence that the SJFD had inspected any of the remaining 64 facilities (59%). As a result, the SJFD lacks assurance that it is adding all new facilities that require a fire safety permit to its FIBS database.

In our opinion, the SJFD should review businesses on the New Accounts Report to determine whether these facilities should be issued a fire safety permit. Specifically, the SJFD needs to document if it actually inspected or contacted all of the facilities on the New Accounts Report and record the results of those inspections or contacts. Without these controls, the SJFD does not have adequate assurance that it is 1) inspecting all of the facilities on the New Accounts Report or 2) properly issuing fire safety permits.

We recommend that the SJFD:

Recommendation #4

Develop written procedures to ensure that facilities identified from the New Accounts Report as potentially needing a fire safety permit are

- **Inspected;**
- **Assessed as to whether a permit is required; and**
- **Entered into the FIBS database if a fire safety permit is required. (Priority 3)**

The SJFD Has No Assurance That Deletions From Its FIBS Database Are Properly Authorized

The SJFD has established a process for deleting facilities from its FIBS database. Routinely, facilities subject to a fire safety inspection may go out of business or change their occupancy status. Some of these facilities no longer require a fire safety inspection and should be deleted from the FIBS database. Currently, an Account Clerk is responsible for the input of inspection data and related adjustments to the FIBS database. The Account Clerk deletes file records based on hand-written notations Fire Safety or HazMat inspectors make on the ROI form. Typically, these notations indicate the existence of a new occupant and/or are comments stating or implying that a company is out of business.

We found that the SJFD needs to implement controls to ensure that deletions are properly authorized. For instance, the SJFD does not maintain automated or manual reports listing all facilities the Account Clerk deleted from the FIBS database. Moreover, we did not find any formal evidence of management review to ensure that appropriate SJFD personnel properly authorized all deletions from the FIBS database.

In our opinion, the SJFD's lack of formal controls over its FIBS database record deletion process may have contributed to the incompleteness of the FIBS database. The SJFD's inability to properly account for all deleted files raises questions about the number and propriety of all deletions from the FIBS database. In our opinion, the SJFD should develop procedures to ensure that all deletions from its FIBS database are properly authorized.

We recommend that the SJFD:

Recommendation #5

Establish written procedures to ensure that all facility deletions from the FIBS database are properly authorized. (Priority 3)

The SJFD Is Not Identifying And Eliminating All Potential Fire Hazards, Collecting At Least \$204,000 In Annual Fire Inspection Fees, And Ensuring Equitable Treatment For All Facilities Operating In San José

If the 679 unmatched facilities identified in our testing meet the criterion for a fire safety permit, the SJFD could recover at least \$204,000 in annual permit fees. This estimate is based on the number of facilities that we identified in our sample that were not in the FIBS database multiplied by the lowest annual fire permit fee (679 x \$300). Additionally, it should be noted that some facilities may require multiple permits which would generate additional fees for the City. Moreover, we estimate that another 1,256 manufacturing facilities that may require a safety permit are not in the FIBS database. In addition, the SJFD is not inspecting these facilities to identify and eliminate any potential fire hazards. Moreover, the SJFD is not ensuring equitable treatment for all facilities operating in San José.

CONCLUSION

As of July 2001, there were approximately 5,100 facilities in the FIBS database requiring fire safety inspections. We identified 679 facilities that were not in the FIBS database but were very likely to require a fire safety permit. We also estimate that another 1,256 manufacturing facilities that may require a fire safety permit were not in the FIBS database. Consequently, the SJFD cannot provide adequate assurance that it has identified all facilities subject to inspection and entered them into its FIBS database. As a result, the SJFD is not

- 1) identifying and eliminating all potential fire hazards;
- 2) collecting at least \$204,000 in annual fire inspection fees;
- and 3) ensuring equitable treatment for all facilities operating in San José.

To ensure that its FIBS database is complete, the SJFD needs to follow up on the exceptions we identified and implement additional controls.

RECOMMENDATIONS

We recommend that the SJFD:

- Recommendation #1** **Follow up on the facilities that are not in the FIBS database that we identified from comparing the FIBS database to the Business License database. (Priority 2)**
- Recommendation #2** **If Recommendation #1 results in a significant number of facilities being added to the FIBS database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number. (Priority 2)**
- Recommendation #3** **Periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety inspection. (Priority 2)**
- Recommendation #4** **Develop written procedures to ensure that facilities identified from the New Accounts Report as potentially needing a fire safety permit are**
- **Inspected;**
 - **Assessed as to whether a permit is required; and**
 - **Entered into the FIBS database if a fire safety permit is required.**
- (Priority 3)**
- Recommendation #5** **Establish written procedures to ensure that all facility deletions from the FIBS database are properly authorized. (Priority 3)**

Finding II

The San José Fire Department Can Improve Its Inspection Program

The California State Health and Safety Code (Health and Safety Code) requires the San José Fire Department (SJFD) to inspect certain facilities on an annual basis. In addition, the SJFD's Bureau of Fire Prevention (Bureau) has a goal to inspect 80 percent of the facilities in the FIBS database for the Special Occupancy and Permitted Occupancy Units on an annual basis. We found that

- The SJFD did not inspect on an annual basis from 37 to 61 percent of those facilities requiring an annual inspection from 1998-99 through 2001-02 and
- The SJFD did not meet its own 80 percent annual inspection goal for the Special Occupancy Unit and the Permitted Occupancy Unit during three out of the last four years.

We found that the SJFD needs to 1) improve its controls over Record of Inspection (ROI) forms, 2) improve upon its system to prioritize inspections based upon appropriate risk factors, 3) improve its system of tracking the time inspectors spend on inspections and inspection-related activities, and 4) perform a workload analysis to determine the staffing requirements to achieve its inspection goals and objectives. In addition, the SJFD has experienced staffing issues such as turnovers, vacancies, and less than full-time inspectors. Accordingly, the SJFD should inspect all facilities requiring an annual inspection as mandated by the Health and Safety Code on an annual basis, establish accountability for all ROIs and ensure that an inspection is completed for all assigned ROIs; develop a risk assessment methodology to assign facility inspection frequencies; improve its system of tracking the amount of time inspectors spend on inspection and inspection-related activities; and develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives.

The SJFD Did Not Inspect On An Annual Basis From 37 To 61 Percent Of Those Facilities Requiring An Annual Inspection From 1998-99 Through 2001-02

The Health and Safety Code specifies that certain facilities be inspected on an annual basis. Specifically, the Health and Safety Code requires annual inspections of the following facilities:

- High-rise buildings;
- Jails or places of detention for persons charged with or convicted of a crime;
- Public and private schools; and
- Apartments (three or more units), hotels, motels, and lodging houses.

The SJFD has assigned responsibilities for inspecting the above facilities to its Special Occupancy Unit and fire companies at each of the fire stations. Specifically, the Special Occupancy Unit inspects high-rise buildings, public high schools, and private schools. The fire companies inspect apartment complexes with three or more units and public schools, except public high schools⁵.

To evaluate whether the SJFD is inspecting these facilities annually, we reviewed the SJFD's records for 1998-99, 1999-00, 2000-01, and 2001-02.

Exhibit 4 below compares the number of facilities the SJFD was required to inspect annually to the number of facilities the SJFD actually inspected annually from 1998-99 through 2001-02.

Exhibit 4 Comparison Of Facilities The SJFD Was Required To Inspect Annually To The Number Of Facilities The SJFD Actually Inspected From 1998-99 Through 2001-02

Fiscal Year	Required Annual Inspections	Actually Inspected Annually	Percentage Of Facilities Not Inspected Annually
1998-99	5,803	3,631	37%
1999-00	6,399	3,266	49%
2000-01	7,956	3,121	61%
2001-02	7,207	2,870	60%

⁵ During our review, we identified several private schools in the line database.

*The Special
Occupancy Unit Is
Not Inspecting All
Facilities Requiring
An Annual
Inspection*

Exhibit 5 compares the number of facilities the Special Occupancy Unit was required to inspect annually to the number of facilities it actually inspected annually from 1998-99 through 2001-02.

Exhibit 5 Comparison Of The Number Of Facilities The Special Occupancy Unit Was Required To Inspect Annually To The Number Of Facilities The Special Occupancy Unit Actually Inspected From 1998-99 Through 2001-02

Fiscal Year	Required Annual Inspections	Actually Inspected Annually	Percent Of Facilities Not Inspected Annually
1998-99	132	87	34%
1999-00	130	74	43%
2000-01	127	45	65%
2001-02	132	54	59%

Exhibit 5 shows that during the four years reviewed, the Special Occupancy Unit did not inspect on an annual basis from 34 percent to 65 percent of the facilities required to have an annual inspection.

*The Line (Fire
Companies) Is Not
Inspecting All
Facilities Requiring
An Annual
Inspection*

We found that the fire companies are not meeting the inspection requirement to inspect apartments annually in accordance with the Health and Safety Code. During the four years we reviewed, fire companies did not inspect from 38 percent to 61 percent of the apartments on an annual basis as required as shown in Exhibit 6.

Exhibit 6 Comparison Of The Number Of Apartments Fire Companies Were Required To Inspect Annually To The Number Of Apartments Fire Companies Actually Inspected Annually From 1998-99 Through 2001-02

Fiscal Year	Required Annual Inspections	Facilities Actually Inspected Annually	Percentage Of Facilities Not Inspected Annually
1998-99	5,502	3,395	38 %
1999-00	6,101	3,056	50 %
2000-01	7,661	2,955	61 %
2001-02	6,910	2,708	61 %

In addition, we found that the fire companies are not meeting the Health and Safety Code requirement to inspect educational facilities (schools) annually. We found that fire companies did not inspect from 12 to 34 percent of the schools on an annual basis as required as shown in Exhibit 7.

Exhibit 7 Comparison Of The Number Of Schools Fire Companies Were Required To Inspect Annually To The Number Of Schools Fire Companies Actually Inspected Annually From 1998-99 Through 2001-02

Fiscal Year	Required Annual Inspections	Actually Inspected Annually	Percentage Of Schools Not Inspected Annually
1998-99	169	149	12%
1999-00	168	136	19%
2000-01	168	121	28%
2001-02	165	108	34%

The fire companies did not do any inspections for four percent of the schools that were in the 1998-99 database during the four year period from 1998-99 through 2001-02.

According to the SJFD, the fire companies have initiated more inspections of educational facilities than are recorded in the FIBS database. The fire companies initiate the inspections of educational facilities; however, some educational facilities do not resolve the violations in a timely manner. The fire

companies do not submit the Record of Inspection (ROI) until the fire violations are resolved. Therefore, the FIBS database does not reflect that an inspection was conducted for these facilities.

Finally, we found that a cause of the SJFD not inspecting all those facilities requiring an inspection on an annual basis is that the Bureau has a goal to inspect 80 percent of its facilities in the FIBS database on an annual basis.

We recommend that the SJFD:

Recommendation #6

Require the fire companies to submit information on the number of educational facilities actually inspected annually. (Priority 3)

Recommendation #7

Inspect all facilities requiring an annual inspection on an annual basis. (Priority 2)

Recommendation #8

Change its inspection goals to 100 percent for all facilities requiring an annual inspection. (Priority 3)

The SJFD Did Not Meet Its Own 80 Percent Annual Inspection Goal For The Special Occupancy Unit And The Permitted Occupancy Unit For Three Out Of The Last Four Years

The Special Occupancy Unit inspects those facilities that require an annual inspection as specified in the Health and Safety Code (high-rise buildings, public high schools, and private schools) and other facilities issued fire permits, known as permitted facilities, which are inspected at the discretion of the Fire Chief. The Special Occupancy Unit also inspects other facilities including places of assembly, institutions, residential care, and day care facilities.

Exhibit 8 compares the total number of facilities assigned to the Special Occupancy Unit for inspection to the facilities that were actually inspected. The Unit's performance goal was to inspect 80 percent of its assigned facilities on an annual basis.

Exhibit 8 Comparison Of The Number Of Facilities The Special Occupancy Unit Was Assigned To Inspect To The Number Of Facilities The Special Occupancy Unit Actually Inspected From 1998-99 Through 2001-02

Fiscal Year	Assigned Inspections	Actually Inspected	Percent Of Facilities Inspected Annually
1998-99	2,143	1,590	74%
1999-00	2,170	1,770	82%
2000-01	2,235	1,493	67%
2001-02	2,285	1,468	64%

We found that the SJFD Special Occupancy Unit did not meet its performance goal of 80 percent for annual inspections for three out of the last four years.

Permitted Occupancies

Permitted Occupancies are occupancies that require permits as listed in the San José Fire Code. A permit constitutes permission to maintain, store, use or handle materials, or conduct processes which produce conditions hazardous to life or property, or to install equipment used in connection with such activities. Such permission shall not be construed as authority to violate, cancel, or set aside any of the provisions of the code.

The San José Fire Code requires the SJFD to issue a permit to any facility engaging in the following activities, operations, practices, or functions:

- Aircraft refueling vehicles, asbestos removal, places of assembly, automobile wrecking yard, candles and open flames in assembly areas, carnivals and fairs, combustible fiber and material storage, commercial rubbish-handling operation, dry cleaning plants, dust-producing operations, flammable or combustible liquids, open burning, parade floats, pyrotechnical special effects material, repair garages, spraying or dipping utilizing flammable or combustible liquids, and tire storage.

The SJFD is to inspect all permitted facilities to verify code compliance. Under State and City fire codes, the SJFD may inspect the permitted facilities as often as the Fire Chief

designates. The SJFD has set a performance goal to inspect 80 percent of these facilities on an annual basis. Exhibit 9 compares the number of permitted facilities assigned to the Permitted Occupancy Unit to the number of permitted facilities actually inspected by the Permitted Occupancy Unit from 1998-99 through 2001-02.

Exhibit 9 Comparison Of The Number Of Permitted Facilities Assigned To The Permitted Occupancy Unit To The Number Of Permitted Facilities Actually Inspected By The Permitted Occupancy Unit From 1998-99 Through 2001-02

Fiscal Year	Number Of Permitted Facilities	Actually Inspected	Percentage Of Permitted Facilities Inspected
1998-99	2,667	1,603	60%
1999-00	2,752	2,074	75%
2000-01	2,899	2,066	71%
2001-02	3,164	2,569	81%

We found that the SJFD Permitted Occupancy Unit did not meet its performance goal of 80 percent for annual inspections for three out of the last four years.

The SJFD Needs To Improve Controls Over The Record Of Inspection Forms

During our audit, we noticed how the SJFD distributed Record of Inspection (ROI) forms and conducted the fire safety inspections for the Special Occupancy and Permitted Occupancy Units. According to a Division Captain, inspectors sometimes put ROIs aside and do not complete them during the year. This happens for the following reasons:

- The Division allocates inspectors in each unit (Special Occupancy and Permitted Occupancy) to a geographical location. If an inspector leaves the unit during the year, the Division does not reassign their ROIs until the Division assigns a “new” inspector to that geographical location. The “new” inspector will, most likely, pick up the current month of inspections but will not necessarily pick up where the last inspector left off. For instance, an inspector that leaves a unit in March will have completed his or her ROIs through February. When a

“new” inspector starts in August, for example, he or she will put the ROIs for March through July aside, hoping to catch up on them later.

- At the beginning of each year, the Division gives the inspectors the new ROIs for the annual inspections by unit by geographical location. The inspectors discard the previous years' ROIs which represent facilities the Bureau did not inspect.

We recommend that the SJFD:

Recommendation #9

Establish accountability for all Record of Inspection forms and ensure that an inspection is completed for all assigned Record of Inspection forms. (Priority 3)

The SJFD Can Improve Upon Its System To Prioritize Inspections Based Upon Appropriate Risk Factors

We also found that the SJFD does not have a system to prioritize inspections based on factors such as 1) whether the State requires the facility to be inspected annually, 2) the risk of fire danger, and 3) the prior history of the facility. Without such a system the SJFD cannot categorize facilities as high risk, medium risk, and low risk, and assign appropriate inspection frequencies based upon those risk assessments. Such a prioritizing system would assist the SJFD in ensuring that it is inspecting all those facilities that it should inspect and is not inspecting other facilities more frequently than it should.

We recommend that the SJFD:

Recommendation #10

Develop a risk assessment methodology to assign facility inspection frequencies. (Priority 3)

The SJFD Needs To Improve Its System Of Tracking The Time Inspectors Spend On Inspections And Inspection-Related Activities

The SJFD has developed a timekeeping system for tracking its inspection and inspection-related activities. Specifically, the inspectors manually record their hours on a Daily Activity Report (DAR) to account for their time. The DAR generally includes ten reporting categories:

- Initial inspection;
- Re-inspection;

- Special event;
- Administrative;
- Fire Department Inspection Card (FDIC);
- Training;
- Miscellaneous;
- Overtime;
- Compensation Time; and
- Leave.

We used the SJFD’s DAR time reporting system, to analyze their time utilization for inspections and inspection-related activities.

Our review noted that, during the seven months we tested both the Special Occupancy Unit and Permitted Occupancy Unit, inspectors spent less than 50 percent of their time inspecting facilities. Specifically, we reviewed the inspectors’ DARs for a total of seven months during 2001-2002 and 2002-2003. Exhibit 10 summarizes the percentage of time inspectors spent on initial inspections, re-inspections, and other activities during the months indicated.

Exhibit 10 Summary Of The Percentage Of Time Inspectors Spent During July 2001, January 2002, May 2002, June 2002, July 2002, September 2002, and October 2002 On Inspection Activities And Other Activities

Month⁶	Inspection Activities			Other Activities			
	Initial Inspection	Re-Inspection	Total Inspection Percentage Of Time	FDIC, 850, Or Special Event	Training	Administrative And Miscellaneous	Disability, Sick, Comp, And/Or Annual Leave
July 2001	30.4%	11.3%	41.7	5.0%	7.1%	29.8%	16.3%
January 2002	26.3%	13.3%	39.7	4.7%	17.2%	27.9%	10.5%
May 2002	36.2%	7.7%	43.9	3.7%	3.7%	37.3%	11.4%
June 2002	28.1%	8.4%	36.5	3.8%	3.9%	35.3%	20.6%
July 2002	17.3%	8.3%	25.6	3.5%	4.0%	47.2%	19.7%
September 2002	29.2%	6.6%	35.8	8.0%	13.8%	32.6%	9.8%
October 2002	32.0%	6.9%	38.9	6.7%	9.2%	24.5%	20.6%

⁶ For each month reviewed, we utilized the Daily Activity Reports (DAR) to determine the time spent on inspections and inspection-related activities. The DARs sampled varied from six to nine employees for the months listed.

As Exhibit 10 above shows, inspectors spent from 25.6 percent to 43.9 percent of their time directly on inspection activities.

We also identified that inspectors spent additional time on the Fire Department Inspection Card (FDIC) inspections, 850 inspections, Special Events, and Administrative areas. Currently, the Bureau has one inspector assigned for the FDIC, however, the inspectors from Permitted and Special Occupancy Units provide additional help when it is needed.

- FDIC inspections are to ensure that the contractor has received all the required fire permits such as fire hydrants, fire sprinklers, and fire alarms. The FDIC inspections are cost recovery.
- 850 inspections are provided at the request of the California Department of Social Services for fire safety inspections on residential care and day care facilities. These inspections may or may not be cost recovery.
- Special events require that a fire safety inspector be present. These include pyrotechnics (fireworks), parades, enclosed events (in tents), and some Christmas tree lots. These events are cost recovery.
- Fire safety inspectors are required to participate in Department-wide training 36.5 hours per quarter. In addition to this, all inspectors, except those with paramedic certification, are required to put in approximately 60 hours of emergency medical technician training bi-annually. Also, each inspector is required to complete three basic fire prevention courses that total 120 hours.
- Administrative and Miscellaneous activities include administrative duties as well as travel time to the inspection site, researching fire regulations concerning the inspection, and Officer of the Day duties. Inspectors are rotated to serve as Officer of the Day which entails serving a day shift at the Bureau addressing and resolving complaints, inquiries, and requests that the Bureau receives.

The SJFD's current timekeeping system does not sufficiently delineate the time inspectors spend doing inspections and inspection-related activities. For example, the inspectors stated they charge time for researching regulations and scheduling of inspections to administrative time. In addition, inspectors charged travel time to either inspection time or to

administrative time. In our opinion, this time could be more appropriately charged to inspections. As a result, SJFD’s time reports do not provide accurate information on the actual time spent on inspection and inspection-related activities.

In our opinion, the SJFD’s management needs to improve its system of tracking the time inspectors spend doing inspections and inspection-related activities.

We recommend that the SJFD:

Recommendation #11
Improve its system of tracking the amount of time inspectors spend on inspections and inspection-related activities. (Priority 3)

The SJFD Needs To Perform A Workload Analysis To Determine The Staffing Requirements To Achieve Its Inspection Goals And Objectives

We also found that the SJFD needs to perform a workload analysis to determine the staffing requirements to achieve its inspection goals and objectives. To perform this analysis, the SJFD needs to establish the following:

- The total number of facilities that need to be inspected;
- The frequency with which the facilities need to be inspected;
- Time available for inspections; and
- Performance standards for inspectors.

We recommend that the SJFD:

Recommendation #12
Develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives. (Priority 3)

The SJFD Has Experienced Staffing Issues Such As Turnover, Vacancies, And Less Than Full-Time Inspectors

The SJFD has experienced staffing issues such as turnovers, vacancies, and less than full-time inspectors. Specifically, during our review, one Captain was promoted to Battalion Chief, and seven inspectors were promoted to Captain, then transferred out of the Division. Moreover, the vacancies which were created from the promotions were not immediately filled or were frozen. Additionally, our audit revealed that due to medical reasons some inspectors work limited hours rather than full-time.

CONCLUSION

The SJFD is not meeting the Health and Safety Code requirements to inspect certain facilities on an annual basis. Furthermore, the SJFD is not meeting its inspection goals for the Special Occupancy and Permitted Occupancy Units. To improve its inspection efforts, the SJFD should implement and strengthen management controls. Specifically, it should assign and complete inspections on a priority basis, include a risk assessment of the occupancies, and improve its controls over the ROI forms. In addition, other activities divert inspectors' time from performing and completing the inspection process. In our opinion, the SJFD supervisors need to monitor the amount of time that inspectors spend on all activities. Additionally, to effectively monitor staff time, the SJFD needs to improve controls over time reporting. Finally, the SJFD needs to perform a workload analysis to determine its staffing needs.

RECOMMENDATIONS

We recommend that the SJFD:

- Recommendation #6** **Require the fire companies to submit information on the number of educational facilities actually inspected annually. (Priority 3)**
- Recommendation #7** **Inspect all facilities requiring an annual inspection on an annual basis. (Priority 2)**
- Recommendation #8** **Change its inspection goals to 100 percent for all facilities requiring an annual inspection. (Priority 3)**
- Recommendation #9** **Establish accountability for all Record of Inspection forms and ensure that an inspection is completed for all assigned Record of Inspection forms. (Priority 3)**
- Recommendation #10** **Develop a risk assessment methodology to assign facility inspection frequencies. (Priority 3)**

We recommend that the SJFD:

Recommendation #11 Improve its system of tracking the amount of time inspectors spend on inspections and inspection-related activities. (Priority 3)

Recommendation #12 Develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives. (Priority 3)

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Finding III

The San José Fire Department Can Improve Its Enforcement Efforts

The Code Enforcement Division (Division) in the San José Fire Department's (SJFD) Bureau of Fire Prevention (Bureau) records the results of its inspections of facilities throughout the City, including any violations noted, on Record of Inspection (ROI) forms. Based upon our review of ROIs, we found that

- SJFD inspectors are generally not following up on identified violations in a timely manner;
- The SJFD is not consistently applying re-inspection fees; and
- The SJFD is not efficiently enforcing the requirement for facilities to complete their Hazardous Material Business Plan.

In our opinion, the SJFD needs to develop formal policies and procedures on the appropriate follow up by requiring inspectors to give the facility a specific compliance date and for consistently applying re-inspection fees. In addition, the SJFD needs to ensure supervisory review and approval of completed ROIs. Finally, the SJFD needs to develop procedures and controls to ensure that facilities submit their Hazardous Material Business Plan (HMBP) in a timely manner.

SJFD Inspectors Record The Results Of Inspections On ROI Forms

SJFD inspectors record all of the information related to their inspections on the ROI form. For instance, the ROI includes the facility inspected, the date of the inspection, any violations noted, and the date by which to correct the violation.

The inspectors will return to the business, usually within the time frame indicated on the ROI for a follow up visit to ensure that the facility corrected the violations previously noted. The inspector will indicate on the ROI if the facility has corrected any violations. The ROI is complete and finished when 1) the facility has corrected all violations, 2) the inspector has initialed and dated the ROI and submitted it to the Unit's Captain, and 3) the Captain has reviewed and forwarded the ROI for input into the FIBS database.

The inspectors also have the following actions available to them for enforcing the San José Fire Safety Code and ensuring that violations noted during their fire safety inspections are corrected:

- Performing a walkthrough during business hours to observe the operation of the facility;
- Charging a fee for any return visits after the initial visit and one subsequent visit to ensure that the facility corrected any violations noted on the ROI;
- Calling in the San José Police Department to assist in obtaining code compliance when a potential fire hazard is detected and the business owner takes no immediate corrective action; and
- Issuing citations requiring the business owner to appear in court.

SJFD Inspectors Are Generally Not Following Up On Identified Violations In A Timely Manner

As part of our review, we assessed whether the SJFD's Special Occupancy Unit followed up on identified violations in a timely manner. Specifically, we sampled 68 Special Occupancy Unit ROIs for which violations were noted. We found that the inspectors did not specify a compliance date for 13 of the 68 ROIs (19%). In addition, we determined that the Special Occupancy Unit generally did not follow up in a timely manner for the remaining 55 ROIs. Exhibit 11 summarizes how long after the compliance timeframe inspectors took to follow up on identified violations.

Exhibit 11 Summary Of The Number Of Days After The Compliance Timeframe The Special Occupancy Inspectors Took To Follow Up On Violations

	Followed Up On Or Prior To The Compliance Timeframe⁷	Followed Up Within 10 Days After The Compliance Timeframe	Followed Up 11 To 30 Days After The Compliance Timeframe	Followed Up 31 To 50 Days After The Compliance Timeframe	Followed Up 51 Or More Days After The Compliance Timeframe	Totals
Total Cases	9	13	30	1	2	55
%	16.4	23.6	54.6	1.8	3.6	100.0

⁷ The ROI states, “as such conditions are contrary to law, you are hereby required to correct the said conditions immediately upon receipt of this notice.” The ROI also states, “an inspection to determine whether or not the facility has complied with the notice will be conducted on or after” (the specified number of days). Our analysis compared the actual timeframe to perform the follow up inspection to the timeframe specified on the ROI.

As shown in Exhibit 11, Special Occupancy Unit inspectors followed up on violations by the specified compliance timeframe in only 9 of the 55 cases we tested (16.4%). For the remaining 83.6 percent of the ROIs we tested, SJFD inspectors took from within 10 days of the compliance timeframe to 51 days or more from the compliance timeframe to follow up on violations. In one instance, the inspector required a facility to secure or chain a cylinder. The inspector required the facility to correct the violation immediately and the inspector noted that he would return to conduct a follow up inspection on or after 14 days. However, the inspector did not follow up on the violation for 115 days after the initial visit, or 101 days after the compliance timeframe. At another facility, the inspector identified problems with exit signage and its emergency lighting system. The inspector required the facility to correct the violation immediately and noted he would return to conduct a follow up inspection on or after 10 days. However, the inspector did not follow up on the violation for 52 days after the initial visit, or 42 days after the specified compliance timeframe.

We also found that the SJFD needs to improve its follow up on Permitted Occupancy facilities. Specifically, we reviewed 88 ROIs with violations to assess the timeliness of follow up. We found that the Permitted Occupancy inspectors did not indicate a compliance date on 5 of the 88 ROIs, or 5.7 percent of the ROIs we reviewed. In addition, of the remaining 83 ROIs, the Permitted Occupancy Unit generally did not follow up in a timely manner. Exhibit 12 below summarizes how long after the compliance timeframe inspectors took to follow up on identified violations.

Exhibit 12 Summary Of The Number Of Days After The Compliance Timeframe Permitted Occupancy Unit Inspectors Took To Follow Up On Identified Violations

	Follow Up On Or Prior To The Compliance Timeframe	Follow Up Within 10 Or Less Days After The Compliance Timeframe	Follow Up 11 To 30 Days After The Compliance Timeframe	Follow Up 31 To 50 Days After The Compliance Timeframe	Follow Up 51 Or More days After The Compliance Timeframe	Totals
Total cases	10	37	11	3	22	83
%	12.1	44.6	13.2	3.6	26.5	100.0

As Exhibit 12 shows, the Permitted Occupancy Unit followed up on violations by the specified compliance timeframe in only 10 of 83 cases (12.1%). For the remaining 73 (87.9%) of the ROIs we tested, SJFD inspectors took from within 10 days of the compliance timeframe to 51 days or more from the compliance timeframe to follow up on violations. In one instance, the inspector identified a problem with storage of flammable materials. The inspector directed the permitted facility to correct the violation immediately and noted he would return on or after 14 days. However, the inspector did not follow up on the violation for 299 days after the compliance timeframe.

At an auto repair facility, the inspector identified code violations. The inspector directed the facility to correct the problems immediately and noted he would return on or after 14 days. However, the inspector did not follow up on the violations for 295 days after the compliance timeframe.

To ensure more consistent and timely follow up, the SJFD needs to develop and strengthen management controls. Specifically, the SJFD needs to develop formal policies and procedures on the appropriate follow up process. In our opinion, the SJFD should require its inspectors to specify a compliance date and record the actual compliance date on the ROI. The SJFD should also require its supervisors to review the completed ROIs to ensure that inspectors are following policies and procedures.

We recommend that the SJFD:

Recommendation #13

Develop formal policies and procedures that require the inspectors to follow up on identified violations in a timely manner and specify the actual compliance date on the Record of Inspection form. (Priority 3)

The SJFD Is Not Consistently Applying Re-Inspection Fees

The SJFD shall assess a re-inspection fee to facilities that fail to correct violations by the specified compliance date to reimburse the City for the cost of the additional inspectors' time to re-inspect facilities. The SJFD currently charges \$64 per one half hour for re-inspection fees. The SJFD's informal policy is to assess re-inspection fees on the third visit to a facility or the second follow up inspection.

We found that the SJFD has not consistently assessed re-inspection fees. Specifically, during our audit we identified 11 and 21 Permitted Occupancy Unit facilities that had three or more visits during 1999-00 and 2002-03, respectively. We found that the Permitted Occupancy Unit did not assess re-inspection fees on 7 of the 15 re-visits (47%) to the 11 facilities in 1999-00 and 7 of the 26 revisits (27%) to the 21 facilities in 2002-03.

The Special Occupancy Unit also has not consistently assessed re-inspection fees. Specifically, during our audit we identified 19 and 25 Special Occupancy Unit facilities that had three or more visits during 1999-00 and 2002-03, respectively. We found that the Special Occupancy Unit did not assess re-inspection fees on 11 of the 31 re-visits (35%) to the 19 facilities in 1999-00 and 22 of 38 revisits (58%) to the 25 facilities in 2002-03.

We estimate that the SJFD should have assessed \$6,000 in re-inspection fees for the re-visits we identified during our audit. We should note that our \$6,000 estimate does not include all of the re-visits that were subject to re-inspection fees in 1999-00 and 2002-03.

In our opinion, the SJFD should develop written policies and procedures for applying re-inspection fees. Moreover, Unit supervisors need to review and approve completed ROIs to ensure that applicable policies and procedures are followed.

We recommend that the SJFD:

Recommendation #14
Develop written policies and procedures for applying re-inspection fees. (Priority 3)

Recommendation #15
Ensure supervisory review and approval of completed Record of Inspection forms. (Priority 3)

The SJFD Is Not Efficiently Enforcing The Requirement For Facilities To Complete Their Hazardous Materials Business Plan

A Hazardous Materials Business Plan (HMBP) is a document containing detailed information on the storage of hazardous materials at a facility. Chapter 6.95 of the California Health and Safety Code requires that facilities which use or store such materials at or above reporting thresholds submit this information. The intent of the HMBP is to satisfy Federal and State Community Right-to-Know laws and provide detailed information for use by emergency responders. "All persons at a facility qualified to serve as an emergency coordinator must be thoroughly familiar with the contents and use of the HMBP, with the operations of the facility, and the locations of all hazardous materials records maintained by the facility."

As part of their inspection process, the Division inspectors verify whether a facility has an HMBP if one is required. If an HMBP is required and the facility does not have a current HMBP on the premises, inspectors require the facilities to have one available for review. The inspectors cite the deficiency on the ROI and schedule a return visit to ensure that the facilities correct the violations.

Our testing of 1999-00 ROIs disclosed that the SJFD inspectors made multiple visits to ensure that the facilities had a current HMBP in place. Specifically, when we reviewed 103 ROIs, we identified 49 facilities that required re-inspections to ensure that the facilities had a current HMBP. Many of these facilities had other violations that also required a re-inspection. However, we noted that for 17 of these 49 facilities, the SJFD inspectors returned only to check on the HMBP. We also noted that for several facilities, the SJFD made at least two re-inspections to only check on the HMBP.

In our opinion, the SJFD can reduce the number of unnecessary return visits to facilities to check on HMBPs. For instance, the inspectors could require the facilities to submit the completed HMBPs to them. Also, the inspectors could call ahead of the return visit to confirm that the HMBP is on hand. Finally, the SJFD needs to develop additional controls to ensure that the facility submits its HMBP in a timely manner.

We recommend that the SJFD:

Recommendation #16

Develop procedures and controls to reduce the number of times inspectors return to facilities to confirm that an HMBP is in place and to ensure that facilities submit their HMBP in a timely manner. (Priority 3)

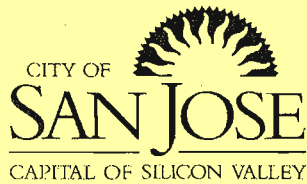
CONCLUSION

The results of our review of the Record of Inspection (ROI) forms indicated that the SJFD inspectors are generally not following up on identified violations in a timely manner. During our review, we also found that the SJFD was not consistently applying re-inspection fees. Finally, we found that the SJFD is not efficiently enforcing the requirement for facilities to have a completed HMBP. Accordingly, the SJFD needs to develop procedures and controls to ensure timely follow up, consistent application of re-inspection fees, supervisory review of completed ROIs, and efficient enforcement of HMBP requirements.

RECOMMENDATIONS

We recommend that the SJFD:

- Recommendation #13** **Develop formal policies and procedures that require the inspectors to follow up on identified violations in a timely manner and specify the actual compliance date on the Record of Inspection form. (Priority 3)**
- Recommendation #14** **Develop written policies and procedures for applying re-inspection fees. (Priority 3)**
- Recommendation #15** **Ensure supervisory review and approval of completed Record of Inspection forms. (Priority 3)**
- Recommendation #16** **Develop procedures and controls to reduce the number of times inspectors return to facilities to confirm that an HMBP is in place and to ensure that facilities submit their HMBP in a timely manner. (Priority 3)**



Memorandum

TO: Gerald A. Silva
City Auditor

FROM: Dale Foster

SUBJECT: SEE BELOW

DATE: November 20, 2003

Approved

Ray Winer

Date

11/20/03

SUBJECT *The Administration's Response to An Audit of the San Jose Fire Department's Bureau of Fire Prevention.*

BACKGROUND

The San Jose Fire Department has reviewed the report on *An Audit of the San Jose Fire Department's Bureau of Fire Prevention*. The Administration has reviewed the audit report and is generally in agreement with the findings of the audit. Specific responses to the recommendations are listed below.

The Department is aware of the need for a Risk Assessment and a Workload Analysis. The planned Risk Assessment will address whether the State requires the facility to be inspected annually, the risk of fire danger, and the prior history of a given facility. This method of assessment will allow the Bureau to assign a priority to the facilities to be inspected. The Bureau will also perform a Workload Analysis to determine appropriate level of staffing and resources required to achieve its goals and objectives. Further detail regarding the Workload Analysis and Risk Assessment can be found in the comments under Recommendations 7, 10, 11, and 12.

Recommendation #1: *Follow up on the facilities that are not in the FIBS database that we identified from matching the FIBS database to the Business License database.*

The Department concurs with the recommendation and is currently establishing policy and procedures to inspect facilities not identified in the FIBS database. The 606 facilities on the auditor's sample data list is currently being surveyed to determine if an annual inspection is required and if so, the percentage of the occupancies needing inspections. FIBS will be updated to include information from the Business License database. Reports will be generated monthly for review by the Fire Marshal.

Recommendation #2: *If Recommendation #1 results in a significant number of facilities being added to the FIBS database, follow up on remaining manufacturing facilities in the Business License database that did not have a FIBS number.*

Based on recommendation #1, the Department concurs that if a significant number of facilities are found that should be in the FIBS database, the Department will follow up on the remaining facilities in the Business License database.

Recommendation #3: *Periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety inspection.*

The Department concurs with this recommendation and notes that comparisons occur on a monthly basis. From these comparisons, the database that will be created in response to Recommendation #1 to monitor facilities that do require an annual inspection as well as facilities that do not require an inspection will be updated and maintained.

The Bureau is currently doing this with the exception of documenting which facilities do not require an inspection. By documenting this, the Bureau will be able to provide evidence that the facility was visited and no inspection is required.

Recommendation #4: *Develop written procedures to ensure that facilities identified from the New Accounts Report as potentially needing a fire safety permit are:*

- *Inspected;*
- *Assessed as to whether a permit is required; and*
- *Entered into the FIBS database if a fire safety permit is required.*

Written procedures will be developed within 6 months based upon Recommendations 1, 2 and 3. The database created in response to Recommendation #1 will include fields that indicate whether an annual Fire Safety or Hazardous Materials permit/inspection is required, when the facility was initially inspected to make this determination, the assigned FIBS number (if required), who will be responsible for maintaining and updating the database, at what frequency the database will be updated, who will be responsible for reviewing for completeness and accuracy database entries and at what frequency.

Recommendation #5: *Establish written procedures to ensure that all facility deletions from the FIBS database are properly substantiated and approved.*

The Department concurs with this recommendation and has implemented measures to comply with this recommendation. The Department has established new procedures that require the review of facility deletions from the FIBS database. The accounts receivable supervisor and the Assistant Fire Marshal review these deletions. In addition, the Fire Marshal will review the deletions if the waiving of fees is involved. Written procedures are currently being developed and will be implemented within six months.

Recommendation #6: *Require the fire companies to submit information on the number of educational facilities actually inspected annually.*

The Department concurs with this recommendation and is in the process of taking the appropriate measures to require the fire companies to inspect and report which facilities are inspected and which facilities are not inspected, and why these facilities are not inspected.

The policy for fire companies to submit information on the number of educational facilities inspected should be implemented within six months.

The Department requires the Fire companies to submit information on completed inspections. Inspections still in the process are not reported until violations are satisfied.

Recommendation #7: *Inspect all facilities requiring an annual inspection on an annual basis.*

The Department concurs with this recommendation and will prioritize inspections based on legal mandate and the results of the planned risk assessment (see Recommendation #10). A calendar will be developed in which mandated inspections will be initiated and completed.

The Bureau has completed 83% of the mandated annual inspections this fiscal year. There are 138 mandated inspections in the Permitted and Special Occupancies section and 314 Underground Tank inspections in the Hazardous Materials section that are required to be performed annually. All Underground Tank facilities have been inspected for FY 02-03 and the Hazardous Materials Division has consistently met their annual State mandated inspection goals for Underground Storage Tanks. Of the 138 inspections in Permitted and Special Occupancies, 23 remain for fiscal year 03-04. 54 are high-rise buildings, of which 45 are complete for this year, and the remaining 9 will be completed before January 1, 2004. Of the remaining 84 required inspections, all 70 high schools have been completed, leaving 14 R-1 inspections to be completed by June 30, 2004.

The greatest area in which the Department is not meeting the 100 percent target for mandated annual inspections is the apartment inspections performed by the fire companies. The Department will establish the same requirements for the apartment inspections as it does for an educational facility inspection, which is to require the fire companies to inspect and report which facilities are inspected and which facilities are not inspected, and why these facilities are not inspected.

The policy for fire companies to submit information on the number of apartment facilities inspected should be implemented within six months.

The Department requires the Fire companies to submit information on completed inspections. Inspections still in the process are not reported until violations are satisfied.

Recommendation #8: *Change its inspection goals to 100 percent for all facilities requiring an annual inspection.*

The Department concurs with this recommendation and has already changed the inspection goals to 100 percent for facilities requiring an annual inspection.

Recommendation #9: *Establish accountability for all Records of Inspection and ensure that an inspection is completed for all assigned Records of Inspection.*

The Department concurs with this recommendation and will develop policies and procedures to comply with this recommendation. To begin, the Bureau will generate a master document from FIBS at the start of each Fiscal Year, detailing inspection assignments per fire safety inspector. As vacancies occur, an exit interview will be conducted to determine the status of inspections for the departing inspector and a work plan will then be developed to address the completion of these inspections.

Recommendation #10: *Develop a risk assessment methodology to assign facility inspection frequencies.*

The Department concurs that a risk assessment methodology needs to be implemented to determine facility inspection frequency and has taken the appropriate measures to do so through the following:

1. Inspect annual State Mandated inspections first.
2. Inspect occupancies with highest life hazard second (firefighter safety also considered).
3. Inspect facilities based upon a risk assessment designed by the Department. The following are some of the elements to determine the level of risk:
 - Analyze fire statistics from NFPA to determine industry trends.
 - Analyze fire statistics from the City of San Jose - Fire Department to measure City trends.
 - Analyze inspection history of each occupancy inspected (i.e. occupancies that have no code violations for a given year should not be inspected as frequently).
 - Older buildings need attention – these buildings may not have fire safety built in (i.e. fire suppression systems).
 - Analyze occupancies for potential for great economic loss.

Recommendation #11: *Improve its system of tracking the amount of time inspectors spend on inspections and inspection-related activities.*

The Department concurs with this recommendation and has taken the appropriate measures to comply. Currently, the Bureau is using the Daily Activity Report (DARS) to track activity. However, not all inspectors classify the time the same and the DARS need to be expanded to

include additional elements to track. Consequently, the Bureau will improve the DARS system and train all inspectors in the use of the new DARS to ensure accurate and consistent data. The new system and procedures will be implemented within six months.

Recommendation #12: *Develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives.*

The Department concurs with this recommendation and will determine the Bureau's workload, staffing requirements and capabilities. The workload analysis will consider:

1. State Mandated Inspections
2. State Social Service Requests (850's)
3. Complaints
4. Public information requests on fire safety
5. Special Event plan reviews and inspections
6. The results of the Risk Assessment in Recommendation #10
7. The resources (i.e. staff, time, code research, etc.) needed to complete the above workload.

This workload analysis will be completed within six months and the Department will be able to address the inspection staff needs.

Recommendation #13: *Develop formal policies and procedures that require the inspectors to follow up on identified violations in a timely manner and specify the actual compliance date on the Record of Inspection.*

The Department concurs with this recommendation and plans to address this through training all inspectors to consistently document when re-inspections will occur. Supervisors will review all inspection documentation to ensure compliance with above stated recommendation. This new policy will be implemented within six months.

Recommendation #14: *Develop written policies and procedures for applying re-inspection fees.*

The Department concurs with the need for policies and procedures regarding applying re-inspection fees. The Department already has written policies and procedures and is committed to better enforcing these policies and procedures. The Bureau will develop a separate policy and procedure document describing when re-inspection fees are applicable and train inspectors on these policies and will review them at inspector staff meetings. All inspectors will sign written documentation to the effect that the policies were reviewed and understood by the inspector. This will be implemented within six months.

Recommendation #15: *Ensure Supervisory review and approval of completed ROIs.*


The Department concurs with this recommendation and implemented the changes. All inspections at facilities that use, handle or store hazardous materials will, in addition to being reviewed by a supervisor, also be reviewed by the Senior Hazardous Materials Inspector. Written policy will be developed requiring signatures (initials) of supervisors prior to any information regarding the completion of an inspection being entered into the FIBS database.

Recommendation #16: *Develop procedures and controls to reduce the number of times inspectors return to facilities to confirm that an HMBP is in place and to ensure that facilities submit their HMBP in a timely manner.*

The Department is currently working with the City Attorney to develop an Administrative Citation procedure to assist in ensuring compliance with required submittals.

In addition, the web site WWW.UNIDOCS.ORG permits facilities to complete their HMMPs on-line and submit them to the San Jose Fire Department via the Internet. Since the document can be saved as a Word document and completed on-line, the facility can keep an electronic version and make the minor necessary changes they may need to make on a yearly basis. The web site also has a list of environmental consultants that can assist or complete the HMBP for those facilities having trouble completing an accurate HMBP. Inspectors are continually providing this information to facilities, but a stronger outreach program will be instituted, including providing hard copies of this list during initial filed inspections. These activities should reduce the number of field inspections required to obtain a completed HMMP.

The Administration appreciates the work performed by the Auditor's Office.



Dale Foster
Acting Fire Chief

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APPENDIX A

DEFINITIONS OF PRIORITY 1, 2, AND 3 AUDIT RECOMMENDATIONS

The City of San Jose's City Administration Manual (CAM) defines the classification scheme applicable to audit recommendations and the appropriate corrective actions as follows:

Priority Class¹	Description	Implementation Category	Implementation Action³
1	Fraud or serious violations are being committed, significant fiscal or equivalent non-fiscal losses are occurring. ²	Priority	Immediate
2	A potential for incurring significant fiscal or equivalent fiscal or equivalent non-fiscal losses exists. ²	Priority	Within 60 days
3	Operation or administrative process will be improved.	General	60 days to one year

¹ The City Auditor is responsible for assigning audit recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher number. (CAM 196.4)

² For an audit recommendation to be considered related to a significant fiscal loss, it will usually be necessary for an actual loss of \$25,000 or more to be involved or for a potential loss (including unrealized revenue increases) of \$50,000 to be involved. Equivalent non-fiscal losses would include, but not be limited to, omission or commission of acts by or on behalf of the City which would be likely to expose the City to adverse criticism in the eyes of its citizens. (CAM 196.4)

³ The implementation time frame indicated for each priority class is intended as a guideline for establishing implementation target dates. While prioritizing recommendations is the responsibility of the City Auditor, determining implementation dates is the responsibility of the City Administration. (CAM 196.4)