

ACTION CALENDAR

July 30, 2024

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor *JW*

Subject: Berkeley Restaurant Inspections: Chronically Understaffed Program Did Not Meet Targets

RECOMMENDATION

We recommend City Council request that the City Manager report back by January 2025 and at least annually thereafter, regarding the status of our audit recommendations until reported fully implemented by the Environmental Health Division. Recommendations include developing a plan to improve inspection coverage and response to alleged foodborne illness complaints, tracking program spending, taking steps to address staffing needs, and implementing placarding once the Division stabilizes. The Division agreed or partially agreed to our findings and recommendations. Please see our report for their complete response and the auditor's response.

FISCAL IMPACTS OF RECOMMENDATION

Implementing the audit recommendations will ensure that the Environmental Health Division improves coverage of food inspections and can provide the public with complete and accessible information on food safety, minimizing public health risk to the community. Staffing up the food inspection program may carry financial implications depending on the specific implementation strategies, however, filling budgeted positions is necessary to meet inspection targets. Additionally, updating the information shared online and implementing placarding may require initial investments in design and implementation. However, we anticipate the ongoing costs of placarding to be minimal, as placards are updated as part of the routine inspection process.

CURRENT SITUATION AND ITS EFFECTS

In 2023, the Environmental Health Division did not meet its targets for food facility inspections. Almost half of permitted food facilities (45 percent) were not inspected at least once, and restaurants made up the largest group of uninspected facilities. Berkeley's inspections were behind other jurisdictions, such as Alameda County where only 3 percent of food facilities were not inspected at least once in 2023. The Division only met its target to respond within one business day for 6 out of 23 complaints involving alleged foodborne illness in 2023.

The Division did not separately track food inspection revenue and spending from its other inspection programs over the audit period. As a result, the Division was unable to provide revenues and expenditures for the period covered by the audit and could not distinguish between revenues from the food inspection program and its other inspection programs. This information is important to ensure that Division leadership has access to information on

program resources and can demonstrate sound financial management over food program revenues.

Food inspectors' assigned workload exceeded recommended levels and impacted food inspectors' ability to meet inspection targets. The food inspection program had two persistent vacancies in a supervisor role and a food inspector role for over four years but the City did not consistently recruit for these positions. Short staffing made it harder to manage inspection data and monitor program performance. We found a lack of reliable data needed to effectively manage food inspections. For example, two preschools were not included in the Division's database and, as a result, were not inspected in 2023.

Public information about food safety in Berkeley was limited. The information on food inspections the Division provides online was incomplete and not fully accessible. Information to consumers is additionally limited because Berkeley does not require food facilities to post placards with a food safety score, unlike Alameda County and other jurisdictions.

BACKGROUND

The Environmental Health Division's food inspection program is responsible for permitting and inspecting food facilities in Berkeley, including restaurants, markets, schools, and licensed health care facilities. Food inspections play an important role in preventing foodborne illness for the many residents and visitors who dine in Berkeley. The City of Berkeley is one of four cities in California that has its own health department and food inspection program independent from the county. Meeting their inspection targets is critical to fulfilling their role to protect public health and safety.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with this report.

RATIONALE FOR RECOMMENDATION

Implementing our recommendations will help the Environmental Health Division fulfill its public health role of conducting timely inspections and sharing information on food safety with the public.

CONTACT PERSON

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Attachments:

- 1: Audit Report: Berkeley Restaurant Inspections: Chronically Understaffed Program Did Not Meet Targets

Audit Report
July 10, 2024

Berkeley Restaurant Inspections: Chronically Understaffed Program Did Not Meet Targets



BERKELEY CITY AUDITOR

Jenny Wong, City Auditor
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Berkeley Restaurant Inspections: Chronically Understaffed Program Did Not Meet Targets

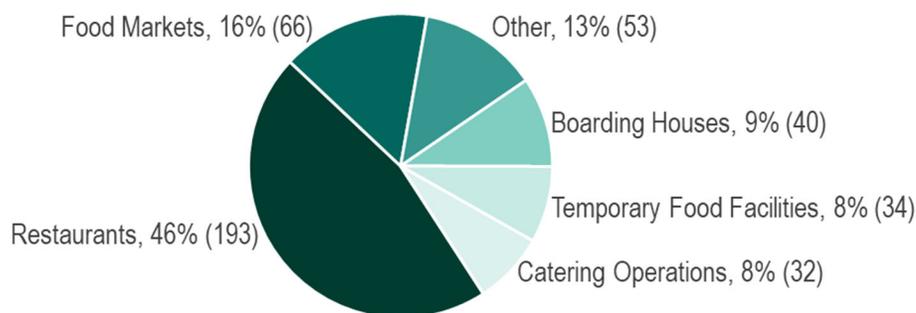
Report Highlights

July 10, 2024

Findings

1. The Environmental Health Division (Division) did not meet its targets for food facility inspections in 2023, increasing health risk. Almost half (45 percent) of Berkeley’s food facilities were not inspected, including 193 restaurants. For comparison, Alameda County health officials reported that only 3 percent of facilities were not inspected at least once in 2023. Additionally, the Division responded to only 26 percent of potential foodborne illness complaints within the target of one business day.

Restaurants made up the largest group of facilities not inspected in 2023



Source: Environmental Health Division and analysis of Division database

2. The Division did not separately track program revenue and spending to ensure compliance with state code. Short staffing increased inspectors’ workloads and made it difficult to meet targets and monitor program performance. City leadership did not consistently recruit for budgeted positions despite persistent vacancies. For example, supervisor and inspector positions had been vacant since 2019.
3. Public information on food inspections was incomplete and hard to access. Berkeley provided less information about inspections online compared to other jurisdictions. Berkeley did not use placards, a common practice for communicating food safety used by other jurisdictions including Alameda County.

Recommendations

We recommend the Division develop a plan to improve inspection coverage and quickly respond to alleged foodborne illness complaints. We recommend they track program spending to comply with state code, take steps to address staffing needs, and improve data management and reporting. Finally, we recommend they make online food inspection information more accessible and complete, and develop a plan for placards in Berkeley. The Environmental Health Division agreed or partially agreed with these recommendations.

Objectives

1. To what extent is the Food Safety and Inspection Program meeting its inspection targets?
2. To what extent is the Food Safety and Inspection Program adequately funded and staffed?
3. How well does the Food Safety and Inspection Program keep the public informed about food safety?

Why This Audit Is Important

We initiated an audit of Berkeley’s Food Safety and Inspection Program in October 2023 because food inspections play an important role in preventing foodborne illness for the many residents and visitors who dine in Berkeley. The City of Berkeley is one of four cities in California that has its own health department and food inspection program independent from the county. Meeting their inspection targets is critical to fulfilling their role to protect public health and safety.



BERKELEY CITY AUDITOR

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<https://berkeleyca.gov/your-government/city-audits>

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Introduction

Many residents and visitors to Berkeley dine at restaurants and other food facilities daily, from long established culinary options to new pop-ups. We initiated an audit of Berkeley's Food Safety and Inspection Program in October 2023 because it has an important role in inspecting food facilities to ensure food safety and prevent foodborne illness. Centers for Disease Control (CDC) estimates that 48 million people get sick, 128,000 are hospitalized, and 3,000 die from foodborne diseases each year in the United States. We identified some challenges in the Food Safety and Inspection Program's ability to fulfill its role which may pose threats to public health.

Objectives, Scope, and Methodology

Our audit objectives were to determine:

1. To what extent is the Food Safety and Inspection Program meeting its inspection targets?
2. To what extent is the Food Safety and Inspection Program adequately funded and staffed?
3. How well does the Food Safety and Inspection Program keep the public informed about food safety?

To address these objectives, we analyzed data on inspections in 2023 and reviewed staffing information from fiscal years 2019 to 2023. We also compared Berkeley's inspection rate and online inspection data to a sample of similar and/or nearby jurisdictions. Additionally, we reviewed state mandates, Berkeley's policies and procedures, and interviewed program staff and leadership.

Background

Berkeley's Environmental Health Division (Division) operates the Food Safety and Inspection Program (food inspection program), which is responsible for permitting and inspecting food facilities in Berkeley, including restaurants, markets, schools, and licensed health care facilities. Restaurants make up the highest number of food facilities requiring inspections. According to the Division's database, at the end of 2023, Berkeley had 933 permitted food facilities. On its webpage, the food inspection program focuses on preventing foodborne and food-related illnesses and responding to complaints from the community.

Food inspectors provide an important service by working with local businesses and organizations feeding the Berkeley community. Inspectors' work includes routine and follow-up inspections, responding to complaints, and fielding inquiries from food facility operators.

Berkeley is one of four cities in California that has its own health department independent from the county. Therefore, Berkeley administers its own food inspection program, despite being within Alameda County, which conducts inspections throughout the rest of the county. In spring 2024, new management was appointed to the Division and department.

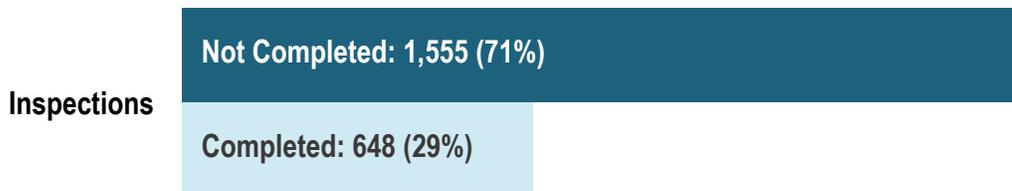
The Division was significantly behind on inspections in 2023, increasing health risk.

The Division did not meet its targets for food facility inspections. In 2023, the Division completed only 29 percent of the total required inspections, and 45 percent of food facilities were not inspected even once during this time. Restaurants made up the largest group of facilities that were not inspected—193 restaurants were not inspected in 2023. The Division only responded to 26 percent of potential foodborne illness complaints within the target of one business day.

The Division did not meet its inspection targets in 2023.

The Division did not meet its targets for food facility inspections in 2023. Based on Berkeley’s policy to conduct inspections according to risk level, the Division should have conducted a total of 2,203 inspections in 2023 but only completed 648, or 29 percent (Figure 1).

Figure 1. The Division completed only 29 percent of its target inspections in 2023.



Note: Numbers are based on an estimated minimum of 1 annual inspection for facilities that do not have an assigned risk level.

Source: Auditor analysis of Berkeley’s Environmental Health Division database

The food inspection program’s policies state that food facilities should be inspected at least 1-3 times per year depending on their risk level (Figure 2).

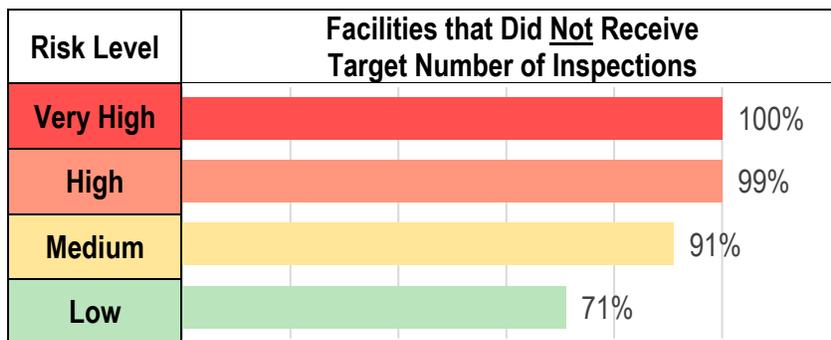
Figure 2. Inspection Targets By Risk Level, 2023

Risk Level	Description and Examples	Total Facilities	Annual Inspection Targets
Very High	Foods that fall within the high risk designation and serve a vulnerable population. Example: nursing care facilities.	7	3
High	Foods with complex preparation, including pre-preparation, cooling, and reheating. Examples: catering operations, food trucks, and restaurants.	526	3
Medium	Foods that require light preparation. Examples: cafes, schools, and fraternities/sororities.	204	2
Low	Pre-packaged foods. Examples: small grocery stores, convenience stores, and farmer’s market stands.	143	1
No Risk Level	Various types of facilities listed above.	53	1 or more

Source: Environmental Health Division and analysis of Division database

Nearly all of Berkeley’s high or very high risk facilities, which include restaurants and nursing care facilities, did not meet the requirement of having 3 inspections in 2023. Similarly, 91 percent of medium risk facilities, including senior centers, fraternities, and sororities, did not receive 2 required inspections that year (Figure 3).

Figure 3. The Division did not meet its inspection targets for facilities in any risk level in 2023.



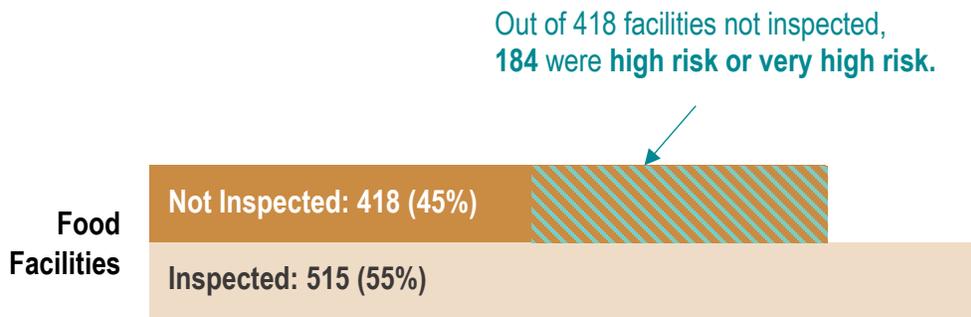
Note: Facilities with no assigned risk level are not included because the total number of target inspections for these facilities is unknown.

Source: Environmental Health Division and analysis of Division database

Inspectors and Division leadership acknowledged that they were not meeting their targets for inspections. Multiple inspectors said that these targets were not achievable given prolonged staff shortages in the Division. As a result, all food inspectors had a backlog of facilities overdue for inspection.

The Division was also not able to meet a baseline of one inspection per year. Almost half of Berkeley’s 933 food facilities (45 percent) were not inspected even once in 2023 (Figure 4). Additionally, of the facilities that were not inspected at all, 184 (44 percent) were high risk or very high risk (see appendix on page 23 for more information about facilities that were not inspected by risk level).

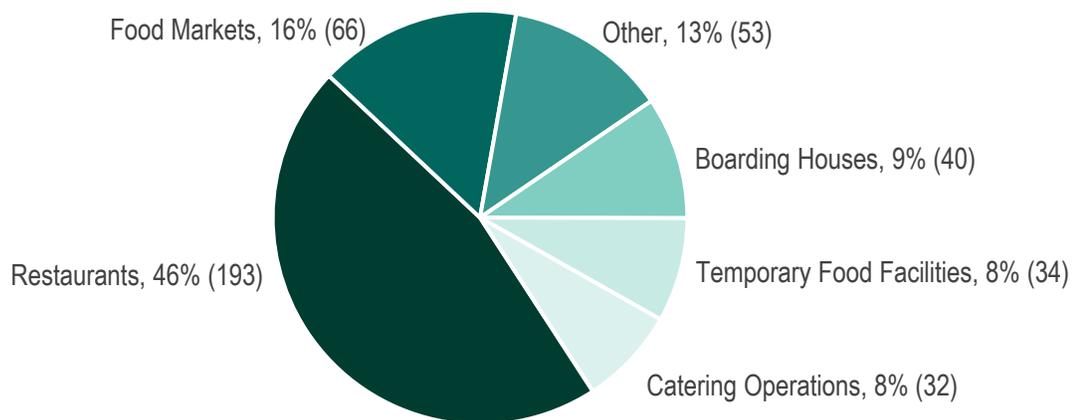
Figure 4. Almost half of Berkeley’s food facilities were not inspected in 2023.



Source: Auditor analysis of Berkeley’s Environmental Health Division database

The types of facilities not inspected in 2023 include restaurants, food markets, boarding houses, temporary food facilities, and catering operations (Figure 5). At the top of the list, 193 restaurants made up the largest group of facilities that were not inspected during this time.

Figure 5. Restaurants made up the largest group of facilities not inspected in 2023.



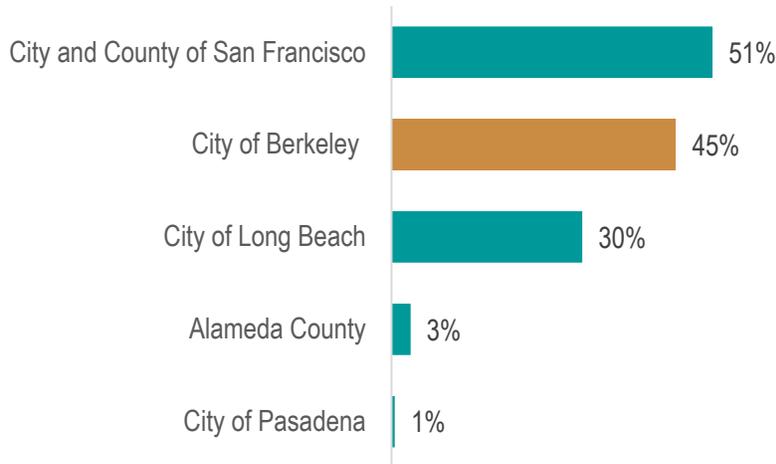
Note: Totals do not include any food facilities not included in the Division’s inspection inventory. "Other" includes a variety of facility types, such as bakeries, mobile food facilities, and cottage food operations. Boarding houses includes facilities such as co-ops, fraternities, and sororities. For temporary food facilities, examples include some vendors at flea markets or farmers markets.

Source: Environmental Health Division and analysis of Division database

Alameda County and the City of Pasadena reported that they also did not meet their inspection targets. However, officials from these two jurisdictions stated that they did meet a baseline of at least one inspection per year for most facilities.

When compared to information from four other California food inspection programs, Berkeley had the second highest percentage of food facilities that were not inspected in 2023 after the City and County of San Francisco (Figure 6). Berkeley is in Alameda County, where health officials reported that only 3 percent of facilities were not inspected at least once in 2023.

Figure 6. Berkeley had the second highest percentage of food facilities that were not inspected in 2023.

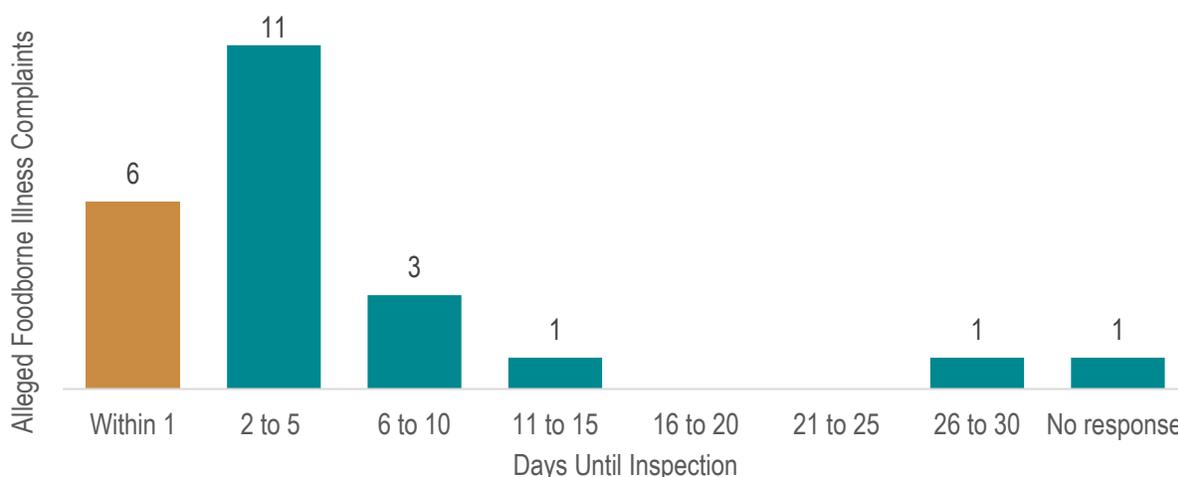


Note: The percentages reflect responses we received from these jurisdictions to our public information requests, and each jurisdiction confirmed these percentages. We did not receive or analyze inspection data for these jurisdictions.

Source: Auditor analysis of Berkeley’s Environmental Health Division database, responses to public information requests

The Division also did not meet its targets for responding to complaints of alleged foodborne illness. In addition to routine inspections, the food inspection program responds to complaints from the community. The Division’s procedures state that inspectors should inspect facilities following complaints of an alleged foodborne illness within one business day. Of 23 such complaints in 2023, only 6 complaints (26 percent) resulted in an inspection within one business day (Figure 7).

Figure 7. Only 6 out of 23 alleged foodborne illness complaints resulted in an inspection within one business day.



Source: Auditor analysis of Berkeley’s Environmental Health Division database

In a memo to City Council in November 2023, Division leadership stated that in order to balance inspection workload and staff vacancies, it would prioritize responding to viable threats in the environment, including those discovered through complaints. The memo also noted that there had been no confirmed foodborne illness outbreaks in Berkeley in recent years.¹

Delayed inspections increased public health risk and impacted education to food facilities.

Delayed inspections increased public health risks when food establishments were not inspected. When inspectors are behind on inspections, they have fewer opportunities to educate facility operators on food safety, which is an important part of the inspection process. Employees may miss opportunities to learn about food safety and preventing foodborne illness at facilities that are not inspected regularly. Prioritizing the health and safety of the community is an important consideration in managing food inspections. Delayed response to complaints could impact the Division’s ability to prevent possible foodborne illness outbreaks.

The backlog of inspections also limited inspectors’ ability to fulfill their other responsibilities. Inspectors’ high workloads limit the time they can spend at each facility and their ability to conduct follow-up inspections to ensure that previous violations are resolved. With fewer inspections, there are also fewer opportunities for food operators to discuss possible changes to their facilities with inspectors. As a result, operators may make changes to their facilities without guidance on how to comply with health regulations.

¹ According to the CDC, a foodborne disease outbreak is defined as an incident in which two or more persons experience a similar illness resulting from the ingestion of a common food.

Recommendations

To stabilize the food inspection program, we recommend the Division:

- 1.1 Develop a plan to improve coverage of routine inspections throughout the City, which may require the Division to prioritize health and safety duties over other responsibilities. As part of this process:
 - a. Evaluate inspection targets to determine if current inspection frequencies are achievable, or establish different temporary targets to adapt to periods of understaffing.
 - b. Establish a baseline of inspection coverage for all permitted food facilities in the City and prioritize inspection of facilities with high risk and very high risk designations that were not inspected in 2023.
- 1.2 Develop a plan to ensure timely response to complaints involving alleged foodborne illness, which may require the Division to prioritize health and safety duties over other responsibilities.

The Division did not track spending and left critical positions vacant.

The Division was unable to show if food inspection program revenues fell short of, covered, or exceeded the cost of operations because it did not have an established practice of separately tracking its revenue and spending. Additionally, short staffing in the Division increased inspectors' workloads beyond their capacity and prevented them from meeting inspection targets. City leadership did not consistently recruit to fill persistent vacancies in budgeted positions. For example, a supervisor position has been vacant since 2019. Short staffing also made it more difficult to manage inspection data and monitor food inspection program performance. For example, two preschools were not included in the Division's database and, as a result, were not inspected in 2023.

The Division did not track food inspection program revenue and spending.

The Division was unable to demonstrate compliance with state law because it did not have an established practice of separately tracking the food inspection program's revenue and spending. The food inspection program is state-mandated and primarily funded by fees, which state code requires to be used only for food inspections. However, the Division did not track food inspection revenue at the program-level, and could not distinguish between revenues from the food inspection program and its other inspection programs.

Without this information, it was unclear whether inspection fees from food facilities covered, fell short of, or exceeded the cost of its operations.² However, given that some facilities were not inspected in 2023, those facilities did not receive the inspection services the inspection fee is intended to be used for. Tracking spending at the program level could help the Division ensure that it complies with state code and uses food permit fees for food facility inspections.

Short staffing prevented inspectors from meeting inspection targets.

Short staffing in the Division led to inspection workloads that exceeded recommended levels. Vacant positions in the Division increased from 1 in FY 2019 to 5 in FY 2023.³ The Food and Drug Administration's (FDA) National Retail Food Regulatory Standards recommend one full-time inspector for every 280-320 inspections (Figure 8). Following this standard, Berkeley would need about 7-8 full-time dedicated food inspectors.⁴ The Division's staffing model was not in line with the FDA standard. In 2023, Berkeley had only 3 full-time food

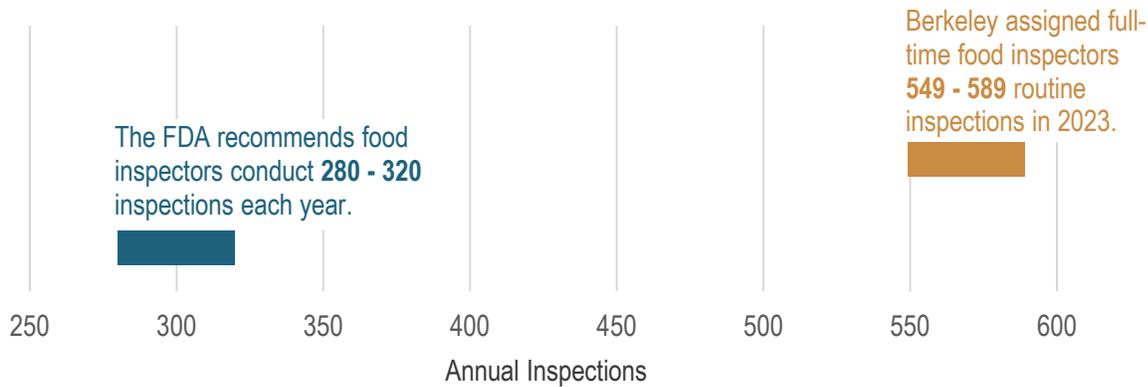
² We did not conduct an in-depth comparison of Berkeley's fees because the Division was working with a contractor to conduct a fee study during the audit period.

³ The vacancy numbers represent point-in-time estimates. The Division had 13.4 total budgeted positions in FY 2019 and 13 total budgeted positions in FY 2023.

⁴ This is a conservative estimate that does not include other types of inspections conducted by food inspectors, like complaint-related inspections.

inspectors who were each assigned 549-589 routine inspections, far exceeding the FDA recommended workload.⁵

Figure 8. Berkeley food inspectors’ workloads exceeded the Food and Drug Administration’s (FDA) recommendation.



Source: Auditor analysis of Berkeley’s Environmental Health Division database, FDA Voluntary National Retail Food Regulatory Program Standards

Short-staffing extended food inspectors’ workloads beyond their capacity. In addition to food inspections, inspectors also covered for vacant inspector positions that usually handled other types of inspections, such as vector inspections. With turnover in support staff roles, inspectors also reported spending more time handling inquiries from food facility operators such as questions about delays in receiving health permits. Altogether, vacancies throughout the Division increased inspectors’ workloads to the point that they were not able to meet their inspection targets and respond to complaints involving alleged foodborne illness in a timely manner. According to Division leadership, although staff in other Environmental Health programs were qualified to help out with food inspections, working on competing priorities limited their ability to do so.

In recent audit reports, we found that understaffing can result in excessive workloads and promote an unhealthy work environment. According to payroll data, in 2023, two senior staff members in the food inspection program worked 147 overtime hours combined. These staff covered mobile food truck inspections and temporary event food inspections that year. Our 2018 audit on Berkeley’s 911 dispatch center underscores how overtime can lead to fatigue, decreased quality of service and impact cognitive performance.⁶ Additionally, our 2023 audit of employee retention found that understaffing impaired services to the community and caused high workloads leading some employees to look for other jobs.⁷

⁵ This calculation focuses on full-time inspectors to align with the FDA's methodology. We excluded two senior environmental health specialists who were assigned 163 food inspections in addition to their primary duties in 2023.

⁶ [911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale](#)

⁷ [Staff Shortages: City Services Constrained by Staff Retention Challenges and Delayed Hiring](#)

The City did not consistently recruit to fill critical vacancies.

City leadership did not consistently recruit for budgeted positions despite persistent vacancies. The Division started recruitment to fill a vacant food inspector position and a supervisor position in November 2019 but neither position was filled then. According to the Division, they planned to interview candidates for the supervisor position in March 2020. However, Department leadership asked the Division to delay the hiring process at the onset of the pandemic. The Division then deferred hiring for both of these positions as part of a citywide cost saving hiring freeze during the COVID pandemic. The Division did not resume recruitment after the hiring freeze ended in September 2022. The Division eventually opened a recruitment for the vacant food inspector position in July 2023, but as of June 2024, the position was not filled. No action has been taken to recruit for a supervisor since 2019.

According to Division leadership, there is a workforce shortage for many positions in the environmental health field. The former deputy director overseeing the Division said that state and federal credentialing requirements limit the pool of qualified candidates for these positions, including in Berkeley. Division leadership also stated that Berkeley's compensation for inspectors may make it more difficult to hire, but stated that they have not conducted a compensation analysis for at least five years.

Trainee programs can be an effective strategy for employing more inspectors. According to a 2018 audit of the City and County of San Francisco's Public Health Department, Contra Costa, Santa Clara, and Alameda counties had offered a trainee program that provides the required experience for an entry-level food inspector position. Pasadena also operates a similar program, reporting greater success in recruiting for trainee positions compared to inspector roles. Berkeley has hired trainees in the past, and one of the division's most tenured staff was hired as a trainee. According to senior staff, while hiring trainees can expand the pool of applicants, bringing on a trainee would require hiring a supervisor to oversee training.

Short staffing made it harder to manage inspection data and monitor performance.

Staff reported that issues with the inspection database, Envision, made it harder to prioritize and track inspection data.⁸ Although our audit did not include an in-depth analysis of the database's functionality, we identified three critical data discrepancies:

-  53 food facilities in the Division's database had no assigned risk level in 2023, making it difficult for inspectors to determine the appropriate inspection frequency. As a result, inspectors may not have prioritized some higher risk facilities for multiple inspections. The Division was also unable to accurately calculate the total number of inspections required and inspectors' actual workloads.

⁸ Envision is a component of Accela, the City's licensing and permitting system.

 According to some inspectors, the Envision software inspectors used during inspections could not produce an accurate list of priority inspections due to an error in the date field. This made it impossible for the system to generate accurate lists of facilities due for inspection based on the length of time since last inspection. As a result, inspectors had no easy way to prioritize their workload and focus on facilities that had gone the longest time since their last inspection. We did not verify that all inspections completed were reflected in the database.

 Two preschools that serve food to students were not included in the Envision database. As a result, they were not inspected in 2023. We did not assess whether the database included all food facilities in Berkeley, but this indicates that it did not.

The Division did not have the staff needed to configure Envision to produce reports to monitor and prioritize inspections. According to Division leadership and staff, short staffing made it difficult to resolve issues with the database. The Division has considered switching to a different database, but we did not fully assess the adequacy of the current database to determine if it meets the Division’s needs. Additionally, staff shortages may make this migration difficult.

The Division also did not use data to track inspection targets or monitor program performance. Despite having inspection targets, the Division did not measure progress toward these targets or publicly report on performance metrics. As a result, the Division did not have the information needed to make decisions about how to manage or prioritize inspections. Additionally, the Division did not track data on common inspection violations. This limited the Division’s ability to design targeted interventions to reduce the occurrence of common violations, which could reduce overall workload and help the Division meet its targets in the long-run.

Recommendations

To ensure compliance with state code, we recommend the Division:

2.1 Work with the Budget Office to track how the food inspection program revenues are used.

To meet the Division’s immediate staffing needs, we recommend the Division:

- 2.2** Take the following steps to fill positions and assess program staffing:
- a. Open recruitment for the supervisor position.
 - b. If the recruitments for the supervisor and food inspector positions do not yield qualified candidates, work with the Human Resources Department (HR) to develop targeted recruitments for the inspector and supervisor roles. This may include conducting an analysis of compensation or other factors that affect recruitment.
 - c. Develop a trainee program to build a pipeline into the Division’s inspector positions.
 - d. Work with HR as needed to identify staffing resources needed to meet inspection targets.

To ensure accuracy of key data needed to effectively manage inspections, we recommend the Division:

- 2.3** Make the following updates to the inspection data:
- a. Add a risk designation to all food facilities in the Envision database.
 - b. Correct the date of last inspection in the Envision software that inspectors use during inspections, or develop a workaround to ensure inspectors have an accurate list of facilities prioritized by last inspection date.
 - c. Develop a process to regularly verify that the Envision database includes all food facilities that should be permitted and inspected.

In order to conduct effective, ongoing monitoring of the food inspection program, we recommend the Division:

- 2.4** Work with the Department of Information Technology (IT) to develop list of database functionalities and/or datapoints needed to help meet the Division's targets and produce reports. If the current database cannot provide this functionality, document the limitations of the current database and include these requirements in the future request for proposals for a new database.

In order to conduct effective, ongoing monitoring of the food inspection program, we also recommend the Division:

- 2.5** Identify performance metrics and report them to the public at least annually.

Public information about food safety was limited.

Berkeley’s publicly available food inspection data was incomplete and not fully accessible. Information in the City’s Open Data Portal did not clearly match inspection reports or include all of the information required by state code for information posted online. Additionally, Berkeley provided less information about inspections to the public online compared to some other jurisdictions. Although placards are a common method to provide food safety information, including in the rest of Alameda County, Berkeley did not use placards.

Inspection data was incomplete and not fully accessible to the public.

While Berkeley did provide some food inspection data online, it was incomplete. For example, some facilities that were inspected in 2023 were not included in the City’s online Open Data Portal. The information in the Open Data Portal also did not clearly match the inspection reports. We identified violations at specific facilities in inspection reports that were not reflected in the Open Data Portal. This may give the wrong impression that a facility had no violations during the last inspection when in fact it did. While IT and the Division work together to upload the data, according to Division leadership, there was no one responsible for maintaining the accuracy of the data in the Open Data Portal.

Additionally, Berkeley’s Open Data Portal did not include all of the information required by state code for information posted online. The Open Data Portal included the name and address of food facilities and the date of the last inspection, but did not include all violation types, the re-inspection date, or period of closure (Figure 9). The Open Data Portal included most violation categories required by state code, but did not include the category of improper cooling of potentially hazardous foods, which is one of the most common causes of foodborne illness according to the U.S. Department of Agriculture (USDA).

Figure 9. Berkeley’s Open Data Portal did not include all information required by the California Health and Safety Code for information posted online.

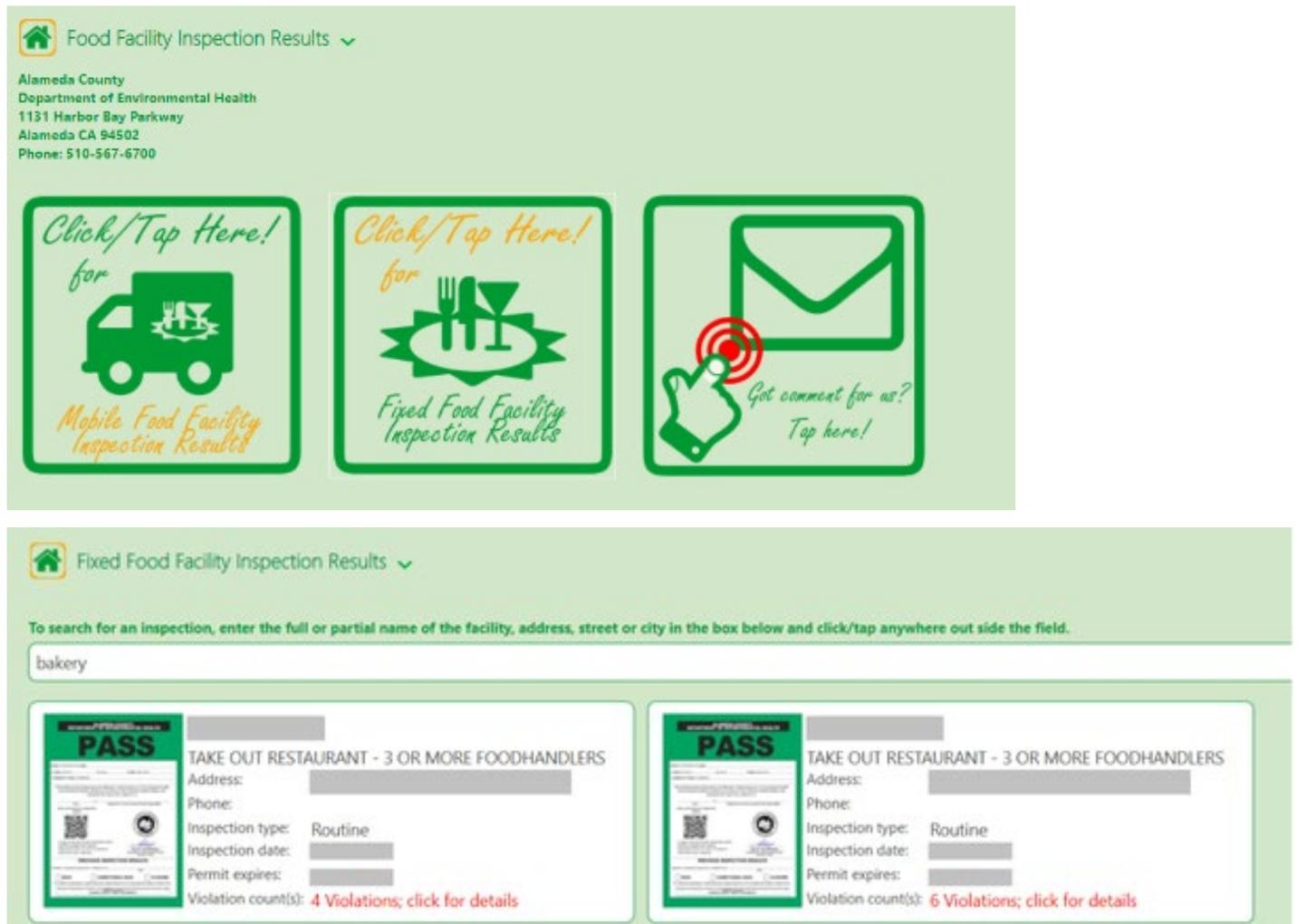
State requirement for information reported online	Included on Berkeley’s Open Data Portal
Name and address of the food facility	✓
Date of last inspection	✓
Major violations identified in a food facility inspection	○*
Reinspection date, if applicable	✗
Period of closure, if applicable	✗

* Regarding the state requirement to identify any major violation, Berkeley’s Open Data Portal does list most major violations, but does not include violations related to improper cooling of potentially hazardous foods.

Source: Berkeley Open Data Portal, California Health and Safety Code

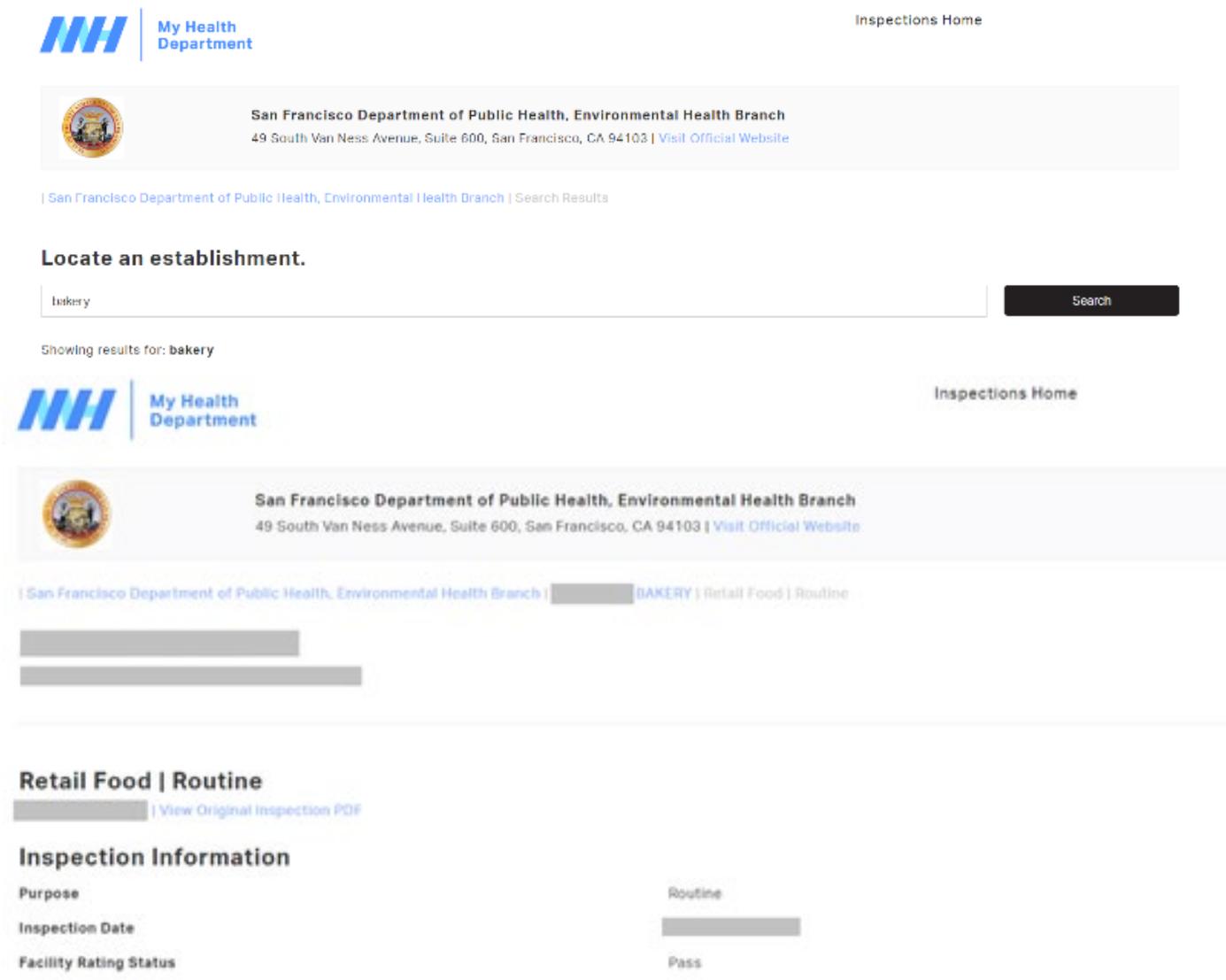
Additionally, Berkeley’s public information about individual food facilities was not easily accessible and limited compared to other jurisdictions. In order to access information on inspections, users have to download a spreadsheet from the Open Data Portal. In addition to the missing fields described above, Berkeley’s publicly available food inspection information did not include the facility's overall inspection score or a detailed description of the violations cited. In contrast, jurisdictions such as Alameda County and the City and County of San Francisco offer online tools that allow users to search for a food facility by name and access more comprehensive information including inspection type, details about violations, and inspection scores (Figure 10 and Figure 11). Other jurisdictions such as the City and County of San Francisco and the County of Contra Costa also make full inspection reports available to the public online. These tools enhance accessibility and empower consumers to make informed choices about where to eat.

Figure 10. Alameda County’s online search tool.



Source: Alameda County food inspection webpage

Figure 11. The City and County of San Francisco’s online search tool.



Source: City and County of San Francisco food inspection webpage

Berkeley did not use placards to inform the public about food inspections.

Placarding is another common practice to show how food facilities follow food safety requirements, but Berkeley did not use placards. Placards are typically displayed near a facility’s entrance. While state code requires food facilities to make their last inspection report available upon request, placards provide a quicker and more accessible summary of results to the public. According to the CDC, posting inspection scores in restaurants may also be linked with fewer foodborne illness outbreaks. The Division looked into placarding in 2013, but did not implement it. Other jurisdictions, including Alameda County, use placards to share food safety information with the public (Figure 12).

Figure 12. Examples of placard models used by other jurisdictions.

Example Image	Description	Where This Model Is Used
	<p>Color-Coded: Includes a green pass placard, yellow conditional pass placard, and red closed placard. Score based on violations found during the last inspection.</p>	<p>Some San Francisco Bay Area jurisdictions, including the City and County of San Francisco, Alameda County, and Contra Costa County</p>
	<p>Emoji: Includes emojis with the following scores: excellent, good, okay, and needs to improve. Score based on violations found during the last two to four inspections.</p>	<p>King County, Washington</p>
	<p>Letter Grade: Includes A, B, C placards. Score based on violations found during the last inspection.</p>	<p>Los Angeles County</p>
	<p>Pass/Conditional Pass/Closed: Score based on violations found during the last inspection.</p>	<p>City of Pasadena</p>

Note: We did not assess the effectiveness of each placard model.

Source: Jurisdictions' food inspection program webpages.

King County in Washington is an example of a jurisdiction that worked with food facilities and the community to design their placards. Some considerations for designing and implementing evidence-based, equitable placarding include:

- ✓ Scoring based on the results from several inspections to represent more than a snapshot in time.
- ✓ Limiting re-inspections for the purpose of improving grades to ensure that requests for grade re-inspections do not draw resources from routine inspections.
- ✓ Scoring based on only higher risk violations to account for inconsistencies in reporting lower risk violations.
- ✓ Implementing a peer-review process for inspectors to help ensure that scoring is equitable and consistent across different facilities.
- ✓ Using community engagement to design placards that can be easily understood by people of different cultures and feature information that is meaningful to the community.

While placards can be added to the inspection process, sufficient staffing is required to design and implement placarding.

Recommendations

In order to provide more complete and accessible information on inspections to the public, we recommend the Division:

- 3.1** Work with Department of Information Technology (IT) to update the online system for sharing information on food inspections. As part of this process:
 - a. Develop internal guidance informed by state code that details what information the Division will share with the public online and defines responsibility for managing the data.
 - b. Make inspection history available online for all permitted food facilities in Berkeley. This could include sharing a copy of the most recent inspection report.

- 3.2** Develop a plan to implement placarding in Berkeley once staffing levels are stable. As part of this process:
 - a. Assess resources needed to implement placarding.
 - b. Consider adding elements such as community engagement for designing and implementing evidence-based, equitable placarding.

Methodology, Scope, and Statement of Compliance

We analyzed Berkeley's inspections data for 2023. This included requesting inspection numbers from a sample of similar and/or nearby jurisdictions. We reviewed staffing information for a five-year period from fiscal years 2019 to 2023. We performed a risk assessment of the food inspection program's practices and procedures to identify potential internal control weaknesses, including fraud risks, within the context of our audit objectives. Our work included a review of relevant laws, policies and procedures, and interviews with food inspection program staff as well as division leadership. We compared the information Berkeley makes available to the public online to the information a sample of other nearby and/or similar jurisdictions make available to the public online. Additionally, we reviewed placarding best practices and examples of different placarding models. Our audit scope focused on the high risk area of meeting inspection targets did not include the Division's processes for issuing permits or enforcement.

To assess the food inspection program's ability to meet inspection targets, we analyzed data from Envision, the Environmental Health Division's (Division) inspection database. Evaluating the inspection process was not a part of our audit scope. We did not assess individual inspector performance, but did assess the Division's performance overall by analyzing total inspections.

To assess the Division's inspection performance, we compiled and analyzed:

- A subset of complaints data from 2023, and
- Inspection data from 2023 compared to the Division's list of permitted food facilities as of January 2024.

To assess the Division's publicly available data on inspections, we reviewed:

- Information on the Open Data Portal compared to sample inspection reports and inspection data from 2023.

We also reviewed:

- The California Food Code,
- The Berkeley Municipal Code,
- The Food and Drug Administration's National Retail Food Regulatory Standards,
- Division policies, procedures, and internal staffing documents,
- Human Resources vacancy and recruitment information,
- Payroll vacancy and overtime information, and
- Audits of food inspection programs performed by other jurisdictions, including the City and County of San Francisco Controller's Office.

We also conducted interviews with:

- Division staff and leadership,
- Food inspection program officials at the City of Pasadena and the County of Alameda,
- Information Technology staff,
- Human Resources staff, and
- Budget Office staff.

Data Reliability

We assessed the reliability of Envision data by reviewing it for reasonableness and completeness. We identified instances of data entry omissions and incomplete data, however, we determined that Envision data is reliable to address the audit objectives and provide an estimate of the Division's inspection performance. We did not conduct an in-depth assessment of the inspection data system's functionality, or conduct a thorough review of the accuracy of the data. Additionally, this audit did not include an assessment of the Division's process for establishing and/or updating risk level.

Independence

Payroll Audit is a Division of the City Auditor's Office. The Payroll Audit Division performs citywide payroll functions and is a module leader for the payroll/personnel module used to record payroll costs. Human Resources and department payroll clerks are responsible for entering employee data and collecting relevant documentation. Payroll Audit is not responsible for verifying the employee's time worked or the use of budget codes by the department. Further, Payroll Audit limits its review of sufficient documentation for the reported time or transaction; Human Resources and department payroll clerks are responsible for making adjustments to ensure the accuracy of the information in the system.

To reduce the threat to our independence, we limited our work to exclude areas overseen by our office. We also selected data from closed payroll periods that was in read only status. We relied on previous consultations with representatives from the U.S. Government Accountability Office to assess the safeguards we put in place. Based on this, we determined that the safeguards mentioned above reduced the identified threats to our independence to an acceptable level to proceed with the audit.

Statement of Compliance

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix: Food Facilities Not Inspected, By Risk Level

Food Facilities Not Inspected, By Risk Level, 2023

Risk Level	Facilities That Received <u>No</u> Inspections	
Low	101 out of 418 (24%)	19 Boarding Houses (mostly co-ops) 54 Food Markets 10 Cottage Food Operations 8 Temporary Food Facilities 5 Confectionaries 5 Other
Medium	104 out of 418 (25%)	38 Restaurants 21 Boarding Houses (fraternities/sororities) 18 Temporary Food Facilities 8 Mobile Food Trucks 6 Food Markets 5 Catering Operations 4 Bakeries 4 Other
High/Very High	184 out of 418 (44%)	140 Restaurants 23 Catering Operations 8 Mobile Food Trucks 4 Temporary Food Facilities 4 Bakeries 5 Other
No Assigned Risk Level	29 out of 418 (7%)	13 Restaurants 4 Food Markets 4 Temporary Food Facilities 3 Cottage Food Operations 3 Catering Operations 1 Mobile Food Truck 1 Flea Market/Swap Meet

Source: Auditor analysis of Berkeley's Environmental Health Division database

Recommendations and Management Response

We provided a draft of this report to city management and the Environmental Health Division (Division) for review and comment. The Division agreed or partially agreed with our findings, conclusions, and recommendations. We generally expect the City to implement audit recommendations within two years of report issuance. The Division provided the implementation dates and corrective action plan below. We will be conducting our standard recommendation follow up process after the audit is issued. We have not yet confirmed to what extent the recommendations have been implemented prior to the audit release date.

We have concerns about the Division's response to recommendations 2.1 and 3.1. We provide comments on page 29.

- 1.1 To stabilize the food inspection program, develop a plan to improve coverage of routine inspections throughout the City, which may require the Division to prioritize health and safety over other responsibilities. As part of this process:
 - a. Evaluate inspection targets to determine if current inspection frequencies are achievable, or establish different temporary targets to adapt to periods of understaffing.
 - b. Establish a baseline of inspection coverage for all permitted food facilities in the City and prioritize facilities with high risk and very high risk designations that were not inspected in 2023.

Management Response: Agree

Implementation Date: October 2024

Corrective Action Plan: Beginning in April 2024, the Environmental Health Division (EHD) began the process of reviewing all food facilities in the city to determine risk designation and status of last inspection, with an eye towards clearing the backlog of any overdue inspections as quickly as possible. Efforts to clear the 2023 backlog of uninspected food facilities is already underway; as of June 20, the number of remaining uninspected facilities has been reduced from 418 to 260. After this, EHD will draft a plan to ensure prioritization of high-risk food facilities during periods of low staffing and will deploy all available, qualified staff to focus their efforts on inspecting these higher risk facilities. With the added burden on existing inspectors that comes from redistributing the work of vacant inspectors, inspection targets will adjust to ensure that all high-risk facilities receive at least one inspection per year. During periods of especially low staffing, this plan will consider not only how to prioritize inspections within the food facility inspection program to minimize risk to the public, but also how to appropriately prioritize response to the Division's numerous State mandates and local ordinances, keeping the Division's chief focus on the health and safety of the public.

- 1.2 To stabilize the food inspection program, develop a plan to ensure timely response to complaints involving alleged foodborne illness, which may require the Division to prioritize health and safety duties over other responsibilities.

Management Response: Agree

Implementation Date: October 2024

Corrective Action Plan: Existing policies and procedures have been in-place to address the issue of timely response to complaints involving alleged foodborne illnesses (FBIs). During the COVID pandemic, staff priorities necessarily shifted to be more responsive to COVID-related health and safety violations (e.g., illegal operations during lockdown, mask mandate compliance, etc.). As EHD transitions back to normal protocols, staff, particularly support staff, will be retrained on the response timelines for alleged FBI complaints.

- 2.1 To ensure compliance with state code, work with the Budget Office to track how the food inspection program revenues are used.

Management Response: Agree

Implementation Date: August 2024

Corrective Action Plan: The City’s long-standing practice has been to deposit all fee and permit revenues, except those associated with Enterprise funds, into the City’s general fund. Since the expenses associated with administering EHD’s field inspections (\$1,148,532 in FY2024) exceed the revenues brought in by that program annually (\$699,244 in FY2024), and since all health inspections are funded by the general fund, the Department is confident that the sum total of food inspection revenues is indeed being spent on food program administration; revenue from all health inspection fees only covers on average 60% of expenditures. However, for greater transparency, HHCS will work with the Budget Office and the Finance Department to create a new revenue code to track food inspection program revenues at the program-level.

- 2.2 To meet the Division’s immediate staffing needs, take the following steps to fill positions and assess program staffing:

- a. Open a recruitment for the supervisor position.
- b. If the recruitments for the supervisor and food inspector positions do not yield qualified candidates, work with the Human Resources Department (HR) to develop targeted recruitments for the inspector and supervisor roles. This may include conducting an analysis of compensation or other factors that affect recruitment.
- c. Develop a trainee program to build a pipeline into the Division’s inspector positions.
- d. Work with HR as needed to identify staffing resources needed to meet inspection targets.

Management Response: Agree

Implementation Date: Barring any city-wide hiring freezes, recruitment for the EH Supervisor is expected to be initiated no later than October 2024 and bid solicitation for a staffing analysis as well as initiation of work towards a trainee program can occur by July 2025.

Corrective Action Plan: In 2019, the Environmental Health Division’s contract with Alameda County for vector services (another State mandate the Division implements) was revised by the County. The EH Supervisor position is funded, on the order of 44% of total costs, by revenues from this vector contract. Partly as a result of the new administrative requirements of the revised contract, vector revenues received from the County for the Division dropped from \$284,000 to \$147,000 annually on average. Consequently, the Department made a calculated decision to prioritize recruitment for a vacant vector technician position funded by this contract, since this position was critical for both meeting the requirements of the contract and for billing against the contract to maximize funding drawdown for the Supervisor. Unfortunately, we were unable to begin recruitment for the vacant vector

tech position until FY23, due to the City’s hiring freeze. Recruitment for the vector tech position began in Jan of 2023 and resulted in a Vector Tech being hired in July of 2023. Recruiting for the EH Supervisor position was deprioritized until after this position was filled.

Since that time, HR has extended a conditional offer for the vacant Registered Environmental Health Specialist (REHS) position, which will help address staff shortages that contributed to missed inspections. Once this position is fully onboarded, and barring any potential city-wide hiring freezes, the Division will immediately begin recruitment for the Supervisor position and will consult with HR as needed to ensure an efficient, effective recruitment.

Once the supervisor position is filled, EHD will:

- (a) Explore the development of a trainee program to build a pipeline for the Division’s Inspector roles, including examining how workforce development programs in other HHCS divisions could be applied to EHD. This could include hiring staff who still need to perform training hours prior to certification, as well as reviewing classification career ladders to create a career pipeline for unlicensed staff. This pipeline would ideally include promoting staff once certification is complete. Additionally, there could be partnerships with local universities to establish internship programs.
- (b) Work with the Department and City leadership to identify the budgetary resources needed for a comprehensive staffing and compensation analysis, which we believe will be best conducted by a third-party consulting firm that specializes in those analyses. Solicitation of bids to identify a consultant can be initiated within the next year.

2.3 To ensure accuracy of key data needed to effectively manage inspections, make the following updates to the inspection data:

- a. Add a risk designation to all food facilities in the Envision database.
- b. Correct the date of last inspection in the Envision software that inspectors use during inspections or develop a workaround to ensure inspectors have an accurate list of facilities prioritized by last inspection date.
- c. Develop a process to regularly verify that the Envision database includes all food facilities that should be permitted and inspected.

Management Response: Agree

Implementation Date: July 2025

Corrective Action Plan: EHD has already added risk designations to all food facilities in Envision wherever those were missing. Moving forward, EHD will assess entries in Envision Connect Remote (ECR) to identify where inaccuracies exist, and departmental administrative staff will support with editing/updating/cleaning the entries using back up documentation. Simultaneously, EHD inspectors will all be trained on inputting information including dates into ECR, so the new data entered is uniform and accurate. The current policy and procedures for data entry practices will be reviewed and edited as needed during this process to further improve and maintain quality assurance.

2.4 In order to conduct effective, ongoing monitoring of the food inspection program, work with the Department of Information Technology (IT) to develop a list of database functionalities and/or datapoints needed to help meet the Division’s targets and produce reports. If the current database cannot provide this functionality, document the limitations of the current database and include these requirements in the future request for proposals for a new database.

Management Response: Agree

Implementation Date: Initiated January 2025; completed September 2025

Corrective Action Plan: EHD will begin working with Resource Development Associates (RDA) to integrate a results-based accountability methodology into their data collection and reporting. In the early stages of this project, EHD will be sharing their current data collection procedures. Sharing these current methods with RDA will help clarify the specific data points needed to inform performance metrics across EHD programs, including the Food Safety and Inspections programs. This work will help illuminate what is possible within the current database, and document potential gaps. This will inform the ongoing collaboration with IT to determine next steps for the database system.

- 2.5 In order to conduct effective, ongoing monitoring of the food inspection program, identify performance metrics for the food inspection program and report on them to the public at least annually.

Management Response: Agree

Implementation Date: Initiated October 2024; completed September 2025

Corrective Action Plan: EHD is in the early stages of working with RDA to implement results-based accountability in the Division which will identify performance metrics across programs for integration into public dashboards. RDA will work closely with EHD to examine existing data, and data collection measures, to inform performance metrics. This project initiates this fall and is expected to be completed late summer of 2025.

- 3.1 In order to provide more complete and accessible information on inspections to the public, work with the Department of Information Technology (IT) to update the online system for sharing information on food inspections. As part of this process:
- a. Develop internal guidance informed by state code that details what information the Division will share with the public online and defines responsibility for managing the data.
 - b. Make inspection history available online for all permitted food facilities in Berkeley. This could include sharing a copy of the most recent inspection report.

Management Response: Partially agree

Implementation Date: Bid solicitation for new database vendor initiated by July 2025, pending available funding for a database replacement.

Corrective Action Plan: There is already a State requirement for each food facility to make available a copy of the most recent inspection report to anyone interested. EHD staff will be reminded and retrained to advise food facility operators of this legal requirement and will instruct each operator to post a sign in a conspicuous location advising the public of this legal requirement. The reporting of inspection results online is not a State-required activity, but this information is considered valuable by the dining public. Thus, if a jurisdiction does choose to report results online, the State requires that the reporting meet certain standards. EHD is considering disabling the current online reporting feature on the City's 'Open Data' portal, since the information currently being made available is confusing, misleading and not in compliance with State requirements for voluntary online posting. Instead, EHD will include State-compliant online reporting of inspection results as one of the criteria in selecting a

new database software, which we anticipate putting out to bid one year from now, pending available funding.

- 3.2 In order to provide more complete and accessible information on inspections to the public, develop a plan to implement placarding in Berkeley once staff levels are stable. As part of this process:
- a. Assess resources needed to implement placarding.
 - b. Consider adding elements such as community engagement for designing and implementing evidence-based, equitable placarding.

Management Response: Agree

Implementation Date: Initiated no sooner than July 2026.

Corrective Action Plan: We agree that the immediate focus for the Division needs to be on stabilizing staffing levels, including conducting and completing a comprehensive staffing and compensation analysis for the Division. We also note the Auditor’s finding that the EHD’s budget-authorized staffing levels for the Food Inspection program do not align with FDA standards, which call for an additional 4-5 FTE in the Division’s budget. A robust, evidence-based, equitable placarding system presupposes sufficient inspector capacity to perform frequent inspections at FDA recommended levels; in addition to ongoing efforts to fill vacant authorized positions, these staffing shortfalls will first need to be addressed before EHD can realistically address the feasibility of a placarding system. Implementation of a placarding system also requires a reliable and robust database, and before assessing placarding, the Environmental Health Division intends to work with the IT Department to replace the current database, Envision, pending available funding to do so. Given these priority projects and the additional staffing levels called for by the FDA, we anticipate that an assessment of placarding and requisite resources, and an analysis of options for the City Council’s consideration, will take until at least the FY27-28 Budget process (at least 2-3 years) to initiate.

Auditor's Response

We find it necessary to respond to the Environmental Health Division's (Division) response to recommendations 2.1 and 3.1 in order to correct facts and provide context related to our findings. In this audit, the Division, despite repeated requests, did not provide financial information until our audit work was completed, and stated that they partially agreed with our recommendation, then proposed a solution that runs directly opposite to our intent and the public's interest. We make every effort in our audit process to gather and develop convincing evidence that identifies significant findings that need management's attention. In the interest of accuracy and completeness we request documents, conduct interviews, meet with staff to verify information, and provide a draft of our audit reports to city management for review and comment. For this audit, city management and Division leadership were asked to review and comment on the report.

We discussed the draft with Division leadership who acknowledged that food inspection program revenues were not tracked and agreed to recommendation 2.1 to work with the Budget Office to begin tracking how they are used. During the audit process, we requested food inspection program revenues and expenditures multiple times and were told by Division leadership that this information was not tracked or available. We held a briefing meeting and an exit conference, in addition to bi-weekly meetings with Division leadership. However, in their audit response, they reported for the first time on the estimated revenues and expenditures for FY 2024. Because this information came after the audit process was completed, we could not review it and cannot confirm the accuracy of the information or how the numbers were developed. The timing of the Division's disclosure of this information is not consistent with the longstanding audit process.

Further, if accurate, the Division's estimates suggest that the General Fund subsidizes 40 percent of food inspection spending. This level of subsidization is high compared to the rest of Alameda County and the City of Pasadena, where officials stated that their food inspection program revenues cover most program costs. If this financial information had been available, it would have been a significant finding in our report. This subsidy may be an issue City Council will want to explore in the future.

The Division partially agreed with Recommendation 3.1 to update the online system for sharing information on food inspections. However, their corrective action plan runs counter to the purpose of the recommendation, which is to provide the public with more complete and accessible information on food inspections. Rather than improving the data available on the Open Data Portal, the Division stated that they will consider disconnecting the food inspection feature, since the information is not currently in compliance with the state requirements for voluntary online posting. This response would decrease transparency of information and reduce public knowledge about the state of restaurant inspections. The Division did not provide any indication that adding the required information—such as violations related to improper cooling of potentially hazardous foods—would not be feasible.

The Division stated that they will request funding for new software that will comply with state requirements. Depending on whether the new software system is funded, this action would disable online reporting until a vendor is selected, the new system is designed, and current data is successfully transferred, requiring far more than a year.

Mission Statement

Promoting transparency and accountability in Berkeley government.

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