

INTERNAL AUDIT REPORT

2021-02

Community Right-to-Know Program

Anchorage Fire Department

April 23, 2021

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Municipality of Anchorage

Austin Quinn-Davidson
Acting Mayor

Internal Audit Department

April 23, 2021

Honorable Mayor and Members of the Assembly:

I am pleased to present for your review **Internal Audit Report 2021-02, Community Right-to-Know Program, Anchorage Fire Department**. A brief summary of the report is presented below.

In accordance with the 2020 Audit Plan, we have completed an audit of the Community Right-to-Know Program at the Anchorage Fire Department. The objective of this audit was to determine the adequacy of procedures used to manage the Community Right-to-Know Program and bill for services. To accomplish our objective, we reviewed Community Right-to-Know Program Fire Inspection Notices, invoices, site plans, placard photographs, and historical records to determine compliance. In addition, we conducted site visits to facilities to ascertain the status of the required placarding. We also reviewed municipal finance records to determine if fees and penalties were deposited in the proper accounts. Finally, we pulled judgmental or random samples from unbilled and billed facilities, facilities reporting hazardous materials in State of Alaska's E-Plan Online Tier II Reporting System, and first-time filers.

Our audit revealed that the Community Right-to-Know Program had significantly improved since our prior audit in 2006 when we found Community Right-to-Know Program files and records in an unauditable condition. However, we identified some areas that can be further improved. Specifically, although the Community Right-to-Know Program's billing process had improved, facilities were not always invoiced, incorrect amounts were sometime invoiced, and some facilities were invoiced incorrect additional reporting fees. In addition, placard requirements for first-time filers were not always followed, civil penalties for Community Right-to-Know Program violations were not properly administered, and fees and penalties collected from the Community Right-to-Know Program were comingled with other Anchorage Fire Department funds. Finally, the Fire Prevention Division lacked adequate policies and procedures for the administration of the Community Right-to-Know Program.

There were five findings in connection with this audit. Management was responsive to the findings and recommendations.

Michael Chadwick, CIA, CICA
Director, Internal Audit



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Introduction. In December 1984, a toxic chemical that escaped from a Union Carbide Corporation pesticide plant in Bhopal, India resulted in the deaths of over 15,000 people. In response, Congress passed the Superfund Amendments and Reauthorization Act of 1986. Title III of the act mandates the Emergency Planning and Community Right-to-Know Act, which established the public's right to know what chemicals are used, stored, and released in their community. The Municipality of Anchorage's Community Right-to-Know Program (CRTK Program) is administered locally by the CRTK Program Administrator (Program Administrator) in the Anchorage Fire Department's (AFD) Fire Prevention Division.

Anchorage Municipal Code (AMC) chapter 16.110, *Hazardous Materials*, provides the guidelines for the CRTK Program. Individuals governed by this AMC are required to submit an inventory list to the State of Alaska's E-Plan Online Tier II Reporting System (E-Plan) by March 1 of each year, documenting the type and amount of each hazardous material, hazardous chemical, and/or hazardous waste at a facility. In addition, the site plan of each facility showing the usual and ordinary location of each hazardous material, hazardous chemical, and/or hazardous waste is also required. Fees are charged based upon the total daily maximum amount of hazardous materials, hazardous chemicals, and/or hazardous wastes handled at the facility on any one calendar day. The Program Administrator prepares a Fire Inspection Notice (FIN) for each facility based upon the total reported maximum daily amount and type of hazardous materials, hazardous chemicals, and/or hazardous wastes. The Program Administrator then provides the original FIN directly to the facility and provides a copy to a third-party billing contractor. The billing contractor then invoices the facility. Facilities are then issued certificates of compliance following receipt of payment. Placards are required to be posted on

facilities that have hazardous materials, hazardous chemicals, and/or hazardous wastes to give adequate warning to the public and to emergency response personnel.

Objective and Scope. The objective of this audit was to determine the adequacy of procedures used to manage the CRTK Program and bill for services. Specifically, we reviewed CRTK Program FINs, invoices, site plans, placard photographs, and historical records to determine compliance. In addition, we conducted site visits to facilities to ascertain the status of the required placarding. We also reviewed municipal finance records to determine if fees and penalties were deposited in the proper accounts. Finally, we pulled judgmental or random samples from unbilled and billed facilities, facilities reporting hazardous materials in E-Plan, and first-time filers.

We conducted this performance audit in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review. 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. The audit was performed during the period of October 2020 through February 2021, including work stoppages during this time when audit staff was temporarily reassigned to the Municipality's Emergency Operations Center to assist with the response to the COVID-19 pandemic. The audit was requested by the Administration.

Overall Evaluation. The CRTK Program had significantly improved since our prior audit in 2006 when we found CRTK Program files and records in an unauditable condition. However, we identified some areas that can be further improved. Specifically, although the CRTK Program's billing process had improved, facilities were not always invoiced, incorrect amounts were sometime invoiced, and some facilities were invoiced incorrect additional reporting fees. In addition, placard requirements for first-time filers were not always followed, civil penalties for CRTK Program violations were not properly administered, and fees and penalties collected from the CRTK Program were comingled with other AFD funds. Finally, the Fire Prevention Division lacked adequate policies and procedures (P&Ps) for the administration of the CRTK Program.

FINDINGS AND RECOMMENDATIONS

1. **CRTK Billing Process Needs Improvement.**

- a. **Finding.** Although the CRTK Program's billing process had improved since our prior audit in 2006, further improvements are needed. Specifically, we found the following:
- *Facilities Not Always Invoiced* – We judgmentally reviewed 45 facilities that were not billed because they fell under the billing thresholds and identified four such facilities that should have been invoiced a combined total of \$600.
 - *Incorrect Amounts Sometimes Invoiced* – From our testing, we identified two facilities that were billed incorrectly based on the quantity of hazardous material reported in E-Plan. Specifically, one facility should have been invoiced for \$5,000 since it had reported a maximum daily amount of hazardous chemicals over 3,000,000 pounds, but they were invoiced \$4,000. Another facility should have been invoiced \$425 but was invoiced \$295 due to an invoice error.
 - *Incorrect Additional Reporting Fees* – Two facilities were each invoiced, and consequently paid, incorrect additional reporting fees. When asked about these additional reporting fees, the Program Administrator stated one facility was erroneously mailed two invoices because of a mix-up in addresses. In another case, a facility received two invoices dated the same day: one for \$425 and another for \$85. However, the \$85 invoice was incorrect and never cancelled.
- b. **Recommendation.** The Fire Marshal should ensure that all facilities with reportable hazardous materials are reviewed and billed correctly.

- c. **Management Comments.** Management concurred and stated, “The Anchorage Fire Department continually seeks to improve processes that facilitate accurate and timely billing. We are encouraged by audit findings that billing processes have improved since the prior audit and that invoice errors amounted to a fraction of overall program fees.

“The CRTK Program Administrator also functions as the Knox Key Program Administrator and Fire Prevention Division overall administrative support. An analysis of the CRTK function found that frequent interruptions while reviewing, calculating and processing Tier II reports increased the potential for errors. Administrative changes have been implemented for the Program Administrator to compartmentalize CRTK work to help minimize interruptions that could lead to billing errors.

“To further improve on billing accuracy and ensure that facilities with reportable hazardous materials are reviewed and billed correctly, the AFD will include comparisons with prior years’ billings with each Tier II report received. Off-season CRTK billing audits will also be instituted to verify billing accuracy.”

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

2. **AMC Placard Requirements for First-Time Filers Not Always Followed.**

- a. **Finding.** Placard requirements for first-time filers were not always followed. AMC section 16.110.050 requires a person who handles hazardous materials, hazardous chemicals, and/or hazardous wastes to post placards on the facility to give adequate warning to the public and emergency response personnel. In addition, according to CRTK Program guidelines, first-time filers are required to submit a photograph(s) showing the location(s) of their placard(s) in E-Plan. We reviewed six identified first-time filer facilities for the 2019 reporting year and found the following:

- *Posted Placards not always visible* – At 4 of 6 (67%) sampled facilities that we visited, if placards were posted, they were not visible. According to the Program Administrator, they do not verify if placards are placed on facilities.
- *Placard location photographs missing* – In 3 of 6 (50%) sampled facilities, there were no placard location photographs uploaded to E-Plan. According to the Program Administrator, the missing placard photographs from the first-time filers were not requested.

In addition, 5 of 6 (83%) facilities were issued certificates of compliance despite incomplete placard requirements. According to the Program Administrator, certificates of compliance were issued to reporting facilities without verification of compliance after invoices were paid.

- b. **Recommendation.** The Fire Marshal should ensure that CRTK Program placard requirements for first-time filer facilities are followed and certificates of compliance are issued only for facilities with complete reporting requirements.
- c. **Management Comments.** Management concurred and stated, “After previous unworkable State of Alaska (SOA) efforts at electronic CRTK filing, the SOA mandated in 2020 that Tier II reports were to be filed electronically using the new E-Plan's Online Tier II Reporting System. The Fire Prevention Division found the E-Plan system to be a big improvement over previous years. Utilizing the new system, the Division discovered that since the system does not incorporate automatic filing notifications, additional internal checks needed to be done to keep up with filers’ E-Plan submittals. The Division implemented regular monthly E-Plan checks to verify any facility updates and capture new Tier II filers.

“New filers may not be as familiar with CRTK requirements as historical filers. To ensure accurate placarding for first-time filers, Fire Prevention will inspect new

facilities to verify reported quantities and placarding requirements prior to the issuance of a certificate of compliance. While this will help ensure initial placarding is accomplished, the audit did identify two facilities where the placarding appeared to have been removed after initial verification photos were submitted. AFD recognizes that it will be difficult to ensure facilities maintain placarding after initial verification. To address this concern, AFD will implement CRTK hazardous material placarding and storage verification as part of routine station area pre-planning efforts.”

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

3. **CRTK Civil Penalties Not Issued in Accordance with AMC.**

- a. **Finding.** Civil penalties for CRTK Program violations were not properly administered. Specifically, civil penalties were issued in the absence of a proper charging document filed with the Administrative Hearing Officer. For example, we reviewed six invoices for “failure to report” penalties, but did not find any evidence that a charging document was filed that included information such as the section of AMC that was violated, a description of the violation, or the right to a hearing as required by AMC section 14.30.030, *Service and contents of charging document*.
- b. **Recommendation.** The Fire Marshal should ensure that civil penalties issued for CRTK Program reporting violations adhere to AMC requirements.
- c. **Management Comments.** Management concurred and stated, “Prior to the initiation of the internal audit in 2020, during a review of CRTK billing, the new AFD Fire Marshal discovered an ongoing problem with how Tier II filing penalties were being assessed. Historically, whenever a facility failed to submit reports on time, or the filing was incorrect, a penalty fee was automatically assessed to the facility without utilizing the Administrative Hearing process outlined in AMC title 14. The Fire Marshal suspended the practice and submitted a request for legal services to the MOA

Department of Law for review of the provisions provided for in AMC title 16 for implementation of penalties related to CRTK Tier II reporting violations.

“The Fire Marshal will ensure assessed civil penalties associated with the CRTK program adhere to AMC requirements.”

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

4. **Funds Comingled.**

- a. **Finding.** Fees and penalties collected from the CRTK Program were comingled with other AFD funds. Specifically, CRTK Program revenue was deposited into the AFD operating fund and CRTK Program expenses were not separated from the Fire Prevention Division fund. Anchorage Municipal Code section 16.110.100 requires that all fees and penalties collected in connection with the administration or enforcement of AMC chapter 16.110 be dedicated only to the CRTK Program. Internal Audit Report 2006-10 reported a similar finding.
- b. **Recommendation.** The AFD Chief should ensure that all fees and penalties collected in connection with the administration or enforcement of AMC chapter 16.110 should be dedicated to the CRTK Program.
- c. **Management Comments.** Management concurred and stated, “AFD has reviewed CRTK Program expenses to distinguish those expenses from other Fire Prevention Division funds. AFD will ensure all fees and penalties collected pursuant to AMC chapter 16.110 are dedicated to the CRTK Program.

“AFD will request that a cost center be created to allow proper coding of CRTK program costs. AFD will submit position description updates to ensure the personnel cost allocation be corrected from fund 131 to the CRTK fund. AFD P&Ps will be

updated and staff will be informed of the new requirement to code CRTK costs to the appropriate cost center.”

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

5. **Inadequate Policies and Procedures.**

- a. **Finding.** The Fire Prevention Division lacked adequate P&Ps for the administration of the CRTK Program. Policies and procedures represent a unified approach to practices and provide written documentation to overall policy and methods of operation. For example, the Fire Prevention Operations Manual was last updated in 2016, before the implementation of E-Plan in 2020. In addition, we found no procedures contained in the Fire Prevention Operations Manual for:
- *Training the Program Administrator* – There was no formal training process for the Program Administrator. The Program Administrator stated the only training provided was on-the-job training from the prior Program Administrator.
 - *Discovery of New Facilities* – There were no procedures for identifying new CRTK Program reporting locations. Instead, CRTK staff relied on the previous Program Administrator’s knowledge to identify new reporting facilities and did not pursue other means of identification, such as reviewing new business licenses.
 - *Verifying E-Plan Information* – Unless an issue presented itself, there was no procedure for verifying the information reported in E-Plan by the reporting facilities was correct.

Internal Audit Report 2006-10 reported a similar finding.

- b. **Recommendation.** The Fire Marshal should ensure that detailed P&Ps for the administration of the CRTK Program are developed and implemented.

- c. **Management Comments.** Management concurred and stated, “The Fire Prevention Operations Manual identifies CRTK Program guidelines in Section 9.2.5, including referencing CRTK procedures contained in the desk manual (CRTK Handbook). AFD agrees the policies and procedures for the CRTK Program need updating to include the new E-Plans processes implemented in 2020. The Division has begun updating P&Ps and completion is anticipated by year end. AFD has identified CRTK training opportunities for the Program Administrator through the EPA. The training will also be incorporated into the P&P revision.

“Fire Prevention has implemented procedures for Fire Inspectors conducting routine life/safety inspections to identify facilities with Tier II reports and verify the accuracy of that reporting. The Division has also implemented a process to identify potential new CRTK reporting facilities through analysis of State of Alaska business licensing records.”

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

Discussion With Responsible Officials. The results of this audit were discussed with appropriate Municipal officials on March 23, 2021.

Audit Staff:
Dalton Benson