

BOARD of SUPERVISORS



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DATE: July 2, 2013
TO: Members of the Board of Supervisors
FROM: Angela Calvillo, Clerk of the Board
SUBJECT: 2012-2013 Civil Grand Jury Report

We are in receipt of the San Francisco Civil Grand Jury report released Tuesday, July 2, 2013, entitled: **Building a Better Future at the Department of Building Inspection.** (Attached)

Pursuant to California Penal Code, Sections 933 and 933.05, the Board must:

1. Respond to the report within 90 days of receipt, or no later than October 16, 2013.
2. For each finding:
 - agree with the finding; or
 - disagree with the finding, wholly or partially, and explain why.
3. For each recommendation indicate:
 - when the recommendation was implemented;
 - when the recommendation will be implemented;
 - that the recommendation requires further analysis; or
 - that the recommendation will not be implemented, and explain why.

Pursuant to Administrative Code, Section 2.10, in coordination with the Committee Chair, the Clerk will schedule a public hearing before the Government Audit and Oversight Committee to allow the Board the necessary time to review and formally respond to the findings and recommendations.

The Office of the Budget and Legislative Analyst will prepare a resolution, outlining the findings and recommendations for the Committee's consideration, to be heard at the same time as the hearing on the report.

Attachment

- c: Honorable Cynthia Ming-mei Lee, Presiding Judge (w/o attachment)
Martha Mangold, Foreperson, 2012-2013 San Francisco Civil Grand Jury (w/o attachment)
Mayor's Office
Ben Rosenfield, Controller
Jon Givner, Deputy City Attorney (w/o attachment)
Rick Caldeira, Legislative Deputy
Debra Newman, Office of the Budget and Legislative Analyst
Severin Campbell, Office of the Budget and Legislative Analyst

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
CIVIL GRAND JURY

BOS-11 (direct)
orig: GAO Clerk
C. COB, Leg Dep.
Leg Clerk
Cpage



June 28, 2013

Angela Calvillo
City Hall, 1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102

Dear Ms. Calvillo,

The 2012 – 2013 Civil Grand Jury will release its report entitled, "*Building a Better Future at the Department of Building Inspection*," to the public on July 2, 2013. Enclosed is an advance copy of this report. Please note that by order of the Presiding Judge of the Superior Court, Hon. Cynthia Ming-mei Lee, this report is to be kept confidential until the date of release.

California Penal Code §933.5 requires a response to the Presiding Judge no later than October 16, 2013. For each finding in the report, you must either (1) agree with the finding; or (2) disagree with it, wholly or partially, and explain why.

Further, as to each recommendation, your response must either indicate:

- 1) That the recommendation has been implemented, with a summary of how it was implemented;
- 2) That the recommendation has not been, but will be, implemented in the future, with a timeframe for implementation;
- 3) That the recommendation requires further analysis, with an explanation of the scope of that analysis and a timeframe for discussion, not more than six months from the release of the report; or
- 4) That the recommendation will not be implemented because it is not warranted or reasonable, with an explanation. (California Penal Code § 933 and §933.05)

Please provide your response to Presiding Judge Lee at the address below.

Very truly yours,

Martha M. Mangold, Foreperson
2012 – 2013 Civil Grand Jury

400 McAllister Street, Room 008
San Francisco, CA 94102-4512
Phone: 415-551-3605

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**Building a Better Future
at the Department of Building Inspection**

June 2013



City and County of San Francisco
Civil Grand Jury, 2012-2013

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CIVIL GRAND JURY
CITY AND COUNTY OF SAN FRANCISCO

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THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year.
It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name.
Disclosure of information about individuals interviewed by the jury is prohibited.
California Penal Code, section 929

STATE LAW REQUIREMENT California Penal Code, section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days, as specified.

A copy must be sent to the Board of Supervisors. All responses are made available to the public.

For each finding the response must:

- 1) agree with the finding, or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation the responding party must report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided; or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

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Issue

As San Francisco experiences a surge of growth, the Department of Building Inspection (DBI) must emerge from an era of revolving leadership, thwarted efforts at reform, funding deficiencies, staff layoffs, and apparent general resistance to change. Construction in San Francisco has rebounded dramatically from the 2007-09 recession, and the DBI is expected to report an operating surplus of about \$37 million for the fiscal years 2009 through 2013. The Mayor, Board of Supervisors, and Building Inspection Commission currently have the funds available to remedy many of DBI's problems.

In this report, the 2012-13 Civil Grand Jury identifies major operational challenges that currently exist within DBI and opportunities for transparency and transformation.

Summary

In a dynamic building environment, the City of San Francisco needs a Department of Building Inspection (DBI) that provides transparent, consistent, efficient, and equitable services. The Department has experienced a good deal of turmoil and turnover in leadership in recent years that hampers its operations. City officials and the media have called it “dysfunctional,” “inefficient,” and “a mess.”

The 2012-13 Civil Grand Jury investigation addressed these aspects of DBI:

- Departmental reform: the need for stable and independent leadership, strategic planning, and cultural change, including examination of DBI's ethical standards
- Code enforcement: lax enforcement as a consequence of the Department's current procedures
- The role of technology: the potential for new technology to transform the Department and the current under-investment in technology

Our focus on departmental reform includes the fundamental issue of leadership, including the Mayor's Office, which appoints a majority of the Building Inspection Commission (BIC); BIC itself, which appoints the director of DBI and establishes departmental policy; the DBI Director; and the different department heads who manage DBI's operations.

Our investigation of code enforcement was driven by reports that some code enforcement processes are given low priority, are in need of updating and technical innovation, and do a disservice to vulnerable residents in the City.

The implementation of new technology provides the opportunity to address many issues and will succeed if leadership at all levels fully embraces business process change and the implementation of new tools.

Based on its investigation, the Jury makes the following recommendations in three categories:

Departmental Reform

- 1.1 The DBI management should retain a consultant to update the 2007 *Business Process Reengineering Report* (BPR) findings and recommendations and present the findings to BIC and the DBI Director.
- 1.2 The BIC and DBI Director should develop a detailed action plan with firm due dates for implementing BPR recommendations that the consultant identifies as not completed.
- 2.1 The DBI management should update departmental policies and procedures.
- 2.2 The DBI should make all policies and procedures easily accessible online internally and, where appropriate, externally.
- 3.1 The DBI should assess staff needs for leadership and communication training and develop plans to strengthen areas of weakness.
- 3.2 The DBI should assess technical skill deficiencies in the DBI staff and develop training plans to strengthen these areas.
- 3.3 The DBI should cross-train specific staff members to allow the Department to better respond to fluctuating workloads.
- 4.1 The DBI Director should conduct an ethical climate survey and use the results to identify areas where improved communication of ethical standards and monitoring of employee behavior are needed.
- 5.1 The Board of Supervisors should hold a hearing within six months of the release of this report by the 2012-13 Jury to see if BIC has taken action on the issues raised.

Code Enforcement

- 6.1 The DBI should establish performance standards for resolving code violations within designated time frames (for example, closing 75 percent of Notices of Violation within six months and 95 percent within 12 months of when they are issued). The performance standards should be reviewed and approved by BIC in public session.
- 6.2 The DBI should develop monthly management reports for BIC that monitor the Department's performance against BIC-approved performance standards for resolving building code violations.

- 7.1 The DBI should review and expand its criteria for using the Building Code's Demolition and Repair Fund to achieve actual abatement of unsafe building conditions.
- 7.2 The Abatement Appeals Board should abide by the Building Code's limits on continuances during the Notice of Violation (NOV) process.
- 7.3 The Board of Supervisors should review the administrative procedures in the Building Code and consider enacting a process that provides for stronger penalties at the administrative level.
- 8.1 All DBI enforcement units should use the monetary tools in the Building Code to encourage abatement and to fund enforcement operations.

Role of Technology

- 9.1 The DBI should ensure that management has clearly defined the business rules and workflow processes for the new Accela system.
- 9.2 The DBI "subject matter experts" assigned to the Accela implementation team should be given adequate time to respond to consultant questions not addressed by department documentation and to fully assist in system acceptance testing prior to going live.
- 10.1 The DBI should conduct a methodical review of all major business processes to ensure that they are designed to achieve the department objectives and that they include time or due date criteria that can be monitored by information systems.
- 11.1 The DBI should ensure that all field inspectors and supervisors are fully trained and supported in both the use of the mobile equipment and the mobile Accela application being implemented as part of the Permit and Project Tracking System.

Background

1. The Department of Building Inspection

a. Basic Facts and Figures

In fiscal year (FY) 2011-12:

- The Department of Building Inspection (DBI) issued 55,442 permits, collecting \$55,657,075 in total revenues, and performed 125,243 inspections.¹
- The Building, Electrical, and Plumbing Inspection divisions performed 49,311 inspections. They issued 863 Notices of Violation (NOVs) and two

Emergency Orders, achieved abatement of 814 violations, and referred 358 cases to the Code Enforcement Section.²

- The Code Enforcement Section received 1,202 complaints, scheduled 705 for a Director's Hearing, and abated 1970 cases, referring six to the City Attorney's Office (CAO).³
- Housing Inspection Services (HIS), which is responsible for 20,194 buildings comprising 188,716 units, performed 11,142 inspections and abated 3,711 complaints.⁴

b. The Evolution and Mandate of the Department

The DBI is mandated to ensure the safe construction, renovation, and maintenance of homes and buildings. San Francisco's Planning Department is responsible for land use policy and planning codes. Prior to 1994 the Bureau of Building Inspection, under the Department of Public Works, handled building inspection. In November of that year, tenant advocacy groups dissatisfied with BBI enforcement of housing codes joined with the powerful Residential Builders Association to place an amendment to the City Charter on the ballot. Proposition G was passed by voters, creating DBI and the Building Inspection Commission (BIC).⁵

The seven-member BIC is empowered to "organize, reorganize and manage the Department of Building Inspection." Four members are appointed by the Mayor and three by the Board of Supervisors.

The stated mission of DBI is:

Under the direction and management of the seven-member citizen Building Inspection Commission, to oversee the effective, efficient, fair and safe enforcement of the City and County of San Francisco's Building, Housing, Electrical, Mechanical, Plumbing and Disability Access Codes.

The BIC appoints the Director of the Department and approves the budget. DBI is an "enterprise" department that generates its own revenue from permit and inspection fees, penalties, and fines and does not receive money from the General Fund. The Department does not, however, operate on a pure "profit and loss" basis. It has a limited ability to hold funds in reserve and must maintain a balanced budget. Because many larger projects may take several years to complete, funds are put in reserve for work done after the current fiscal year. During the 2007-09 economic downturn, revenues and permit applications decreased to the point where staff layoffs were mandated, leaving the department with a smaller complement and fewer experienced employees to handle the current upswing.

The DBI has a troubled history, including two FBI investigations in 2006 and a high rate of turnover in the director position. Since 2005, DBI has had five directors, none of

whom has served for more than a few years. There has been an acting director since July of 2012, and BIC's process for hiring a permanent director has been protracted.

c. The Organization of DBI

The DBI is organized into these divisions:⁶

- Permit Services
 - Plan Review performs the intake, routing, and review of submitted plans prior to the issuance of permits.
 - Permit Submittal and Issuance performs the intake of permits not requiring plan review and the issuance of all permits.
- Inspection Services
 - The Building, Electrical, and Plumbing Inspection divisions perform inspection of previously permitted work. Inspectors may note non-permitted work in the course of their duties. They also inspect premises based on citizen complaints about homes with non-permitted work and improper construction. They issue NOVs for non-permitted work and/or work not in compliance with the building codes.
 - Code Compliance (Code Enforcement) inspectors follow up on NOVs issued by the Building, Electrical, and Plumbing Inspection divisions and compel property owners to correct code violations.
 - Housing Inspection Services performs the inspection of built housing for compliance with the Housing Code, including both periodic routine inspections and those arising from citizen complaints. HIS issues NOVs and follows them through to abatement.
- Administrative Services handles records, payroll, and financial services.
- Management Information Services is charged with the implementation and management of the Department's information technology.

d. The Ethical Environment

The DBI was the subject of documented ethical issues over many years:

- 2001 - The City Controller issued an audit that found a culture of real and perceived preferential treatment at DBI.⁷
- 2003 - A 2002-03 Civil Grand Jury report found that some customers of DBI were receiving preferential treatment and recommended reforms.⁸
- 2003 - A DBI information systems manager pled guilty for defrauding DBI and accepting \$500,000 in kickbacks.⁹
- 2004 - Mayor Newsom appointed an investigator to monitor allegations of favoritism at DBI.¹⁰
- 2006 - An FBI investigation at DBI resulted in the indictment of the DBI manager who headed the one-stop permit section. He was accused of perjury and of accepting bribes in exchange for favorable treatment of permit applicants.¹¹ In 2008 a jury acquitted him on four charges and deadlocked on 29 other charges.¹²

- 2006 - A senior building inspector was investigated by the FBI after he purchased a distressed property that had been the subject of a DBI abatement order.¹³
- 2007 - The City Controller investigated this situation and recommended that the DBI adopt rules restricting such purchases in the future.¹⁴
- 2010 - A former plan checker who became a permit expeditor was criminally prosecuted and sued for damages by the City Attorney after he faked documentation for a large number of projects submitted to the permit process.¹⁵

The DBI always has been subject to the ethics rules and regulations that apply to City employees.¹⁶ In 2005 DBI began to take formal steps to strengthen its ethics rules and regulations by implementing a new Permit Processing Code of Conduct that was adopted by the Ethics Commission.¹⁷ A Statement of Incompatible Activities was issued in 2008.¹⁸ Most significant is the 40-page revised Code of Professional Conduct (CPC) applying to all DBI employees, issued in 2009.¹⁹ This document is comprehensive and provides many useful examples of unacceptable conduct. Despite these changes, there is a common public perception of a lack of ethical behavior within the department.

e. Employee Ethics Compliance Process

The DBI's ethics guidance and compliance process is unfocused and could lead to the inconsistent application of ethical standards. There is no specific point person for getting answers to ethics questions. Its internal ethics regulations advise non-supervisory employees to go to their supervisors with ethics questions. Supervisors and managers can obtain ethics advice through their immediate superior, the Personnel and Payroll Manager, the Director, the Ethics Commission or the City Attorney. In Jury interviews with DBI management and supervisory staff, we heard that there are procedures that are unwritten but generally understood.²⁰ There is no one place on the DBI web page or in a manual where all of the ethics rules applying to DBI employees are stated.

DBI employees, like all City employees, are required to take ethics training when hired and every two years thereafter. All DBI employees are required to submit an annual Form 700 (financial disclosure) and a certification statement that they have taken Sunshine Act training annually and ethics training at least every two years.

2. The City's Current Building Environment

After a decline in building construction, there is currently an almost unprecedented building boom in the City.²¹ One hundred and forty buildings around the City, including 26 high-rises, currently are adding 4,000 housing units and 1.5 million square feet of office space. Huge projects are underway, such as the new Transbay Terminal, the Mission Bay development, and new hospital buildings. Developers have applied to construct another 40,000 housing units over the coming years. After many projects were shelved during the recession, "shovel ready projects have been breaking ground virtually overnight."²²

A respected economist in the City told the Jury that, in 2012, building and remodeling activity contributed roughly \$5 billion to the San Francisco economy and generated over 14,000 construction jobs. In addition, almost 7,000 jobs for architects, engineers, and support industries were created.

However, the same economist stated that inefficiencies and service backlogs at DBI and the Planning Department which inhibit or delay housing and commercial construction cause an increase in building costs that ultimately drives up commercial and residential rents, making the City less competitive. According to the S.F. Controller's *Government Barometer Report*²³ issued in February of 2013, the percentage of all building permits involving new construction and major alterations that are approved or disapproved within 90 days of submission declined from 66 percent in the prior quarter to 55 percent, with a downward trend line over both the short- and long-term.

Our report keys off the excellent work done for the 2007 *Business Process Reengineering Report* (BPR),²⁴ which addresses DBI's weaknesses and need for a strategic plan, improved procedures, and better use of technology.

Many individuals we interviewed pointed out that the performance of the Department is improving and we hope, with this report, to contribute to that positive momentum.

Investigation

The Jury initiated this investigation because of complaints we heard about the Department of Building Inspection, as well as the Planning Department, from a number of sources. Building Inspection is perceived as taking too long to deliver services, being retaliatory, providing preferential treatment to certain users, being inconsistent in its interpretation of building and housing codes and being dysfunctional in general. There were some people who declined to be interviewed, expressing a fear of retaliation, even though Grand Jury interviews are confidential.

1. Departmental Reform

a. Management Challenges

Much of the perception about the Department of Building Inspection (DBI) is based on departmental inefficiencies and deficiencies that worsened during the recession when the Department laid off about 100 people, more than 25 percent of its work force, and there were delays in rehiring to meet the recent high demand for services.

Organizations with demands like those facing DBI require management that initiates and supports the development of business management plans and systems that enable the organization to be accountable for its mission. A previous Jury, the Controller, the San

Francisco Planning and Urban Research Association (SPUR), and the BPR report all have noted that DBI lacks a strategic plan which would set priorities, focus energy and resources, ensure that employees are working toward common goals, and adjust operations in response to a changing environment.²⁵

The DBI has had a revolving door of directors, with five in the past seven years and, as of our report, an acting director for a year. Such turnover in the director's position and the shuffling of managers, sometimes out of their area of expertise, has hampered the Department as it deals with a flood of work during this building boom.

b. Problems in Hiring

Permit and inspection fees declined swiftly in the most recent recession, reduced operating revenue and required DBI to dramatically reduce staffing levels to maintain a balanced operating budget. Construction activity in San Francisco rebounded after the recession, and DBI was unable to quickly replace staff who were laid off, due to the City's cumbersome hiring procedures and internal Department inefficiency in moving the process forward. The DBI had to analyze job content, update job descriptions, and develop a test for each job classification before recruiting could begin. These and other civil service procedures extended the hiring timeline to about one year. When we began our investigation, there were roughly 75 vacant positions. Although many of them have been filled, the Department remains understaffed for the current workload.

DBI estimates that it will have a \$37 million, four-year department operating surplus at the end of the current fiscal year. A study prepared by the Controller recommends that DBI maintain a \$17 million operating reserve to support an orderly staff level transition when the current building boom ends.

c. Lack of Current Policies and Procedures

The Jury requested and reviewed the Department's policies and procedures manuals, which are a basic tool of any agency and especially important in a regulated, technical field. The policies and procedures documents provided to us were frequently outdated, with some from the late 1980s, most from the 1990s, and a few updates through 2007. We understand that these aging manuals were not widely distributed and used. Some are available as online resources within DBI, and a few can be found online by the public.

d. Training

After a significant number of employees were laid off during the economic downturn, the Department was short of funds and there was some justification to consider training as a secondary need. Current management is trying to emphasize training more than in the past.

Training needs identified but not yet fully implemented include:

- technical training – from inside and outside sources
- functional training across City departments and DBI divisions
- California Building Code training
- instruction in DBI policies and procedures
- leadership and change management training for supervisors and managers
- training in organizational values
- technology training for employees in preparation for a new document management and tracking system, as well as in use of mobile devices that eventually will connect field personnel directly to DBI's database

2. Ethical Standards as an Ongoing Issue

Our investigation was not focused on finding specific instances of misconduct; we found no direct evidence that ethical violations at DBI are common. However, we were told that in the early months of 2013 an employee was investigated for improper ethical conduct and had resigned. In addition, a review of complaints made to a City agency revealed that periodic allegations of ethical misconduct continue.

a. Reducing Potential Favoritism in Plan Check

A 2007 redesign of the permitting process reduced opportunities for obtaining and giving preferential treatment in the plan check area of DBI. A one-stop Plan Check, located on the fifth floor of DBI headquarters, and Plan Review, located on the second floor, both use supervisor oversight and clipboard signup to ensure that plan checkers are assigned in order of availability, not according to customer preference.

Nevertheless, individuals we interviewed expressed concern that some customers might still be receiving preferential treatment, perhaps because of political pressure asserted by powerful building interests.

That concern may be warranted. Many applicants retain permit expeditors to move their plans through the application and approval process, and these expeditors frequently establish relationships with the plan checkers. This has long been a concern of DBI critics and some members of the Board of Supervisors. At the time of this report, the Board is considering whether expeditors should be required to register as lobbyists with the Ethics Commission and disclose the names of their clients.²⁶

Despite the supervised assignment of customers to plan checkers, the work schedules of the checkers are posted, and we heard from DBI staff that some customers might come to DBI on a certain day and let another customer move ahead of them in the line in order to work with a particular employee. This may occur even without the knowledge or involvement of the employee.²⁷ DBI officials have told BIC that they are “considering doing spreadsheets for the [sign-in] clipboards and copying them every evening, and putting them into the system so staff will know if there is inappropriate contact between a

plan checker and a certain expediter.”²⁸ The Jury found that this type of system has not been implemented.

b. Ensuring Ethics Compliance

The Jury asked DBI management personnel about efforts to maintain a strong ethical environment. They told us that ethical conduct is a priority; every employee knows that customers must be treated equally and violations will not be tolerated. The DBI customers we interviewed believe that the vast majority of DBI employees adhere to strong ethical standards. But those who want to bend or break the rules are still in a position to grant preferential treatment to favored customers.

As in Plan Check, DBI management has not developed a system to identify inspectors who may be misusing their positions. Inspectors have considerable latitude in scheduling and conducting inspections. They are assigned to geographic territories but have the autonomy to venture outside their territory. Inspectors potentially can approve work outside their assigned areas, a practice that, according to one previous employee, has occurred and resulted in special treatment for select customers. As in Plan Check, DBI has no control mechanism in place to find out if this is occurring.

c. Assessing the Ethical Culture

The DBI has enhanced its ethics regulations and changed its operations to deter favoritism. We interviewed officials who were committed to taking all necessary steps to ensure fairness. The public perception, however, continues to be that DBI does not treat all customers equally, and DBI does not have systems to identify cases of favoritism.

A government official interviewed by the Jury noted that ethical climate surveys are a valuable tool for managers of large organizations. The Jury reviewed two of these surveys²⁹ at other organizations to determine whether this approach might offer some benefit to DBI. The surveys usually are anonymous and ask employees to respond, for example, on their level of comfort for reporting ethical concerns; whether they have witnessed ethical violations; their awareness of the organization’s ethical practices, policies and procedures; and their understanding of where to turn for advice about ethics. This type of survey could provide DBI leadership with a solid basis for directing management’s attention where it is needed, and could help DBI address the public’s skepticism regarding its ethics.

3. Code Enforcement Practices and Priorities

The Jury became aware of code enforcement problems within DBI after talking to City officials and interested citizens, reviewing complaints, and attending and reviewing the minutes of BIC meetings. We were told that DBI is ineffective in addressing blighted and abandoned properties and that it has a backlog of complaints. To assess the code enforcement process, the Jury conducted numerous interviews, reviewed the applicable

laws and procedures, and examined all DBI complaints received in FY 2008-09 and 2009-10 that resulted in the issuance of a NOV.

a. The Origination of Code Violation Cases

The DBI is responsible for the safety of all buildings in San Francisco. Building safety is achieved through the enforcement of San Francisco and California building, plumbing, electrical, mechanical, and housing codes. DBI is alerted to code violations through its own discovery during inspections and from complaints of alleged violations that are reported to the Department. DBI investigates all complaints and will issue a Notice of Violation (NOV) for code violations.

Property complaints are received by DBI through various channels: from housing residents, through the City's 311 hot line, through other City departments, via email, or through the DBI website. The recent change that allows citizens to anonymously file complaints on the DBI website has increased the number of complaints received.

The ease with which complaints can be filed is a positive factor in enforcing codes and protecting public safety. The resulting high volume of complaints has, however, presented DBI with an ongoing and, so far, unresolved problem: How to deal with complaints efficiently in a manner that will facilitate informed research and evaluation, eliminate complaints with no merit, consolidate duplicate complaints, schedule site inspections, and pursue code violations to a resolution. A new system that allows for online scheduling of field inspections and summarizes complaints by type and inspection district within the City has the potential to assist DBI in managing this process.

The DBI conducted 122,590 site inspections in FY 2010-11.

- Of these, 103,691 inspections were conducted by Building, Electrical, and Plumbing Inspection divisions. These inspections primarily are for new construction and residential housing complaints.
- Another 16,337 inspections were conducted by Housing Inspection Services (HIS), which is responsible for the 20,194 multi-unit buildings in San Francisco that have about 188,716 individual housing units.

Managing a large number of property-specific transactions efficiently without up-to-date information technology presents numerous challenges and limitations for DBI staff. At present, about 130 inspectors take clipboards into the field, fill out paper forms, and return to the office to hand off the forms to clerical employees who input the information into various DBI databases. The building inspectors are unable to access DBI code information and data records from the field, and the information in DBI databases may not be current due to data entry backlogs or may not be accurate due to data entry errors.

As part of the current implementation of a new Permit and Project Tracking System (PPTS), the Department is conducting pilot tests of handheld tablets and smart phones. If building inspectors implement mobile handheld devices they can access DBI records in the field and immediately update DBI databases with the results of their inspection. Data

transcription errors would be reduced and photos could be added to inspection records along with inspector notes.

b. Pursuing Resolution of Notices of Violation

The Jury investigated the code enforcement processes in use at DBI through interviews with staff. Once a complaint has been filed and/or a violation found, the resolution of complaints takes two distinct paths toward resolution, depending on whether it is handled by IIIS or by one of the other divisions: Building, Plumbing, Electrical, or Code Enforcement.

i. Housing Code Violations

The Housing Inspection Services (HIS) division of DBI commonly issues NOVs for violations in multi-unit residential housing and single room occupancy multi-tenant buildings (SROs). SROs are small single room living spaces that generally have shared bathrooms and no kitchens. NOVs are issued for problems like water leaks, pests, unstable decks, inadequate heating systems and dilapidated conditions. HIS handles housing code enforcement from start to finish.³⁰

- Violations are found during routine inspections or after complaints are investigated. A NOV is issued to the property owner, with a specified time frame for abatement (correction) of the violation. Assessment of enforcement costs is possible.
- If re-inspection reveals that the violation was not abated within the designated time or a property owner is unwilling to address a building code violation, a Director's Hearing can be ordered, at which a DBI hearing officer considers whether to issue a Director's Order of Abatement against the owner. This order notifies the property owner of code enforcement costs and provides a set time period for the owner to apply to DBI for permits, call for inspection, and complete all corrective work.
- If an Order of Abatement is issued, it either becomes final or it can be appealed to the Abatement Appeals Board (AAB), which consists of the seven members of BIC.³¹
- If upheld by AAB, uncorrected violations may be referred to the City Attorney's Office (CAO) after review and approval by the Litigation Committee, which consists of BIC and representatives from DBI and the City Attorney.
- In cases for which City Attorney action is not viable, HIS continues to post notices to the property owner, perform inspections, and update the enforcement costs for eventual recovery. These efforts are intended to pressure the property owner toward code compliance.
- When property owners are unresponsive to Orders of Abatement, DBI may eventually place a lien on a property.

ii. Building, Electrical, and Plumbing Code Violations

The Building, Electrical, and Plumbing Inspection divisions of DBI inspect for work performed without a building permit or exceeding the scope of a permit. Common code

violations addressed by these divisions are: additions of bathrooms, kitchens, and in-law units; abandoned and dilapidated buildings; leaking sewer lines; improper wiring that creates a fire hazard; and non-compliant water heaters.

The steps in the building codes enforcement process in these divisions are:

- After inspection and verification of a code violation, the inspector issues a first NOV with a specified time frame for obtaining permits and correcting the violation.
- After a re-inspection, if all items are not corrected, the inspector issues a second NOV that provides additional time for corrective action. (Re-inspection is scheduled at the discretion of the inspector.)
- When the second NOV does not achieve compliance, the matter is referred to the Code Enforcement Section (CES) of Inspection Services. The CES decides when to order a Director's Hearing and at that point the same steps are available as in housing inspection cases.

The CES can issue its own NOVs, as well, as in the case of a vacant building that is considered a nuisance. When a property owner is in violation of a number of different codes, there may be NOVs issued concurrently by any combination of the Housing, Building, Plumbing, and Electrical Inspection and Code Enforcement divisions.

iii. DBI Performance on Code Enforcement

The Jury attended a number of BIC meetings that included discussion of some 6,000 pending, unresolved NOVs. We performed a statistical analysis of all NOVs issued by DBI over a two-year period. The goal of the analysis was to calculate the number of NOVs issued by each DBI division and the amount of time required by each division to resolve a NOV. The DBI gave the Jury a spreadsheet download of the 8,875 NOV records for FY 2008-09 and FY 2009-10, providing a data snapshot of the status of those NOVs as of April 30, 2013.

During the two reported time periods:

- The DBI issued 8,875 NOVs. Of these, HIS issued 5,992 (68 percent) and 527 (nine percent) remain open.
- The DBI conducted 766 Director's Hearings for all divisions. HIS initiated 634 (83 percent) of these. After going to Director's Hearings, 238 (38 percent) of HIS NOVs remain open. Thus, the Director's Hearing process is 62 percent effective in abating or closing out HIS NOVs.
- The Building, Electrical, and Plumbing Code Enforcement divisions issued 2,848 (32 percent) of the DBI NOVs. The Building Inspection Division accounts for 70 percent. Eighteen percent remained open as of May 2013. This is twice the rate of open NOVs in HIS.

The Building Inspection Division, Electrical Inspection Division, and Plumbing Inspection Division refer five percent of their open NOV's to a Director's Hearing. This is less than half the rate of HIS referrals for hearings. Of those referred to a hearing, 468 or 61 percent were abated or closed. For 2009 and 2010, 298 or 39 percent of NOV's that went to a hearing remained open as of April 29, 2013.

iv. Assessed Costs Against NOV's Remaining Open

The costs that DBI assesses for NOV enforcement include staff time for monthly violation monitoring, case inquiries, case management, permit history research, notice/hearing preparation, inspections, staff appearances/reports at hearings, and case referrals.³² In FY 2009-10, HIS issued twice as many NOV's as the Building, Electrical, and Plumbing Inspection divisions and assessed more than eight times the amount of costs. According to DBI's data, HIS assessed \$335,016 while the other divisions combined assessed \$40,900:

	2009	2010	Total
HIS	\$212,105	\$ 122,911	\$335,016
All other Divisions	\$ 16,418	\$ 24,482	\$ 40,900
Total	\$228,523	\$ 147,393	\$375,916
HIS % of total	93%	83%	89%

v. City Attorney Actions

When action by the inspection services divisions does not correct violations, the case may ultimately be referred to CAO, which can employ an arsenal of building code provisions and state statutes in order to compel compliance with the applicable codes.

Cases are presented to CAO during bimonthly meetings of the Litigation Committee of BIC. As of the date of our report, CAO was handling 84 active cases referred by DBI. These are the numbers of referred cases for each DBI division over the last three years:

Fiscal Year	HIS Referrals to CAO	CED Referrals to CAO
2010-2011	14	5
2011-2012	14	11
2012 through March 2013	9	4
Totals	37	20

Depending on the circumstances, CAO may seek injunctive relief, penalties, attorney fees and costs, recovering and reimbursing the DBI for its attorney fees, litigation costs, and civil penalties imposed.³³

vi. The Accumulation of Open Violations

In the process of examining NOVs issued in 2009 and 2010, the Jury observed that about 4,400 NOVs were issued in a single year by DBI. About 56 percent of the NOVs were closed out in the year they were issued and another 22 percent were closed out in the following year. About 78 percent of NOVs are closed out in the first two years and about 11 percent of the NOVs are never closed out. The DBI is making an effort to reverse this trend, and their annual reports reveal a net decrease in open NOVs from 2011 to 2012.³⁴

Ten years of the NOV issuance and closure cycle, explained in the above paragraph, has led to an estimated 6,000 open NOVs. Some of the factors that have contributed to the large number are:

- reductions in the number of building inspectors
- a code enforcement process that is poorly documented and inconsistently enforced
- information technology systems that are not capable of managing the large numbers of building code inspections that lead to NOVs
- DBI's belief that only half of every dollar spent on building code enforcement is recovered
- in some cases, the financial circumstances of the violator

Although members of the public affected by unsafe, blighted, and abandoned properties are frequent speakers at BIC hearings,³⁵ open building code violations are not apparent to residents unless they have a blighted or abandoned building in their neighborhood or they see a media story about an extreme case. Open code violations are a much more immediate problem for the estimated 30,000 low-income residents of San Francisco who reside in more than 500 SRO residential hotels. Unfortunately, those who are most vulnerable are often subject to prolonged delays in code enforcement.

Located in the Tenderloin, 308 Turk Street is a two-story building with a restaurant on the first floor. Tenants have complained about lack of heat, lack of security, mold, leaking pipes, broken windows, and rodent infested rooms. As of April 9, 2013, the date of a *San Francisco Chronicle* story, there were more than 38 active NOVs issued by DBI on 308 Turk Street.³⁶ A Director's Hearing has been held several times by DBI regarding the property. The most recent was January 10, 2013, and an order requiring that violations be corrected within seven days was issued. The case was referred to the Litigation Committee on January 15, 2013, and the case was sent to the City Attorney for civil action.

The BIC requests that DBI provide regular updates on the status of open NOVs.³⁷ DBI managers have increased their efforts to clean up the data and bring long-standing problems to closure; however, lengthy delays continue. As a result of frustration with the current level of code enforcement, a multi-department code enforcement task force has been established by the City to address the most serious open NOVs. Task force participants include DBI, CAO, the police, fire, public health, and public works departments, and some Board of Supervisor offices. While the approach is commendable and the results are good, the task force process is very labor intensive, and the Jury found

that it was only addressing about two percent of the 940 open FY 2008-09 and 2009-10 NOVs. The DBI code enforcement process should be amended to allow for a speedy and fair enforcement process.

vii. The Current Processes Delay Resolution

The current processes are rife with opportunities for delay, and DBI gives property owners leeway as long as they believe the owner ultimately will abate the violation. This allows savvy owners to “game” the system in order to delay repairing their property. To abate a NOV, a property owner must obtain permits and have work done in accordance with the applicable codes and confirmed by a final inspection. DBI officials recognize that owners need reasonable time to correct violations and the process may require months if Planning Department approval is needed. The expressed strategy of DBI managers is to issue a graduated series of penalty notices that will, over time, compel owners to remove code violations and settle any penalties. We found that inspectors, hearing officials, and the Appeals Abatement Board (AAB) tolerate excessive delays.

Inspectors do not schedule a Director’s Hearing until they have given the owner sufficient time. However, in non-housing-related cases there are no set time frames and little apparent tracking. Our review of NOV records revealed that many months often pass between a NOV, a re-inspection, and the issuance of a second NOV. It is not until the second NOV remains unabated that a Director’s Hearing is scheduled.

Before or at the Director’s Hearing, an owner is often given even more time, which puts resolution off beyond the 30-day limit for continuances.³⁸ Even after the Hearing Officer issues an Abatement Order and provides a set time for compliance, this order may remain open for months or years. When an owner appeals the order, the process may stall again at AAB. It is common for a property owner to request and receive continuances “for good cause shown” beyond the 60-day maximum.³⁹ Finally, when a matter has been decided by AAB and is ripe for referral to the City Attorney, it must be approved by the Litigation Committee, which meets only every other month.

All the while, DBI costs accumulate. It appears that the accrual of costs and fees for re-inspection, monthly monitoring, hearings, and lien recording are not adequate incentive for compliance in all cases.⁴⁰ Indeed, some of these fees may be waived by officials at any stage. In permit violation matters, DBI officials do not routinely seek the multiple penalties to which they are entitled (two times permit cost for work exceeding permit, nine times for work without a permit).⁴¹ Stiff penalties are not assessed until the City Attorney is involved.

c. The Potential of an Improved Code Enforcement Process

i. Enhancing Code Enforcement Revenue

The Board of Supervisors and the Mayor have repeatedly enacted ordinances for fees and other revenue to ensure funding for DBI’s housing and code enforcement efforts. There are annual hotel license and apartment house fees, one- and two-story housing fees, and a host of inspection fees and penalties.⁴² In 2010, the Board transferred \$738,240 from the

defunct Code Enforcement and Rehabilitation Fund to DBI “to support code enforcement activities.”⁴³

Of particular note is a monthly “violation monitoring fee” for verified NOV’s enacted in July of 2010.⁴⁴ NOV’s issued after the ordinance adoption are subject to this fee – currently \$52 per month - if violation abatement is not achieved 30 days beyond the first compliance date. While HIS routinely assesses and collects these fees, the other divisions have not yet done so, almost three years after they were supposed to be instituted. The Jury was told that they now intend to start. The Jury estimates the amount of revenue lost to DBI from this non-collection to be about \$900,000 (see Appendix).

During the three fiscal years 2011, 2012, and 2013 through March, CAO recovered and reimbursed \$5.56 million in proceeds to DBI. The CAO billed DBI for a total of \$2.87 million for all CAO code enforcement activity on DBI’s behalf during this period.⁴⁵ The net proceeds to DBI for this period are \$2.69 million.

The current DBI tracking system does not support automated billing and reporting of code violation assessments. Automating the billing process will increase the number of assessments billed and provide reporting on waived assessments. Better data will allow DBI to identify compliance costs that exceed current assessed costs and adjust individual cost assessments to recover actual costs incurred.

ii. Other Enforcement Options

NOV administrative procedures provide for due process, are ultimately effective in most cases, and are relatively informal. They do not necessarily involve the expense of legal representation. Hearing officers are DBI employees who also perform other duties, and BIC commissioners are not compensated for service on the Abatement Appeals Board. Nevertheless, for a significant number of NOV’s the process works only after years of enforcement efforts when the City Attorney becomes involved with the authority to seek injunctive relief and substantial penalties, e.g., \$1,000 per day.

As the Board of Supervisors and the Mayor have consistently affirmed their desire for stronger code enforcement, they could consider strengthening DBI’s code enforcement processes. For example, a more formal hearing process with an administrative law judge and prescribed procedures (including the right to cross-examination) could provide a level of due process and create a record that would support the assessment of higher administrative penalties than currently are authorized. Or a mediation process could be developed to facilitate agreed-to solutions.

To address NOV’s that are longstanding due to the poor finances of an owner, DBI should re-visit its reluctance to use its Repair and Demolition Fund, which may be used to fund demolition and repair of buildings that are subject to emergency orders.⁴⁶ DBI officials have told BIC that they are reluctant to use the fund because it is hard to find contractors (sometimes they use the Department of Public Works instead) and it might take DBI longer to do the job than it would take the owner.⁴⁷ Yet in some cases it might be the only way to accomplish the Department’s safety goals. The Jury notes that the Controller

recommended in his recent reserve study that DBI transfer \$1.5 million to this fund to enable demolition of properties approved for such action. The controller further recommends that DBI make a one-time grant to the Mayor's Office of Housing to fund loans for repairs for low-income owners.⁴⁸ Either or both of these actions would give DBI a way to resolve some of its longstanding NOV's.

Past code enforcement procedure has resulted in a backlog of violations and in the loss of revenue to DBI while allowing owners to avoid and delay corrective action. The code enforcement process can be streamlined to achieve the earliest possible resolution and the full revenue potential of the process. In addition, new reporting can be developed that will provide management with full visibility of code enforcement workflow issues and concentrate staff efforts in resolving them.

4. The Role of Technology in Implementing Change

a. Business Process Reengineering

Business Process Reengineering (BPR) is a management strategy that focuses on the analysis and redesign of workflows and processes with the goal of improving customer service and reducing organizational costs. The design and implementation of the one-stop permitting center on the fifth floor of the DBI building is a good example of business process reengineering. Locating DBI and planning, fire, and public works employees in a single location expedites the issuance of building permits for most residential construction projects.

In 2007, nearly 200 individuals participated in a four-month BPR study of DBI. Four subcommittees examined specific areas within the Planning Department and DBI divisions and contributed their findings for the report. The subcommittee chairs were experts in their disciplines and represented specific groups of DBI customers. The four subcommittees and affiliations of chairs were:

- Plan Review and Issuance -- American Institute of Architects
- Inspection -- Residential Builders Association
- Automation -- A. R. Sanchez-Corea & Associates
- Performance Measures -- San Francisco Planning +Urban Research Association (SPUR)

At the conclusion of the study, a 225-page report including some 180 recommendations was issued. The Jury found the BPR report to be a very comprehensive and professional document. In almost 50 interviews conducted by the Jury, nearly all of the BPR findings were confirmed by DBI customers or employees. However, the majority of the recommendations in the BPR document have not been fully implemented. Some of the recommendations cannot be implemented using the current information technology at DBI.

The BPR recommendations were intended to:

- bring visibility and efficiency to the permit review and inspection processes
- make departmental processes more accessible to both internal City departments and external customers
- improve the accuracy and consistency of data collected
- implement internet-based online services
- establish systems to enable ongoing improvement of data communication to internal and external customers

The BPR Automation Subcommittee findings include the following:

- The databases of the agencies involved in permit reviews and inspections are not linked.
- The current Permit and Project Tracking System (PPTS) does not record which DBI employee approved a permit or allow DBI employees to put a permit application on hold.
- The current PPTS is unable to provide accurate information showing the online real-time status of any project, including which staff person within a specific agency is currently reviewing the project.
- There is too much reliance on paper forms, permits, etc.
- There is a need to implement online plan review and expand the limited online permitting process.
- Field inspection information must be manually transferred to the administrative office for data entry.

The Automation Subcommittee also developed specific recommendations to improve the department's ability to fulfill its mission:

1. Develop a citywide automated permit tracking system to track the entire development, review, permitting, and inspection process.
2. Integrate the databases of all departments involved in the permit review and inspection.
3. Create a "smart" permit numbering system for simplified accurate tracking of projects.
4. Provide updated online services covering all pertinent information for any property, its permit history, construction type, complaints, violations, conditions, and approval, etc.
5. Expand the availability, use, and scope of online permits.
6. Provide field staff with mobile devices capable of receiving, transmitting, and updating information between the field and office database.
7. Pilot electronic plan submittal and plan review.

The Jury believes that it is important to update the key findings and recommendations of each of the four BPR subcommittees to provide BIC and the DBI Director with a current assessment of the Department as part of a strategic planning process. We reviewed a status update of the BPR recommendations prepared by the senior management of DBI in February 2013 and found that many of the BPR findings were not fully implemented five years after the completion of the study.

b. New Technology

In 2010, DBI and the Planning Department issued a request for proposal (RFP) for a single software solution that would replace the aging DBI Permit Tracking System and upgrade the management and automation of the permitting and planning processes. The DBI and the Planning Department evaluated the companies that responded to the RFP. The Accela system, used by over 150 municipalities, was selected.

The Jury observed a demonstration of the Accela system and was impressed with its capabilities. The Jury has concerns, however, about DBI's implementation of Accela. These concerns are:

- Many of the current DBI operating procedures lack specific due dates or follow up dates. If current business processes are not changed to include due dates, Accela will not be able to monitor overdue tasks.
- To compensate for the lack of detailed up-to-date operating procedures, DBI information technology staff and Accela consultants will need the full-time support of current DBI employees who are the "subject matter experts"(SMEs) on the operations within DBI. These employees will play a critical role in system acceptance testing prior to Accela going live. Making these SMEs available while there are many vacant staff positions in DBI and in the current building environment will be an operational challenge.
- By selecting Accela, DBI has acquired hardware and software that appears capable of supporting the system objectives outlined in the BPR study. The Jury learned that the objective of the initial installation of Accela is to replicate current DBI operational processes. Achieving the Accela goals enumerated below will require substantial additional DBI management and technology resources to methodically review and revise existing DBI operating procedures.

c. Goals for the Accela Permit and Project Tracking System

The Accela implementation project's objectives are straight out of the BPR study:

Business objectives:

- create consistent business practices throughout the City
- improve City business processes
- enhance the functionality of the Department
- increase reporting capabilities
- provide enhanced online access
- provide mobile devices for field inspection personnel

The Accela system features that would enable achievement of these objectives are:

- Web-based staff access to the system from any internet device
- a single website portal for citizen access to DBI information or to file a complaint
- user registration allowing the online submission of applications, tracking of projects and payment of fees
- sophisticated management reporting tools

New technology such as Accela, if properly configured, implemented and, most importantly, supported by DBI management, can address many of the Department's business process challenges. Current funding provides an opportunity for DBI to take full advantage of the potential of the system.

Findings and Recommendations

Departmental Reform

Finding 1:

The revolving door of DBI leadership has adversely affected the Department's ability to develop and execute a strategic plan and to implement the recommendations of the 2007 *Business Process Reengineering Report (BPR)*.

Recommendation 1.1:

The DBI management should retain a consultant to update the 2007 BPR findings and recommendations and present the findings to BIC and the DBI Director.

Recommendation 1.2:

The BIC and DBI Director should develop a detailed action plan with firm due dates for implementing BPR recommendations that the consultant identifies as not completed.

Finding 2:

DBI's policies and procedures manuals are not current. The lack of accessible, up-to-date department procedures inhibits the ability of the organization to train its employees and ensure consistent enforcement of departmental policies and procedures.

Recommendation 2.1:

The DBI management should update its departmental policies and procedures.

Recommendation 2.2:

The DBI should make all policies and procedures easily accessible online internally and, where appropriate, externally.

Finding 3:

The DBI does not have a multi-year employee training plan with annual training objectives.

Recommendation 3.1:

The DBI should assess staff needs for leadership and communication training and develop department plans to strengthen areas of weakness.

Recommendation 3.2:

The DBI should assess technical skill deficiencies in the DBI staff and develop training plans to strengthen these areas.

Recommendation 3.3: The DBI should cross-train specific staff members to allow the Department to better respond to fluctuating workloads.

Finding 4:

The DBI has put strong rules of ethical conduct in place and made operational changes to deter improper ethical conduct. Nevertheless, the public perception persists that some DBI customers receive preferential treatment.

Recommendation 4.1:

The DBI Director should conduct an ethical climate survey and use the results to identify areas where improved communication of ethical standards and monitoring of employee behavior are needed.

Finding 5:

Many issues that the Jury found would have been ameliorated by tighter and more active oversight by the Building Inspection Commission (BIC).

Recommendation 5.1:

The Board of Supervisors should hold a hearing within six months of the release of this report by the 2012-13 Jury to see if BIC has taken action on the issues raised.

Code Enforcement

Finding 6:

DBI's code enforcement policies and practices have resulted in a backlog of unresolved violations.

Recommendation 6.1:

The DBI should establish performance standards for resolving code violations within designated time frames (for example, closing 75 percent of Notices of Violation within six months and 95 percent within 12 months of when they are issued). The performance standards should be reviewed and approved by BIC in public session.

Recommendation 6.2:

The DBI should develop monthly management reports for BIC that monitor the Department's performance against BIC-approved performance standards for resolving building code violations.

Finding 7:

The DBI has been unable to achieve prompt abatement of a significant number of serious, continuing code violations in multi-unit housing and abandoned older buildings.

Recommendation 7.1:

The DBI should review and expand its criteria for using the Building Code's Demolition and Repair Fund to achieve actual abatement of unsafe building conditions.

Recommendation 7.2:

The Abatement Appeals Board should abide by the Building Code's limits on continuances during the Notice of Violation (NOV) process.

Recommendation 7.3:

The Board of Supervisors should review the administrative procedures in the Building Code and consider enacting a process that provides for stronger penalties at the administrative level.

Finding 8:

DBI's Building and Code Enforcement Sections have not consistently assessed and/or collected the fees, costs, and penalties available under the Building Code. This has deprived DBI of resources that could be devoted to further enforcement activities.

Recommendation 8.1:

All DBI enforcement units should use the monetary tools in the Building Code to encourage abatement and to fund enforcement operations.

Role of Technology

Finding 9:

Outdated and incomplete documentation and poorly defined business processes could compromise the implementation of the Accela software system.

Recommendation 9.1:

The DBI should ensure that management has clearly defined the business rules and workflow processes for the new Accela system.

Recommendation 9.2:

The DBI "subject matter experts" assigned to the Accela implementation team should be given adequate time to respond to consultant questions not addressed by department documentation and to fully assist in system acceptance testing prior to going live.

Finding 10:

Well-designed business processes supported with good information systems can improve the effectiveness of DBI.

Recommendation 10.1:

The DBI should conduct a methodical review of all major business processes to ensure that they are designed to achieve the department objectives and that they include time or due date criteria that can be monitored by information systems.

Finding 11:

Use of handheld devices interfacing directly with Accela would free inspectors from filling out paper forms, eliminate office data entry of paper forms, and collect more useful, accurate and timely data from the inspection process.

Recommendation 11.1:

The DBI should ensure that all field inspectors and supervisors are fully trained and supported in both the use of the mobile equipment and the mobile Accela application being implemented as part of the Permit and Project Tracking System.

Response Matrix

Findings	Recommendations	Responses Required
<p>1. The revolving door of DBI leadership has adversely affected the Department's ability to develop and execute a strategic plan and to implement the recommendations of the 2007 <i>Business Process Reengineering Report</i> (BPR).</p>	<p>1.1 The DBI management should retain a consultant to update the 2007 BPR findings and recommendations and present the findings to BIC and the DBI Director.</p> <p>1.2 The BIC and DBI Director should develop a detailed action plan with firm due dates for implementing BPR report recommendations that the consultant identifies as not completed.</p>	<p>Pres., Building Inspection Commission</p> <p>Board of Supervisors</p>
<p>2. DBI's policies and procedures manuals are not current. The lack of accessible, up-to-date department procedures inhibits the ability of the organization to train its employees and ensure consistent enforcement of department policies and procedures.</p>	<p>2.1 The DBI management should update departmental policies and procedures.</p> <p>2.2 The DBI should make all policies and procedures easily accessible online internally and, where appropriate, externally.</p>	<p>Pres., Building Inspection Commission</p> <p>Dir., Department of Building Inspection</p>
<p>3. The DBI does not have a multi-year employee training plan with annual training objectives.</p>	<p>3.1 The DBI should assess staff needs for leadership and communication training and develop department plans to strengthen areas of weakness.</p> <p>3.2 The DBI should assess technical skill deficiencies in the DBI staff and develop training plans to strengthen these areas.</p> <p>3.3. DBI should cross-train specific staff members to allow the Department to better respond to fluctuating workloads.</p>	<p>Dir., Department of Building Inspection</p>

Findings	Recommendations	Responses Required
<p>4. The DBI has put strong rules of ethical conduct in place and made operational changes to deter improper ethical conduct. Nevertheless, the public perception persists that some DBI customers receive preferential treatment.</p>	<p>4.1 The DBI Director should conduct an ethical climate survey and use the results to identify areas where improved communication of ethical standards and monitoring of employee behavior are needed.</p>	<p>Dir., Department of Building Inspection</p>
<p>5. Many issues that the Jury found would have been ameliorated by tighter and more active oversight by the Building Inspection Commission (BIC).</p>	<p>5.1 The Board of Supervisors should hold a hearing within six months of the release of this report by the 2012-13 Jury to see if BIC has taken action on the issues raised.</p>	<p>Board of Supervisors</p>
<p>6. DBI's code enforcement policies and practices have resulted in a backlog of unresolved violations.</p>	<p>6.1 The DBI should establish performance standards for resolving code violations within designated time frames (for example, closing 75 percent of Notices of Violation within six months and 95 percent within 12 months of when they are issued). The performance standards should be reviewed and approved by BIC in public session.</p> <p>6.2 The DBI should develop monthly management reports for BIC that monitor the Department's performance against BIC-approved performance standards for resolving building code violations.</p>	<p>Pres., Building Inspection Commission Dir., Department of Building Inspection Board of Supervisors</p>

Findings	Recommendations	Responses Required
<p>7. The DBI has been unable to achieve prompt abatement of a significant number of serious, continuing code violations in multi-unit housing and abandoned older buildings.</p>	<p>7.1 The DBI should review and expand its criteria for using the Building Code's Demolition and Repair Fund to achieve actual abatement of unsafe building conditions.</p> <p>7.2 The Abatement Appeals Board should abide by the Building Code's limits on continuances during the NOV process.</p> <p>7.3 The Board of Supervisors should review the administrative procedures in the Building Code and consider enacting a process that provides for stronger penalties at the administrative level.</p>	<p>Dir., Department of Building Inspection</p>
<p>8. DBI's Building and Code Enforcement Sections have not consistently assessed and/or collected the fees, costs, and penalties available under the Building Code. This has deprived DBI of resources that could be devoted to further enforcement activities.</p>	<p>8.1 All DBI enforcement units should use the monetary tools in the Building Code to encourage abatement and to fund enforcement operations.</p>	<p>Pres., Building Inspection Commission</p> <p>Dir., Department of Building Inspection</p>
<p>9. Outdated and incomplete documentation and poorly defined business processes could compromise the implementation of the Accela software system.</p>	<p>9.1 The DBI should ensure that management has clearly defined the business rules and workflow processes for the new Accela system.</p> <p>9.2 The DBI "subject matter experts" assigned to the Accela implementation team should be given adequate time to respond to consultant questions not addressed by department documentation and to fully assist in system acceptance testing prior to going live.</p>	<p>Pres., Building Inspection Commission</p> <p>Dir., Department of Building Inspection</p>

Findings	Recommendations	Responses Required
<p>10. Well-designed business processes supported with good information systems can improve the effectiveness of DBI.</p>	<p>10.1 The DBI should conduct a methodical review of all major business processes to ensure that they are designed to achieve the department objectives and that they include time or due date criteria that can be monitored by information systems.</p>	<p>Pres., Building Inspection Commission Dir., Department of Building Inspection</p>
<p>11. Use of handheld devices interfacing directly with Accela would free inspectors from filling out paper forms, eliminate office data entry of paper forms, and collect more useful, accurate and timely data from the inspection process.</p>	<p>11.1 The DBI should ensure that all field inspectors and supervisors are fully trained and supported in both the use of the mobile equipment and the mobile Accela application being implemented as part of the Permit and Project Tracking System.</p>	<p>Pres., Building Inspection Commission Dir., Department of Building Inspection</p>

Methodology

The 2012-13 Civil Grand Jury interviewed almost 50 people (several twice), attended public advisory committee meetings, Building Inspection Commission (BIC) meetings, Board of Appeal meetings, and the Accela Users meeting.

We reviewed

- Department of Building Inspection (DBI) budgets
- DBI annual reports
- DBI policies and procedures
- *2007 DBI Business Process Reengineering Report*
- 2013 DBI progress report on the BPR Report
- *February 2012 DBI Performance Report*
- 2011-2013 performance statistics from the plan check, inspections, and housing divisions
- a recent lawsuit filed against DBI
- the DBI Code of Professional Conduct
- the DBI Statement of Incompatible Activities
- Other ethics laws and regulations applying to DBI
- About 15 building permits and their supporting files
- BIC meeting minutes
- Abatement Appeals Board (AAB) minutes
- Various sections of the building and housing codes

The Jury interviewed current and former employees, officials at DBI, and customers who use its services to learn the status of the Department's ethics regulations and how its processes had been modified to address ethical problems.

We reviewed media accounts of some of the ethical lapses of particular DBI employees and read opinion pieces in blogs, trade newsletters, and websites where customers stated their candid accounts of navigating DBI's permit processing operation. The Jury obtained information from City departments/agencies that receive, track, and investigate allegations and complaints about ethical behavior and other negative activity and behavior in San Francisco government.

The Jury reviewed the complaint and permit information on a number of properties with a long-unresolved Notice of Violation. We attended or reviewed the minutes of a number of AAB hearings. We also discussed the NOV process with DBI staff, other City officials, and members of the community.

Glossary

AAB	Abatement Appeals Board
BBi	Bureau of Building Inspection
BIC	Building Inspection Commission
BPR	2007 Business Process Reengineering Report
CAO	City Attorney's Office
CES	Code Enforcement Section
CPC	DBI Code of Professional Conduct
DBI	Department of Building Inspection
FBI	Federal Bureau of Investigation
HIS	Housing Inspection Services
NOV	Notice of Violation
PPTS	Permit and Project Tracking System
RFP	Request for Proposals
SIA	DBI Statement of Incompatible Activities
SPUR	San Francisco Planning and Urban Research Association

Appendix

NOV fees not assessed by DBI

The Board of Supervisors approved a change in the fees for open or unresolved NOV's. As of August 1, 2010 DBI is allowed to charge \$52 per month for a verified NOV. The additional penalty was intended to provide property owners a financial incentive to close out the NOV and to provide DBI additional funding for building code enforcement.

The Jury found that the Housing Inspection Division of DBI was billing the additional \$52 per month, but the Code Enforcement Section was not billing the \$52 per month. The Jury estimated the revenue lost by the failure of the Code Enforcement Section to bill the \$52 per month to be about \$900,000.

Based on the Jury's statistical review of the NOV's issued in FY 2008-09 and FY 2009-10, the Jury observed that 32.5 percent of the issued NOV's went to Code Enforcement and that the three-year closure rate for all NOV's was 56.3 percent in the year the NOV was issued, 21.5 percent in the year after the NOV was issued, and 7.1 percent two years after the NOV was issued. These observations allowed the Jury to determine that:

- About 1,442 NOV's are sent to Code Enforcement each year.
- At year-end of each of the three years, 631 Code Enforcement NOV's (43.7 percent x 1,442) are open. On average 315 (50 percent) of the NOV's are open for a full year in the year of issuance.
- In each of the three years an NOV was issued, Code Enforcement lost \$196,560 (315 x \$52 x 12) by not billing the property owner. The three-year total is \$589,680. This amount excludes the second- and third-year billings for open NOV's.
- 320 NOV's were open for 12 months in the second year of issuance for the first two years. Failure to bill resulted in a loss of \$399,360 (320 x 2 x \$52 x 12).
- 218 NOV's were open for 12 months in the third year. Failure to bill resulted in a loss of \$136,032 (218 x \$52 x 12).
- The three-year or 36-month total of \$1,125,072 needs to be scaled back for the one month the program was not in effect and to allow a few months of program start up.
- The year-three revenue of \$532,272 is assumed to be for 12 full months. A very conservative assumption is to scale back the third full year by five months. \$221,780 is 5/12^{ths} of \$532,272.
- The 36-month computed amount of \$1,125,072 less five months (\$221,780) is \$903,292.

Endnotes

- ¹ Department of Building Inspection 2011-12 Annual Report, introductory page, <http://www.sfdbi.org/modules/showdocument.aspx?documentid=2445>
- ² Ibid, 46
- ³ Ibid, 49
- ⁴ Ibid, 55
- ⁵ San Francisco Voter Information Pamphlet, November 1994, pp. 107-124, http://sfpl.org/pdf/main/gic/elections/November8_1994short.pdf
- ⁶ Department of Building Inspection Program Directory, <http://www.sfdbi.org/modules/showdocument.aspx?documentid=172>
- ⁷ San Francisco Controller Audit 00009, June 11, 2001, pp. 16-17, <http://www.sfcontroller.org/ftp/uploadedfiles/controller/audits/dbi.pdf>
- ⁸ 2002-03 San Francisco Civil Grand Jury, "Preferential Treatment Persists in a Department Marked by Political Pressures and a Leadership Void: Civil Grand Jury Report on the Management of the Department of Building Inspection," June 2003
<http://www.sfcourts.org/Modules/ShowDocument.aspx?documentid=2247>
- ⁹ San Francisco Chronicle, July 2, 2003, "Ex-S.F. official to plead guilty/\$500,000 in kickbacks alleged," <http://www.sfgate.com/bayarea/article/Ex-S-F-official-to-plead-guilty-500-000-in-2605308.php#ixzz2VsJmhEI7>
- ¹⁰ Office of Mayor Newsom, press release, March 8, 2004, "Mayor Newsom Names Rudy Nothenberg as Special Monitor for the Department of Building Inspection," http://www.sfmayor.org/ftp/archive/209.126.225.7/archives/PressRoom_NewsReleases_2004_23396/index.html
- ¹¹ San Francisco Chronicle, August 5, 2005, "Permit official faces bribery charges / District attorney and FBI probe S.F. building department," <http://www.sfgate.com/news/article/Permit-official-faces-bribery-charges-District-2618578.php#ixzz2VsLwjGxy>
- ¹² San Francisco Chronicle, May 16, 2007, "Ex-building official acquitted on 4 counts," <http://www.sfgate.com/bayarea/article/SAN-FRANCISCO-Ex-building-official-acquitted-on-2560355.php#ixzz2VsNANwRz>
- ¹³ San Francisco Chronicle, August 22, 2006, "Property/purchase raises eyebrows/S.F. city inspector snaps up home cited in illegal remodel," <http://www.sfgate.com/politics/article/Property-purchase-raises-eyebrows-S-F-city-2513573.php>
- ¹⁴ San Francisco Controller Report, May 24, 2007, "Department of Building Inspection: Using Information Gained on the Job to Buy Property Was an Isolated Incident," http://www.sfcontroller.org/ftp/uploadedfiles/controller/reports/DBI_Property.pdf
- ¹⁵ San Francisco Chronicle, December 2, 2010, "Jimmy Jen codes case settled; S.F. gets \$486,000," <http://www.sfgate.com/default/article/Jimmy-Jen-codes-case-settled-S-F-gets-486-000-2455117.php>
- ¹⁶ San Francisco Municipal Campaign & Governmental Conduct Code ("C&GC Code"), Sec. 3.218, <http://www.sfethics.org/ethics/2011/01/san-francisco-campaign-and-governmental-conduct-code.html>
- ¹⁷ San Francisco Ethics Commission, Permit Processing Code of Conduct, January 10, 2005, <http://www.sfethics.org/ethics/2011/06/permit-processing-code-of-conduct.html>
- ¹⁸ San Francisco Department of Building Inspection, Statement of Incompatible Activities, http://www.sfdbi.org/ftp/uploadedfiles/dbi/About_Us/DBI-SIA.pdf
- ¹⁹ San Francisco Department of Building Inspection, Code of Professional Conduct, <http://www.sfdbi.org/Modules/ShowDocument.aspx?documentid=176>
- ²⁰ For example, it is unwritten but generally understood that if an employee needs work on his or her own home, s/he must channel the permit request through a supervisor.
- ²¹ The Urbanist, December 2012, Issue 519, "In San Francisco, the Boom is Back," <http://www.spur.org/publications/library/article/san-francisco-boom-back>
- ²² San Francisco Chronicle, May 5, 2013, "San Francisco's Building Boom Brings Change to the City," <http://www.sfchronicle.com/bayarea/article/SF-s-building-boom-brings-change-to-city-4469660.php>

²³ San Francisco Controller, Government Barometer, Fiscal Year 2013, Quarter 2, February 14, 2013, p. 4, <http://www.sfcontroller.org/Modules/ShowDocument.aspx?documentid=4007>

²⁴ 2007 Business Process Reengineering Report, <http://www.sfdbi.org/ftp/uploadedfiles/dbi/CCSFDBIBPRReportDec2007.pdf>

²⁵ 2002-03 San Francisco Civil Grand Jury, "Preferential Treatment Persists in a Department Marked by Political Pressures and a Leadership Void: Civil Grand Jury Report on the Management of the Department of Building Inspection," June 2003,

<http://www.sfcourts.org/Modules/ShowDocument.aspx?documentid=2247> ;

Controller's Reserves Analysis of DBI, April 9, 2013, <http://sfcontroller.org/Modules/ShowDocument.aspx?documentid=4183> ;

"Planning the City's Future," July 1, 2007,

http://www.spur.org/publications/library/report/Abs_planningthecitysfuture_090107

²⁶ San Francisco Board of Supervisors, File No. 130374, introduced April 23, 2013

²⁷ San Francisco Building Inspection Commission meetings, minutes for November 2012, p.10,

<http://www.sfdbi.org/Modules/ShowDocument.aspx?documentid=2604>

²⁸ *Ibid*, 12

²⁹ City of Oakland, Ethical Climate Survey, November 2012,

http://www.oaklandauditor.com/images/oakland/auditreports/ecs_2012_final.pdf ,

Geisinger Medical Center Ethical Climate Survey,

http://www.geisinger.org/professionals/services/bioethics/b_notes/survey/ec1n.pdf

³⁰ San Francisco Department of Building Inspection publication, "What You Should Know About the Housing Inspection Services Division,"

http://www.sfdbi.org/ftp/uploadedfiles/dbi/Key_Information/Housing%20Inspection%20Services%20Division.pdf

³¹ San Francisco Building Code, Sec.105.A.2.

³² San Francisco Building Code, Sec.103.A

³³ See, e.g., Complaint in CCSF et al. v. James P. Quinn et al.,

<http://www.sfcityattorney.org/Modules/ShowDocument.aspx?documentid=505>

³⁴ Department of Building Inspection, 2011-12 Annual Report, pp. 47, 49, 51, and 2010-11 Annual Report, pp. 38, 41, 52, <http://www.sfdbi.org/modules/showdocument.aspx?documentid=1521> . For 2011-12, reporting divisions show 190 opened NOVs and 3,433 closed. For 2010-11, 2,820 opened and 2,329 closed.

³⁵ See, e.g., Building Inspection Commission meetings, minutes for November 2011, March 2012, October 2012, January 2013 and February 2013,

³⁶ San Francisco Chronicle, April 9, 2013, "Subway's Pagoda Theater plan faces roadblock,"

<http://www.sfgate.com/bayarea/nevius/article/Subway-s-Pagoda-Theater-plan-faces-roadblock-4419385.php>

³⁷ See, e.g., Building Inspection Commission meetings, minutes for November 2011, March 2012, October 2012, January 2013, and February 2013, <http://sfdbi.org/index.aspx?page=183>

³⁸ San Francisco Building Code Section 102.A.5

³⁹ See San Francisco Building Code 105A.2.6

⁴⁰ See San Francisco Building Code 110A, Table 1A-K

⁴¹ *Ibid*

⁴² San Francisco Building Code Section 110A

⁴³ San Francisco Ordinance 129-10, enacted June 24, 2010,

<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances10/o0129-10.pdf>

⁴⁴ San Francisco Ordinance 180-10, enacted July 23, 2010,

<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances10/o0180-10.pdf>

⁴⁵ DBI, like all City agencies, is billed by the City Attorney for legal services.

⁴⁶ San Francisco Building Code 102A.12 through 102A.15

⁴⁷ For example, see Building Inspection Commission meetings, minutes of July 20, 2010 and June 15, 2011,

<http://sfdbi.org/modules/showdocument.aspx?documentid=1539> and

<http://www.sfdbi.org/modules/showdocument.aspx?documentid=1458>

⁴⁸ Controller's Reserves Analysis of DBI, April 9, 2013