Vérificateur général
de la Ville de Montréal

**Report of the Auditor General of the Ville de Montréal**
to the City Council and to the Urban Agglomeration Council

For the Year Ended December 31, 2013

5.7

# Food Inspection under the Agreement with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ) and Street Food Pilot Projects

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# List of Acronyms

| | |
|---|---|
| AGQ | auditor general of Québec |
| BNQ | Bureau de normalisation du Québec |
| DEPVI | Direction de l'évaluation de programmes et de la vérification interne |
| DET | Division de l'expertise technique |
| DGSAIA | Direction générale de la santé animale et de l'inspection des aliments |
| DIA | Division de l'inspection des aliments |
| LIMS | Laboratory Information Management System |
| MAPAQ | Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec |
| MFIS | Montréal food inspection system |
| MUC | Montréal Urban Community |
| PUAI | *Plan d'uniformisation des activités d'inspection* |
| QSFA | Québec Street Food Association |
| RBI | risk-based inspection |
| SITE | Service des infrastructures, du transport et de l'environnement |

# 5.7. Food Inspection under the Agreement with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ) and Street Food Pilot Projects

## 1. Introduction

In 1927, the Ville de Montréal (the city) adopted its first regulation regarding hygiene and food safety. At the time, the Island municipalities were responsible for a large share of the tasks related to food inspection. Two years after the creation of the Montréal Urban Community (MUC), in 1970, inspection-related responsibilities were transferred to the MUC, which was already in charge of developing regulations. In January 2002, the city took over from the MUC in the matter of food inspection on the territory of Montréal.

Concurrently, the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ), whose mission is to ensure public health protection, was developing province-wide control and monitoring activities related to food inspection. Through an agreement on the operation and funding of Montréal food inspection programs (agreement with the MAPAQ), it designated the city as an authorized agent with regard to food inspection on its territory, which today includes 19 boroughs and 14 related municipalities. This agreement also establishes the annual financial consideration to be paid by the MAPAQ. This consideration totalled $3,677,995 in 2010 and $4,177,995 in 2011 and 2012.

Essentially, this agreement establishes guidelines for the inspection of food establishments and the sampling carried out by inspectors, and authorizes the city to take legal action in case of violation of one of the provisions of Québec legislation.[1]

The Division de l'inspection des aliments (DIA), under the Service des infrastructures, du transport et de l'environnement's (SITE's) Direction de l'environnement, is mandated with inspecting food, with regard to health risks, and all activities related to the preparation, processing, conservation and handling of food in the agglomeration of Montréal. As part of this mandate, it is responsible for carrying out yearly food inspection programs as set out in the agreement with the MAPAQ. The task of analyzing the samples collected by the inspectors, however, falls to the city's Division de l'expertise technique (DET), which is also part of the SITE's Direction de l'environnement.

[1] *Food Products Act* and the regulations enacted pursuant to it.

The food sector, which counted over 15,300 active establishments in 2012, is strictly regulated with regard to hygiene and sanitation,[2] given the public health consequences that could result from deficiencies in this area.

To this end, in 2012 the DIA carried out 10,747 inspections, 6,835 of which were considered routine, handled 1,815 complaints, issued 2,239 notices of violation and conducted 49 investigations. Over this entire period, the DIA collected 3,707 samples to be analyzed by the DET.

In addition, in 2013, following a public consultation on street food, the Ville-Marie, Le Sud-Ouest and Rosemont–La Petite-Patrie borough councils authorized the operation of street food vehicles on their respective territories as a pilot project. To this end, the Ville-Marie borough issued 27 public area occupancy permits for the street food pilot project, Le Sud-Ouest borough delivered similar permits authorizing the sale of food as part of six public events held on its territory, and the Rosemont–La Petite-Patrie borough issued three permits as part of public events.

In the *Food Products Act*, street food vehicles are considered equivalent to restaurants and are subject to the DIA food inspection program. The DIA therefore incorporated inspections of these vehicles into its 2013 annual program.

## 2. Purpose and Scope of the Audit

Our audit consists of two parts: the first involves the food inspection programs under the agreement with the MAPAQ with regard to conventional active establishments, and the second deals with the street food pilot projects.

### Part 1

The purpose of this part was to ensure that the city has taken the necessary measures to implement the MAPAQ inspection programs, as set out in the agreement with the MAPAQ for the period from January 1, 2010, to December 31, 2012.

To this end, we examined all of the activities carried out to implement the food inspection programs in accordance with the agreement with the MAPAQ.

[2] In Québec, food establishments involved in production, processing, distribution, retail sales and restaurant activities are subject to the *Food Products Act.*

## Part 2

The purpose of this part was to ensure that the processes for issuing public area occupancy permits to operate street food vehicles as part of pilot projects on the territories of the designated boroughs comply with the laws and regulations in effect in those boroughs.

To this end, we looked at whether the permits issued as part of the pilot projects met the conditions and requirements related to obtaining a permit to operate a street food vehicle in the public domain set out in the normative framework (administrative framework) for the boroughs of Ville-Marie (10 occupancy permits for street food vehicles were selected), Le Sud-Ouest (2 occupancy permits for street food vehicles as part of public events) and Rosemont–La Petite-Patrie (2 occupancy permits for street food vehicles as part of public events).

We also examined, for these same boroughs, whether the street food vehicles had been inspected by the DIA in accordance with its food inspection program.

## 3. Summary of Findings

Our audit revealed some areas that require improvement. The following sections of this report discuss the shortcomings listed below.

For Part 1 – Food inspection programs under the agreement with the MAPAQ with regard to conventional active establishments:

- The job descriptions for two key positions in the DIA do not reflect the tasks and responsibilities currently assumed by the occupants of these positions and would need to be reviewed (Section 4.1).
- The DIA prepares a budget that is said to be [TRANSLATION] “balanced and aimed at revenue dependency,” which takes into account revenue generated by the fines, the amount of which cannot be predicted. It does not account for all the direct and indirect costs to support its inspection activities (Section 4.2.1).
- For the three years examined (2010–2012), the DIA showed positive wage gaps explained by the vacancy of a few positions as a result of leaves that were unplanned in certain cases, and planned in others (Section 4.2.2).
- In 2012, the DIA was behind in its inspections for 2,754 establishments (Section 4.3).
- The incomplete and inconsistent information coming from the boroughs and related municipalities causes delays in the updating of new establishments and those that are active in the food sector (Section 4.4.1).

- While the Montréal food inspection system (MFIS) has improved the work of inspectors since its implementation in November 2010, the DIA has not yet assessed the anticipated advantages since it was put in place (Section 4.5.1).
- The DIA has not produced reports demonstrating the actual achievement of the activities set out in the *Plan d'uniformisation des activités d'inspection* (inspection activity standardization plan) (PUAI) of the agreement with the MAPAQ (Section 4.6.1).
- Because communication between the MAPAQ and the DIA takes place mostly by phone and email, there is no structured documentation (minutes or reports) to confirm the communications and decisions made (Section 4.6.2).
- Statistical reports are submitted on a quarterly basis, while the agreement with the MAPAQ provides for reports to be produced monthly (Section 4.6.3).

For Part 2 – Street food pilot projects:

- Out of the 10 public area occupancy permits for street food vehicles handled and issued by the Ville-Marie borough that we examined as part of our audit, two vendors did not have the MAPAQ permit at the time of their application (Section 4.7.1.1).
- Despite a structured normative framework and selection process put in place by the Ville-Marie borough, there are weaknesses with regard to control over the types of food offered by street food vendors, who do not always stick to the menu for which their permit was issued (Section 4.7.1.1).
- Following a complaint, the DIA was unable to locate the street food vendor who served food without a permit during a public event authorized by a borough (Section 4.7.2).

## 4. Detailed Findings and Recommendations

By signing the agreement with the MAPAQ, the city is under contractual obligation to equip itself with the human, financial, material and technological resources necessary to fulfil the general and specific terms of the contract in a satisfactory manner. Therefore, to assess the organizational resources and tools of the DIA and the DET (test laboratory), certain documents were included in our audit, including:

- DIA job descriptions,
- DIA and DET budgets – laboratory portion,
- inspection records,
- business activities of the DIA for the years 2010 to 2012,
- Bureau de normalisation du Québec (BNQ) reports for the years 2010 to 2012,
- the DET quality management manual,
- statistical reports submitted to the MAPAQ.

## 4.1. Human Resources

### 4.1.A. Background and Findings

The mission of the DIA is to protect consumers by ensuring the safety and quality of food that is prepared, served and sold in food establishments of the restaurant, retail sales, processing, distribution and storage sectors. To fulfil this mission, the DIA has 44 employees, divided into eight positions, as shown in Table 1.

**Table 1 – Positions Within the DIA**

| Position | Number of employees |
|---|---|
| Division manager | 1 |
| Secretary | 1 |
| Supervisor | 3 |
| Scientific advisor | 2 |
| Liaison officer | 1 |
| Inspector | 34 |
| Office clerk | 1 |
| Communications officer | 1 |
| **Total** | **44** |

Source: SITE.

The two key types of positions at the DIA are scientific advisor and food inspector. The role of scientific advisors is to support the division managers to whom they report by providing expertise in the coordination and execution of the inspection programs. Their work consists mainly in developing and assessing scientific or technical programs, coordinating the execution of the work, ensuring its quality and evaluating staff training needs within the division. Scientific advisors may therefore be asked to review inspection work or make decisions related to tests conducted by the laboratory for the DIA.

The role of food inspectors is to carry out the inspection programs in accordance with the agreement with the MAPAQ. Among other things, inspectors must conduct inspection visits in food establishments, collect samples, record the data collected during the visits, fill out inspection reports and submit them to the designated persons. They must also carry out certain investigations into cases of food poisoning or complaints made to the DIA, and must testify before the various courts with regard to the results of inspections, visits or investigations.

In terms of education, scientific advisors must hold an undergraduate degree in a relevant field (e.g., nutrition, microbiology), while inspectors must have a college diploma with a relevant specialization.

Further to our analysis of the tasks accomplished by the holders of these two key positions, we find that the required qualifications established by the DIA meet the requirements set out by the MAPAQ.[3]

Descriptions exist for every type of position at the DIA; however, the last updates of the job descriptions for the positions of scientific advisor and inspector date back to January 21, 1999, and December 1, 1994, respectively. They do not fully reflect the tasks currently performed by the holders of these two positions.

Consequently, if it became necessary to post a job, the current job description would not be adequate since it does not reflect the tasks assigned. It should be reviewed to include the tasks related to the numerous computer tools used.

### 4.1.B. Recommendation

**We recommend that the Direction de l'environnement, together with the Service du capital humain et des communications, update the job descriptions for the positions of scientific advisor and food inspector so that these reflect the tasks performed and take into account the skills needed to use the required computer tools.**

**Business unit's response:**

*[TRANSLATION] The DIA has sent a request to the Service du capital humain et des communications asking it to review the job descriptions and propose an action plan in response to the recommendation of the Bureau du vérificateur général.* ***(Planned completion: March 2014)***

*Organize a meeting with those in charge of the file at the DIA and the advisors of the Service du capital humain et des communications to gather information on the roles and responsibilities assigned to the holders of the two positions referred to in the recommendation.* ***(Planned completion: March 2014)***

*Analyze the information collected from those in charge of the file at the DIA and make recommendations.* ***(Planned completion: April 2014)***

*Present recommendations to those in charge of the file at the DIA* ***(Planned completion: May 2014)***

[3] C.T.157050 of June 18, 1985 – Decision of the Conseil du Trésor regarding the classification of agricultural and food product inspectors (job group 230).

## 4.2. 2010–2012 Budget Estimates

### 4.2.1. Revenue Dependency

#### 4.2.1.A. Background and Findings

As the DIA reiterated in its statement of accounts, its objective in 2012 was to *[TRANSLATION] "manage in such a way as to ensure revenue dependency for all food inspection activities based on the revenue generated by the government's financial contribution and imposed fines."* The DIA therefore prepares an annual expenditure budget[4] based on the revenue coming from the agreement with the MAPAQ, to which it adds anticipated fines. Table 2 presents the DIA budget for 2010 to 2012.

**Table 2 – Budget for the Years 2010 to 2012**
***(in thousands of dollars)***

| | 2010 | | | 2011 | | | 2012 | | |
|---|---|---|---|---|---|---|---|---|---|
| | **Budgeted** | **Actual** | **Variance** | **Budgeted** | **Actual** | **Variance** | **Budgeted** | **Actual** | **Variance** |
| Revenue | | | | | | | | | |
| MAPAQ agreement | 3,678.00 | 3,678.00 | – | 4,178.00 | 4,178.00 | – | 4,178.00 | 4,178.00 | – |
| Imposed fines | 347.60 | 347.60 | | 334.80 | 339.12 | (4.32) | 399.80 | 401.75 | (1.95) |
| **Total revenue including fines** | **4,025.60** | **4,025.60** | **–** | **4,512.80** | **4,517.12** | **(4.32)** | **4,577.80** | **4,579.75** | **(1.95)** |
| Expenses | | | | | | | | | |
| Compensation | 3,829.50 | 3,417.50 | 412.00 | 3,898.00 | 3,388.60 | 509.40 | 4,066.60 | 3,388.70 | 677.90 |
| Goods and services | 388.30 | 365.70 | 22.60 | 416.70 | 394.80 | 21.90 | 415.80 | 378.60 | 37.20 |
| **Total expenses** | **4,217.80** | **3,783.20** | **434.60** | **4,314.70** | **3,783.40** | **531.30** | **4,482.40** | **3,767.30** | **715.10** |
| **Results including fines** | **(192.20)** | **242.40** | | **198.10** | **733.72** | | **95.40** | **812.45** | |
| **Results without fines** | **(539.80)** | **(105.20)** | | **(136.70)** | **394.60** | | **(304.40)** | **410.70** | |

Source: DIA.

As indicated in Table 2, fines are currently incorporated into the DIA's revenue; however, they are unpredictable and depend on a process that is not controlled by the DIA since they can be contested by offenders, making them an unpredictable source of revenue. Assuming that the method sought is that of revenue dependency or budgetary balance, the budget does not reflect this situation since there are variances between the amounts budgeted for total revenue and total expenses. As shown in Table 2, there are budget variances that translate into a deficit of $192,200 for 2010 and surpluses of $198,100 for 2011 and $95,400 for 2012 (amounts including fines). Moreover, these budget estimates do not take into account certain expenses incurred by the city, such as the costs to develop and finance the MFIS, valued at $2.75 million, building-related expenses (maintenance and security) as well as a portion of

[4] This budget includes the expenses related to the activities of the DET test laboratory.

the operating expenses of the city's other administrative bodies for support of this inspection activity at the DIA, such as the Direction de l'environnement and the municipal court. Therefore, when the DIA talks about revenue dependency, the revenue stemming from the agreement with the MAPAQ should cover all of the expenses related to it. However, the DIA has never determined the total amount of these expenses.

The data collected over the course of our audit also revealed that the DIA's actual revenue (excluding fines) exceeded actual expenses for 2011 and 2012 respectively by $394,600 and $410,700. These surpluses are mainly attributable to employee compensation (payroll, sick leave bank and benefits) and may be masking certain problems related to understaffing.

In our opinion, managing a balanced budget aimed at revenue dependency should, in the case of carrying out this agreement, be achieved without the contribution of revenue generated by the notices of violation that are issued annually and should also primarily take into account all the costs related to the food inspection program generated by the other administrative units in order to determine whether the financing granted by the MAPAQ is fair and equitable for the city.

### 4.2.1.B. Recommendation

**We recommend that the Direction de l'environnement, with a view to achieving a financial balance and revenue dependency for the food inspection program through the agreement with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec:**

- **establish all the direct and indirect costs that must be assumed by the city to carry out its inspection activities and determine whether these costs are covered by the agreement; and**
- **make the necessary representations when the time comes to renew the agreement.**

**Business unit's response:**

*[TRANSLATION] The DIA has asked the Service des finances to more clearly establish the direct and indirect costs that must be assumed by the city to carry out the activities of the DIA.* ***(Planned completion: March 2014)***

*The Service des finances will complete this analysis, establish the costs of the DIA activities and determine whether they are covered by the agreement with the MAPAQ.* ***(Planned completion: May 2014)***

*Based on this evaluation, the necessary representations will be made to the MAPAQ when it comes time to renew the agreement (2015–2017) in order to reflect these costs.* ***(Planned completion: September 2014)***

## 4.2.2. Compensation

### 4.2.2.A. Background and Findings

When the DIA prepares its annual budget, it estimates the compensation expense for the upcoming year. For the purposes of this audit, we analyzed the budgeted and actual compensations and broke them down into those for the DIA and those for the DET. Table 3 presents the compensations for each of the two administrative units.

**Table 3 – Breakdown of Compensation for the Years 2010 to 2012**
***(in thousands of dollars)***

| | 2010 | | | 2011 | | | 2012 | | |
|---|---|---|---|---|---|---|---|---|---|
| | **Budgeted** | **Actual** | **Variance** | **Budgeted** | **Actual** | **Variance** | **Budgeted** | **Actual** | **Variance** |
| Compensation | | | | | | | | | |
| DIA | 3,332.60 | 2,864.60 | 468.00 | 3,291.90 | 2,805.20 | 486.70 | 3,424.00 | 2,798.60 | 625.40 |
| DET (laboratory) | 496.90 | 552.90 | (56.00) | 606.10 | 583.40 | 22.70 | 642.60 | 590.10 | 52.50 |
| **Total** | **3,829.50** | **3,417.50** | **412.00** | **3,898.00** | **3,388.60** | **509.40** | **4,066.60** | **3,388.70** | **677.90** |

Source: DIA.

Table 3 highlights the variances between budgeted and actual compensations.

In comparing the compensation variance totals for the three years (2010, 2011 and 2012), we see that they are almost entirely attributable to DIA compensation.

Based on the information collected during our audit, we have concluded that the DIA does not make maximum use of the authorized items in its budget to fulfil its obligations related to the number of inspections required by the MAPAQ. This deficiency can be explained by the fact that there are vacant inspector positions. In 2012, the DIA was faced with a high level of staff movement resulting from a combination of planned and unexpected events (involving the inspectors), such as two maternity leaves, two resignations, a work injury, a promotion (an inspector became a supervisor) and an extended sick leave. Four new inspectors were hired during that same year.

Due to constraints related to hiring mentioned by the DIA (three-month training period and maximum of two new hires at a time), three positions were still vacant as of December 31, 2012. Moreover, given the specific requirements of its activities related to inspection work, the DIA uses very few external resources to meet its needs.

#### 4.2.2.B. Recommendation

**We recommend that the Direction de l'environnement fill the vacant positions as soon as possible and take all the necessary measures to mitigate unexpected vacancies within its resources during the year to be able to fulfil the initial obligations included in the agreement with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec.**

**Business unit's response:**

*[TRANSLATION] When a position becomes permanently vacant, as is currently the case, the DIA will ensure that this position is filled according to the time frames and rules set out in the respective collective agreements.* ***(Planned completion: February 2014)***

*When a position becomes temporarily vacant for an extended period (predictable time frame) for a reason such as maternity, paternity or sick leave, the DIA will make sure to fill this position temporarily as quickly as possible based on the time needed for the selection and staffing process.* ***(Planned completion: February 2014)***

*Where necessary, the DIA will authorize overtime to mitigate delays and fulfil the obligations of the agreement with the MAPAQ.* ***(Planned completion: February 2014)***

*The DIA will hold another competition when the eligibility list is exhausted.*

## 4.3. Annual Inspection Program

### 4.3.A. Background and Findings

The DIA uses the risk-based inspection (RBI) method. This approach is aimed at verifying basic food handling practices in establishments through the auditing of control points divided into five components, or the 5Ms[5]. For some establishments, the inspection also includes the determination of risk factors and sub-factors. Once these are determined, a "risk load" is calculated. The value obtained is used to classify food establishments based on the health risks they represent and determine the appropriate response. Table 4 shows the classification system.

[5] Inspection aimed at checking the 5Ms: matter (temperature, labelling, etc.), methods (defrosting, cleaning, heating, etc.), manpower (hand washing, dress code and employee qualifications), material (cleanliness and function) and milieu (or environment) (source and presence of contamination or contaminant).

**Table 4 – Classification of Establishments Based on Risk Load**

| Risk load | Risk load category | RBI frequency | Risk class | Risk level |
|---|---|---|---|---|
| 1,300 and over | High | 3 months | High | Higher |
| 600 to 1,299 | Medium-high | 6 months | | |
| 200 to 599 | Medium | 12 months | Medium | Lower |
| 100 to 199 | Medium-low | 36 months | Low | |
| 0 to 99 | Low | 36 months | | |

Establishments in the food sector are subject to various inspection programs, including an RBI program. Depending on the risks associated with the product types, manufacturing processes and clientele of each type of food establishment, various inspection programs may apply:

- Regular risk-based inspection program
- Regular risk-based inspection program at fixed intervals
- Inspection program following complaints or for sample collection
- Higher-level risk management program

The annual inspection plan established by the DIA therefore includes inspections that are appropriate to these types of programs.

As of January 4, 2013, there were 15,300 active food establishments, classified by DIA risk load category as presented in Table 5.

**Table 5 – Active Establishments Based on Risk Load Category**

| Risk load category and inspection frequency | RBI frequency | Active establishments | |
|---|---|---|---|
| | | Number | Percentage |
| High | 3 months | 658 | 4.3% |
| Medium-high | 6 months | 979 | 6.4% |
| Medium | 12 months | 4,284 | 28.0% |
| Medium-low | 36 months | 6,059 | 39.6% |
| Low | 36 months | 3,259 | 21.3% |
| Other[a] | N/A | 61 | 0.4% |
| **Total** | | **15,300** | **100.0%** |

[a] New establishments awaiting a visit.

Source: DIA.

During the year, inspectors conduct the inspections planned as part of the various programs and make daily updates according to inspection results. A “dynamic” classification is

performed as the results are entered in the computer system. This new classification allows the DIA to adjust the inspection plan according to the program and type of response required.

The classification system enables the DIA to determine which establishments are most at risk and to prioritize inspection activities. An establishment with a given risk level may, following an inspection planned according to its frequency or following a complaint, fall into the higher risk level and be subject to the higher risk management program, aimed at ensuring long-term correction of the sources of repeatedly observed deficiencies. For example, an establishment with a critical risk level is shut down for an appropriate number of days and major action is required on the part of the owner to correct the observed deficiency. Table 6 presents the classification overview for the 15,300 establishments that were active as of January 4, 2013, following inspections conducted according to the various inspection programs. Appendix 6.1 provides a detailed description of the determinants related to the various risk levels.

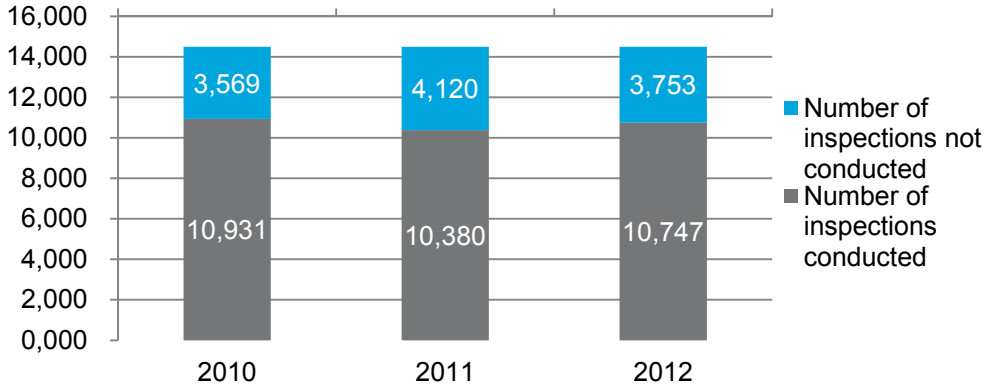
**Table 6 – Active Establishments According to Risk Level**

| Risk level | Active establishments | |
|---|---|---|
| | Number | Percentage |
| Normal | 10,580 | 69.1% |
| Acute | 1,346 | 8.8% |
| Controlled acute | 2,564 | 16.8% |
| Chronic | 385 | 2.5% |
| Controlled chronic | 390 | 2.6% |
| Critical | 35 | 0.2% |
| **Total** | **15,300** | **100.0%** |

Source: DIA.

According to the agreement with the MAPAQ, 14,500 inspections were to be conducted per year from 2010 to 2012. The numbers of inspections conducted per year for the years 2010 to 2012 were 10,931, 10,380 and 10,747, respectively. As illustrated in Figure 1, the number of inspections conducted was lower than the number of inspections planned.

**Figure 1 – Number of Inspections Planned and Conducted**




Source: 2012 review of the DIA.

Therefore, based on the number of inspections provided for in the agreement with the MAPAQ, the inspections not conducted in 2010, 2011 and 2012 amounted to 3,569, 4,120 and 3,753 respectively. In this regard, the DIA states that the annual goal of 14,500 inspections had been set based on 2008 and 2009 historical statistics, whereas the average length of an inspection went from 59 to 83 minutes between 2009 and 2012, following the introduction of new test parameters. Therefore, the negative variance had been anticipated and discussed among stakeholders at the city and the MAPAQ. The 2013–2014 agreement with the MAPAQ was adjusted to reflect this reality and the annual goal was set at 10,500 inspections.

Consequently, from 2010 to 2012, fewer food establishments were inspected compared with the number of annual inspections required in the agreement with the MAPAQ.

The MFIS used by the DIA is populated daily with new data affecting the risk levels of the establishments and therefore their response priority. According to the follow-up report on assignments produced on January 4, 2013, 2,754 food establishments were affected by inspection delays or were being processed. Of this number, 467 establishments, or 17% of the establishments affected by inspection delays, had a response priority[6] of 1 relative to the higher risk level; that is, they were high-risk establishments (delay greater than 30 days), medium-high risk (delay greater than 30 days) or new establishments in priority categories (delay greater than 180 days). Appendix 6.2 presents an RBI priority and proficiency follow-up management table.

[6] RBI priority management is based on establishment classification. There are nine RBI priorities. The objectives for 2012 were as follows: 1) proficiency follow-ups 2) response priority 1 establishments 3) response priority 3 establishments and 4) establishments whose inspection was delayed over a year.

**4.3.B. Recommendation**

**We recommend that the Direction de l'environnement ensure that inspection planning prioritizes establishments affected by inspection delays in order to meet the requirements of the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec regarding inspection frequency.**

**Business unit's response:**

*[TRANSLATION] An inspection delay management plan was created and submitted to the MAPAQ on August 30, 2013. This plan details the measures already in place as well as new measures established to ensure better inspection planning and give precedence to priority establishments and those for which inspections have been delayed. This plan was presented to all staff members on September 5, 2013. Since then, the DIA has been monitoring delay management through bi-weekly reports and monthly coordinating meetings.* ***(Completed)***

*The goal is to reduce delays by 50% in 2014 relative to 2013.* ***(Planned completion: December 2014)***

## 4.4. Inspection Planning and Follow-Up Processes

Several important processes are in place to support the activities of the DIA. These are presented in Table 7.

**Table 7 – Main Processes Within the DIA**

| Process | Frequency | Output |
|---|---|---|
| 1. Updating the list of establishments | Monthly | List of active food establishments (15,300 on January 4, 2013). |
| 2. Establishing analytical programming | Annual | Analytical programming (list of samples to be collected throughout the year). |
| 3. Establishing the inspection program | Annual | Inspection program (list of establishments that will be inspected, with the name of the inspectors assigned to the establishments). |
| 4. Monitoring the progress of the inspection program | Daily | Lists generated by the MFIS (list of inspected establishments, list of delayed establishments and list of proficiency follow-ups). |

Source: DIA.

## 4.4.1. Process 1 – Updating the List of Establishments

### 4.4.1.A. Background and Findings

The DIA has access to three sources of information for the monthly updating of the list of active food establishments on its territory:

- the lists of occupancy permits issued provided by all boroughs and related municipalities;
- the list of food permits issued provided by the MAPAQ (list of activated and deactivated permits); and
- information obtained daily by DIA inspectors. They can identify changes of which the DIA was not informed. They then send this new data to the person responsible for updating the list.

As we have just stated, the DIA receives monthly lists from the 19 boroughs and 14 related municipalities compiling all occupancy and use permits issued on which the nature of the establishments in question is indicated. These lists are used to identify new establishments related to the food sector that will have to be included in the inspection programs.

The information is often incomplete and the format of the lists differs between the boroughs and the related municipalities. Furthermore, these lists are generally not accompanied by a copy of the permit issued by the MAPAQ. This therefore creates a lot of extra work for the DIA to enter them into the MFIS. Additional research is required and updating delays ensue, especially given that for certain sectors, as is the case for the restaurant sector, the status of establishments (closing, opening and change in ownership) changes frequently.[7]

### 4.4.1.B. Recommendation

**We recommend that the Direction de l'environnement issue a directive to all the boroughs and all related municipalities stating the information that must be provided on the lists of food sector–related occupancy or use permits submitted to the Division de l'inspection des aliments, as well as their method of production, in order to facilitate the prompt entry of this data in the Montréal food inspection system and in turn reduce updating delays.**

**Business unit's response:**

> *[TRANSLATION] A registry in use since 2008 is filled out monthly to monitor the regularity of monthly transmissions of occupancy permits sent by the boroughs and related municipalities in accordance with a verbal agreement.*

[7] For example, according to current regulations, a restaurant that remains active with the same vocation but whose owner has changed following a sale or the dissociation of associates requires a new permit.

*A written note addressed to the boroughs and related municipalities will be drafted and sent to the individuals in charge of managing occupancy permits in each unit in order to formalize the process. Clear and precise rules on the type of data required, the sending method and the frequency will be reiterated.* ***(Planned completion: April 2014)***

## 4.4.2. Process 2 – Establishing Analytical Programming

### 4.4.2.A. Background and Findings

In the fall, scientific advisors begin the process of planning the programming for the following year. They assess the progress of the analytical programming for the current year, take account of changes in establishments' risk levels and determine the inspections to carry forward to the following year. In February, a scientific advisor attends the annual MAPAQ meeting, as provided for in the agreement with the MAPAQ, in order to align the needs of the DIA with those of the MAPAQ in terms of routine inspections, sectors to target specifically and new analyses to incorporate into the programming. Following the meeting, the programming is completed and submitted to the division manager for approval. An agreement is then concluded with the DET, which will be in charge of testing the collected samples. For example, for the 2011–2012 analytical programming, the DIA had estimated that there would be 1,752 samples to be analyzed by the DET laboratory.

**Conclusion**

**This process works well and enables the DIA to fulfil its contractual obligations set out in the agreement with the MAPAQ.**

## 4.4.3. Processes 3 and 4 – Establishing and Monitoring Inspection Programs

### 4.4.3.A. Background and Findings

Using the list of active establishments, scientific advisors ensure that all active establishments are entered in the MFIS. A priority level is automatically assigned to all establishments based on the information contained in the system, including their classification according the risk load category, which is essentially recorded by inspectors at the time of their visit. The MFIS automatically generates the list of inspections to be conducted, and as new information is entered, such as with regard to inspections completed or the receipt of new information (e.g., a complaint), the system allows for dynamic updating of this list, and the visit plan (inspections and specific responses) is adjusted accordingly. The MFIS is therefore dynamic, and it also allows for the planning of responses by inspectors.

**Conclusion**

**These processes work well and their effective use will allow the DIA to fulfil its contractual obligations set out in the agreement with the MAPAQ.**

## 4.5. Computer Applications

Two computer systems are used as part of the activities carried out by the DIA and the DET, in accordance with the agreement with the MAPAQ. These two systems are the MFIS and the Laboratory Information Management System (LIMS). The main role of the MFIS is to support inspection planning and management, while the LIMS supports the planning and follow-up of tests conducted by the DET laboratory. These two systems are equipped with an interface that allows them to communicate with each other, which facilitates the monitoring of activities since the tests are directly related to the inspection activities, and their results can affect establishments' risk levels, and therefore the frequency of inspections.

### 4.5.1. Montréal Food Inspection System

#### 4.5.1.A. Background and Findings

The MFIS was developed and implemented by the city pursuant to a recommendation of the auditor general of Québec (AGQ) made in its report for the year 2005–2006. It replaced the Dataflex application developed in 1992, which had become technologically obsolete owing to several crashes and errors.

According to the MFIS project closure report produced by the Service des technologies de l'information[8] for the DIA, the system was delivered and has been in operation since November 2010. The overall cost to develop it was $2,749,000.

In 2004, when development of the MFIS began, the opportunity study listed the anticipated quantitative benefits from implementation of the MFIS:

- recovery of approximately 900 hours annually (equivalent to $40,000 per year) lost by employees at the time due to Dataflex crashes,
- recovery of 90% of an office clerk's time (equivalent to $48,000 per year) that was put towards entering information collated by inspectors on the various reports,
- increased inspection productivity, equivalent to four inspector positions (or $277,000 per year),

[8] At the time the Direction des systèmes d'information.

- annual and recurrent savings of approximately $8,000 in the supply of various forms used for inspections.

When the closure report was tabled on June 20, 2011, after eight months of the MFIS being in operation, the DIA did not have enough data and information to evaluate either the quantitative or the qualitative benefits expected from the MFIS.

According to the information obtained, MFIS implementation significantly improved the activities and work of inspectors due to the quick access to data, the daily planning of inspections and the production of follow-up reports. This said, as of December 2013, no formal evaluation had yet been conducted to determine whether the expected benefits had materialized.

#### 4.5.1.B. Recommendation

**We recommend that the Direction de l'environnement conduct an evaluation of the quantitative and qualitative benefits expected from the Montréal food inspection system in order to verify that the objectives set when it was developed have been reached and, if necessary, make certain operational adjustments to fully benefit from its implementation.**

**Business unit's response:**

> *[TRANSLATION] Since the implementation of the MFIS in November 2010, the computer specialist as well as the Service des technologies de l'information have worked on dozens of requests for corrections and changes. The software has been up to date since 2013, but requests for changes continue to be registered as the inspection method evolves and as new requests are received from the MAPAQ.*
>
> *In 2014, four years following the implementation of the MFIS, the DIA will produce a report on the quantitative and qualitative benefits of the system, measure fulfilment and determine the adjustments to be made.* ***(Planned completion: June 2014)***

## 4.5.2. Laboratory Information Management System

#### 4.5.2.A. Background and Findings

Clause 5.2.5 of the agreement with the MAPAQ, which deals with collections, states the following:

> *[TRANSLATION] In addition, the city will have to implement an electronic sample management system compatible with that of the [MAPAQ] laboratory for April 2011 and develop a procedure for submitting an application to the BNQ to obtain ISO 17025*

*certification for all the tests performed for the [DGSAIA][9] and for which the [DGSAIA] holds an ISO 17025 certification as described in item 11 of the* Plan d'uniformisation des activités d'inspection.

Our audit revealed that the DET laboratory works with the LIMS, an integrated management software package that allows for electronic entry of test results, making them immediately available to scientific advisors so that they can take the necessary measures in cases of non-compliance. In addition, we observed that the DET has had ISO 17025 certification since May 4, 2011, and that this certificate is valid until May 4, 2015. The DET also developed a quality management manual to support its ISO 17025–certified processes. The DET is currently planning to renew its ISO 17025 certification, particularly since the MAPAQ has made it a contractual obligation for the city to maintain this certification in its new agreement for 2013–2014.

### 4.5.2.B. Recommendation

**We recommend that the Direction de l'environnement ensure that it maintains its certification and renews it in a timely manner in order to fulfil the contractual obligation set out in the 2013–2014 agreement with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec.**

**Business unit's response:**

*[TRANSLATION] The DET laboratory has had ISO 17025 certification since May 4, 2011, and has been using the LIMS program since 2010.*

*A partial re-evaluation of the certification was carried out in the June 2013 and all aspects were satisfactory. The DET laboratory therefore retains its accredited laboratory status in the Standards Council of Canada's Program for the Accreditation of Laboratories–Canada (PALCAN).*

*The next complete evaluation will take place in June 2014.*

*Partial evaluations are conducted on an annual basis and complete evaluations are performed every two years.*

*The DET laboratory meets the necessary requirements to maintain its ISO 17025 certification.* ***(Completed)***

[9] Direction générale de la santé animale et de l'inspection des aliments.

## 4.6. Specific Obligations of the City

### 4.6.1. *Plan d'uniformisation des activités d'inspection*

#### 4.6.1.A. Background and Findings

The agreement with the MAPAQ for the period of January 1, 2010, to December 31, 2012, includes a PUAI. This plan lists 11 activities that the city must implement on specific dates. The agreement states that the city agrees to provide, according to a set schedule, reports indicating to what extent the requirements set out in the PUAI have been achieved.

In the agreements concluded between the city and the MAPAQ regarding food inspection on the territory of the agglomeration of Montréal, the PUAI refers to AGQ[10] recommendations presented in a report produced in 2006, following an audit of the MAPAQ, as well as recommendations of the MAPAQ's Direction de l'évaluation de programmes et de la vérification interne (DEPVI) made following an audit of the DIA in 2011.

The AGQ's recommendations are addressed to the MAPAQ and deal with risk load and inspection frequency, how well the methodology is understood and whether the results are supervised, staff productivity, food recalls, the handling of complaints and management results. The first two issues concerned the city; however, we were unable to find specific recommendations addressed to the city or the associated remedial plans. This said, the follow-up report to the AGQ recommendations tabled in May 2011 indicates that satisfactory progress had been made by the MAPAQ, specifically with regard to the risk load, the frequency of inspections and the consistency of the methodology and supervision of results (follow-up of corrective measures, food recalls and the handling of complaints).

The DEPVI, on the other hand, explicitly addressed six recommendations to the city. The DIA commented on, prepared and submitted the action plans, which were included in the report tabled by the DEPVI. For information purposes, these recommendations were as follows:

- ensure compliance with the inspection frequencies established by the MAPAQ,
- ensure, through its task planner, that the new MFIS prevents frequencies from being exceeded,
- ensure compliance with the maximum time limits for inspection of new establishments,
- review the follow-up procedure with the plaintiff in order to comply with the maximum time frame of 10 business days,

[10] While this audit was aimed at the Centre québécois d'inspection des aliments et de santé animale of the MAPAQ, the AGQ took into consideration the Ville de Montréal since it was a representative of the MAPAQ in matters of food inspection on the territory of the Island of Montréal. This audit dealt with activities carried out between 2002–2003 and 2005–2006.

- ensure that the MFIS properly produces the requested reports and does not reproduce the Dataflex errors,
- be sure to submit all the required data to the MAPAQ, as stipulated in the agreement.

We examined the PUAI included in the agreement with the MAPAQ for 2010–2012 and determined to what extent the planned activities were carried out by the DIA. Table 8 presents the PUAI activities set out by the MAPAQ as well as our comments on each of them.

**Table 8 – 2010–2012 PUAI**

| No. | Subject | Due date | Comment |
|---|---|---|---|
| 1 | Make the corrections in the follow-up to the report[11] of the DEPVI of the MAPAQ, where applicable. | April 1, 2012 | The DIA sent us the report produced by the DEPVI, which contains all the DIA's action plans in response to the six recommendations of the MAPAQ. These plans essentially deal with the implementation of MFIS tools and inspection delays.<br><br>To date, all the MFIS tools in question have been implemented and corrections have been brought to inspection deadlines. However, certain delays remain with regard to inspections. They are discussed in section 4.3. |
| 2 | Implement an electronic management system for inspections and samples that will allow for data to be submitted according to the structure required by the MAPAQ. | April 1, 2011 | The DIA sent us the project closure report for the MFIS produced on June 20, 2011, by the Division de la réalisation des projets TI of the city's Direction des systèmes d'information. We did not find any evidence that the DIA sent a notice confirming that implementation of the MFIS and the LIMS were complete. However, several meetings were held in 2012 and 2013 with MAPAQ representatives to show them the features of the MFIS. |
| 3 | Standardize inspection responses through application of the inspector coaching process. | April 1, 2012 | The DIA sent us a file containing the dates and hours of training received by inspectors, along with their names. In 2012, the three supervisors gave 308 hours of inspection coaching, 25 team meetings were held and 237 inspection reports were verified. However, we did not find any evidence that the DIA sent the MAPAQ a notice confirming that the coaching process was in effect and indicating the coaching activities that had been accomplished. |
| 4 | Analyze differences in applying the main programs (higher risks, RBI, complaints, food poisoning and recalls) between the city and the MAPAQ and implement equivalencies. | April 1, 2012 | Various documents, specifically the statistical charts on the RBIs and complaint follow-up and timelines, were provided to us by the DIA to demonstrate performance of the analysis of differences in applying the main programs. However, we have no evidence that these documents were sent to the MAPAQ. |
| 5 | Fully apply the MAPAQ procedure for sending inspection documents intended for chains that request them, pursuant to the *Access to Information Act*. | April 1, 2011 | The MFIS made it possible to fully implement the MAPAQ procedure for sending inspection documents intended for chains, i.e., the weekly sending of inspection reports, violation notices or notices of non-compliance and sampling results. We randomly selected a banner for which we obtained the supporting documents to confirm that the inspection documents were sent to the appropriate person at the banner. However, we have no evidence that these documents were sent to the MAPAQ. |

[11] Audit report dated June 10, 2011, DEPVI, MAPAQ.

| No. | Subject | Due date | Comment |
|---|---|---|---|
| 6 | Perform the appropriate follow-ups to training activities offered to inspectors and report on these to the DGSAIA. | April 1, 2011 | A copy of the training record given to DIA employees was obtained from the DIA.<br><br>For training activities offered to inspectors in 2012, the DIA sent the training report to the MAPAQ on January 18, 2013. |
| 7 | Apply guidelines on the coercive measures included in the *Guide d'application des programmes d'interventions.* | April 1, 2011 | The DIA sent us the management program for higher risks in food safety, which indicates the guidelines in effect for the duration of the agreement, from 2010 to 2012. For the most part, these elements were discussed during interviews with the division manager and scientific advisor, and are taken into account in the performance of the programs. |
| 8 | Ensure compliance with objectives related to inspections performed before the expected date according to the methodology. | April 1, 2012 | The MFIS does not allow inspections to be scheduled outside of authorized inspection intervals, making it impossible for an inspector to target establishments outside of the prescribed visit time frames. |
| 9 | Agree on an action plan with the MAPAQ to apply the AGQ's recommendations. | October 1, 2011 | The AGQ's recommendations are related to an audit performed in 2005–2006. According to the information obtained from the DIA, this point was added in case a specific recommendation had required a particular plan. To date, the DIA and MAPAQ have not agreed on any joint action plan. |
| 10 | Send the inspection data related to the DGSAIA's public accountability as necessary. | April 1, 2012 | Informal but ongoing discussions took place throughout the year between the city and the MAPAQ to meet some one-off needs. These exchanges mainly took place over the phone or by email; however, no supporting documents were prepared to attest to them (minutes or reports). |
| 11 | Implement the ISO 17025 standard for all tests performed for the DGSAIA for which it has ISO 17025 certification. If this requirement cannot be met, samples collected on the city's territory will be analyzed by the MAPAQ laboratory as of this date. An amount of $449,792.64 will then be subtracted from the $3,677,995.00 and the reimbursement for shipping samples will be added to it. | December 2011 | The DET has had ISO 17025 certification since May 2011, according to the certificate that we were given. The DET therefore did not need to use the services of the MAPAQ laboratory for the tests for which it was certified. No amount of money had to be deducted. |

While the agreement with the MAPAQ provides for reports to be produced indicating whether the activities set out in the PUAI have actually been carried out within the stipulated timeframe, we found no evidence of these reports for most activities, with the exception of Nos. 6 and 11.

A comparative analysis of the PUAI included in the agreements with the MAPAQ for 2010–2012 and 2013–2014 revealed that:

- eight activities were carried forward to the 2013–2014 agreement (Nos. 1, 2, 3, 4, 5, 7, 9 and 11);
- three activities were removed, requirements 6, 8 and 10; and
- two new activities (3A and 10A) were introduced by the MAPAQ in the 2013–2014 agreement.

Due to activities being carried forward from one agreement to another and the fact that the reports meant to confirm their completion were not produced, we were not able to confirm that the requirements listed in the agreement were met. It would therefore be wise for the DIA to document the performance of these activities and to discuss the pertinence of carrying them forward when the time comes to renew future agreements.

#### 4.6.1.B. Recommendation

**We recommend that the Direction de l'environnement ensure that reports documenting the fulfilment of requirements set out in the *Plan d'uniformisation des activités d'inspection* are produced and submitted according to the schedule established in the agreement with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec to show that the planned activities have in fact been carried out.**

**Business unit's response:**

*[TRANSLATION] In the past, the progress of the fulfilment of PUAI requirements was discussed verbally during meetings with the MAPAQ without the systematic production of written reports. Both the city and the MAPAQ were satisfied with this approach.*

*The DIA will document the completion of PUAI activities and will submit the information to the MAPAQ according to the schedule established in the agreement to show that the planned activities have in fact been carried out.* ***(Planned completion: as of March 2014)***

## 4.6.2. Coordination Meetings

#### 4.6.2.A. Background and Findings

Clause 9.2 of the agreement with the MAPAQ, which deals with collaboration and the exchange of information, states the following:

*[TRANSLATION] For this purpose, there will be meetings between the coordinators representing the Minister and the city to discuss the various problems related to programming and operations as well as to apply the necessary corrective measures and review the forms used as part of the application of the provisions stated in this agreement as needed.*

*In addition, at the request of one of the parties, coordinators may meet to discuss problems raised in the application of this agreement. Moreover, the city will be invited to participate in various committees.*

*The city and the Minister also agree for their representatives to meet around the month of February each year to prepare the annual analytical programming that will be carried out by the city.*

According to the information obtained from the division manager and the scientific advisor, apart from the February meeting, informal discussions took place frequently throughout the year. These exchanges mainly consisted of phone conversations and emails.

No documentation (minutes or reports) is prepared or kept to attest to the content of these discussions or meetings, with the exception of the meeting planned annually in February. In the event that a decision by the Minister that had been discussed between the city and MAPAQ were put into question or misinterpreted, the DIA would have no evidence of the content of these discussions.

#### 4.6.2.B. Recommendation

**We recommend that the Direction de l'environnement document the content of discussions held and decisions made with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec and keep the relevant emails to be able to refer back to them if need be, and demonstrate compliance with clause 9.2 of the agreement.**

**Business unit's response:**

*[TRANSLATION] The content of discussions and meetings with the MAPAQ as well as decisions made will be documented in a more formal manner (minutes or reports) to be able to attest to the content of these discussions or meetings.* ***(Planned completion: March 2014)***

## 4.6.3. Accountability

#### 4.6.3.A. Background and Findings

Clause 9.1 of the agreement with the MAPAQ, which deals with operations, states that the city shall provide the Minister of the MAPAQ with:

- each month, reports detailing the monthly and cumulative statistics related to the following elements:
  - the number of inspections conducted,
  - the division of establishments based on risks load and compliance with prescribed time frames,
  - coercive measures,
  - laboratory tests,

  - complaints, food poisoning cases and recall checks,
  - follow-up of indicators related to the handling of complaints;
- on request, the following information:
  - the responses implemented in higher risk establishments,
  - the staff training report.

Our audit revealed that the statistics required by the MAPAQ are produced by the DIA in accordance with the agreement, with the exception of the results of recall effectiveness checks,[12] which are sent following a response. In addition, we observed that the reports are produced monthly, but are only sent to the MAPAQ every quarter, along with a copy to the city's manager of the Direction de l'environnement.

**4.6.3.B. Recommendation**

**We recommend that the Direction de l'environnement continue to produce and submit these reports on a monthly basis, adding the statistics on recall effectiveness checks to comply with the frequency requested in the agreement with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec.**

**Business unit's response:**

*[TRANSLATION] Although there was a verbal agreement with the MAPAQ that quarterly submission of the activity reports would be acceptable, the DIA will change its submission frequency to comply with the written agreement.*

*In addition to the usual reports, monthly statistics on recall effectiveness checks will also be sent.* ***(Planned completion: March 2014 and monthly thereafter)***

## 4.7. Street Food Pilot Projects

### 4.7.1. Issuance of Occupancy Permits

In 1947, the municipal administration decided to ban the sale of street food because several citizens were complaining at the time about the questionable hygiene of the vehicles and stalls, the hindrances to traffic, the competition created for merchants and the dirtiness of the roadways.

In 2002, with municipal mergers and the creation of the new Ville de Montréal, the issue of the sale of street food resurfaced.

[12] Actions taken to recall products presenting a health risk from counters and shelves in establishments.

Street food is generally defined as the sale of food prepared and served from various types of portable stalls or vehicles temporarily set up in a public place (parks, streets, sidewalks).

The sale of street food falls under the responsibility of boroughs by virtue of a delegation of authority. Pursuant to the *Règlement intérieur de la Ville sur la délégation de pouvoirs du conseil de la ville aux conseils d'arrondissement (02-002)*, city council delegated to the boroughs the authority to adopt and apply regulations regarding the sale, preparation and consumption of food and beverages in the public domain. In addition, the borough council is the appropriate authority with the power to regulate occupancy of the public domain, also pursuant to the *Charter of Ville de Montréal,*[13] as well as zoning.

In 2013, following a public consultation on street food held in 2012, the Ville-Marie, Le Sud-Ouest and Rosemont–La Petite-Patrie boroughs authorized the operation of street food vehicles on their respective territories as a pilot project.

## 4.7.1.1. Ville-Marie Borough

### 4.7.1.1.A. Background and Findings

In light of the recommendations formulated by the Commission permanente sur le développement économique et urbain et l'habitation, in May 2013 the mayor of Montréal entrusted the Ville-Marie borough with carrying out a street food pilot project for the summer of 2013 and determining the appropriate sites where it can be enjoyed by the Montréal public as well as tourists.

A working committee made up of multidisciplinary professionals from the fields of economic development, technical studies, traffic and inspection, and communications identified nine (9) sites and finalized the details of this project in order to provide a framework for the practice of this new form of food services on its territory.

At the May 7, 2013, Ville-Marie borough council meeting, an order for an exemption from the municipal by-law (RRVM, chapter P-1, articles 3 and 8) was authorized, allowing the sale of food in the public domain for the purposes of carrying out the street food pilot project on the nine sites from June 20, 2013, to September 29, 2013, between the hours of 7 a.m. and 10 p.m. The council also allocated $108,000 to support actions required for the street food pilot project.

[13] According to article 67.1 of appendix C, the city may, by regulation, authorize the occupancy of the public domain for certain purposes.

To carry out this operation, the Ville-Marie borough concluded an agreement with the Québec Street Food Association[14] (QSFA) to implement the street food pilot project and assist the borough in developing the strategy and operationalization methods of the pilot project for the summer of 2013. This agreement puts the QSFA in charge of the following activities, among others:

- developing an electronic calendar for site occupancy that can be updated by the borough;
- compiling monthly statistics on sales, customer traffic and site occupancy rates;
- sharing its expertise to assess the bids from a culinary and technical perspective.

The Ville-Marie borough developed a normative framework through a working group coordinated by the Direction des travaux publics. This framework takes into account several laws and regulations that apply to the sale of food in the public domain.

The normative framework is exclusive to the 2013 pilot project in the Ville-Marie borough and sets out the conditions and requirements related to obtaining an operating permit for a street food vehicle in the public domain, namely:

- holding all the necessary permits (municipal and provincial) applicable to the type of vehicle used (e.g., registration) and the operation category (e.g., MAPAQ permit);
- holding a valid occupancy permit for use by a restaurant or catering company in accordance with urban planning by-laws currently in effect in Montréal; and
- agreement on the part of the holder of a public area occupancy permit for purposes of selling food in the public domain using a street food vehicle to comply with all the municipal and provincial by-laws and standards in effect.

The borough launched a call for tenders on May 8, 2013, to select the restaurateurs who would be authorized to operate their street food vehicle on the sites determined as part of the pilot project. The results of this process are as follows:

- 54 bid files were submitted. Out of this number, eight were rejected because their bid was submitted too late.
- Out of the 46 remaining bids:
  - 14 were declared non-compliant with the eligibility conditions established by the borough. Only bidders with a restaurant or production kitchen on the city's territory were eligible for the pilot project.

[14] The QSFA, created in May 2012, is a non-profit organization dedicated to the promotion of street food. The QSFA has developed a series of regulations and standards concerning quality, food safety, cleanliness and presentation that must be strictly adhered to by its members and that comply with MAPAQ regulations. Today, it comprises more than twenty members, all established restaurateurs operating a street food vehicle during various festivals and special events.

  - 32 were declared compliant, and the restaurateurs associated with these were invited to present their project before the selection committee, comprised of six external members and one employee of the Ville-Marie borough.
- Following evaluation, the selection committee retained 27 restaurateurs for the pilot project.

We randomly examined five samples from among the bid evaluation checklists and concluded that the selection had been performed in accordance with established regulations.

Subsequently, to meet the requirements of the application for a public area occupancy permit, successful bidders first had to obtain a permit from the MAPAQ. In all cases (27), the borough granted the occupancy permit for operation of a street food vehicle in the public domain.

We conducted compliance tests on 10 applications for occupancy permits for operation of a street food vehicle in the public domain. In two files, we did not find the authorization from the MAPAQ. The Division des études techniques stated that it contacted the MAPAQ by phone to ensure that an application for a permit for the restaurant industry and the sale of food from both of these operators was in fact in process. However, we did not find any evidence of a follow-up by the Division des études techniques with these two applicants in order to obtain a valid copy of the MAPAQ permit.

**4.7.1.1.B. Recommendation**

**We recommend that the Ville-Marie borough require operators to obtain a permit from the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec before granting them the occupancy permit to operate a street food vehicle in the public domain, in accordance with the normative regulatory framework.**

**Business unit's response:**

> *[TRANSLATION] Require a copy of the MAPAQ permit. Files that contain only the MAPAQ permit request number will be declared non-compliant and the permit request will be refused.* ***(Planned completion: February 2014)***

A permanent inspection mechanism is in effect to enable daily control in the field with regard to compliance with applicable laws and regulations for the sale of food in the public domain (street food). A team of 12 inspectors is active throughout the borough seven days a week, not specifically for street food, but to ensure compliance with all permits issued (e.g., repair work and/or renovations requiring a permit, construction sites).

From June 27 to July 14, five borough inspectors conducted visits at various times of the day and notified restaurateurs of infractions. They produced 25 daily inspection reports for the street food joint committee (Ville-Marie borough and QSFA).

We examined four daily reports produced by the inspectors for street food specifically, and no notice of violation and/or non-compliance was found. Only a few verbal notices were given with regard to noise from an outside generator, a permit displayed in the wrong place and a promotional ad outside of the street food vehicle. These violations were corrected on the spot by the holders of the operating permits for street food vehicles.

On July 10, the QSFA uncovered differences between the menus presented to the jury and the food sold from the street food vehicles. To remedy this, the borough sent a letter to all street food vendors reminding them of the need to adhere to the culinary offering accepted by the jury. The regulatory nature of the order did not, however, allow the boroughs to crack down on this issue through legal means, such as a fine or the temporary or permanent suspension of the permit.

#### 4.7.1.1.C. Recommendation

**We recommend that the Ville-Marie borough examine the means of reinforcing the normative framework and the selection process to be able to enforce compliance with requirements surrounding the operation of street food vehicles as part of the pilot project.**

**Business unit's response:**

*[TRANSLATION] This year, a by-law governing street food will be adopted instead of an order. This will enable the borough to issue notices of violation to anyone who contravenes one of the provisions of the by-law.*

*Furthermore, a provision was added to said by-law authorizing the competent authority to revoke any permit, by way of a notice, if one of the conditions of its authorization is violated.* ***(Planned completion: March 2014 [date of adoption of the by-law])***

## 4.7.1.2. Le Sud-Ouest Borough

#### 4.7.1.2.A. Background and Findings

Le Sud-Ouest borough approached certain event promoters and the QSFA to carry out a street food pilot project and authorize the sale of food in the public domain, on a per event basis.

Out of a dozen events that took place in Le Sud-Ouest borough in the summer of 2013, six were subject to a court order made by the borough council on July 2, 2013, and September 3, 2013, authorizing street food vehicles.

We selected two special events to ensure compliance with the general and specific conditions for obtaining an occupancy permit to operate a street food vehicle in the public domain:

- a concert held on August 10, 2013, at Sir-George-Étienne-Cartier square. On July 2, 2013, the borough council authorized an order to allow merchants operating street food vehicles designated by the QSFA to sell food and non-alcoholic beverages on the site of Sir-George-Étienne-Cartier square on August 10, 2013, between 5 p.m. and 11 p.m.
- a public event for which a temporary public area occupancy permit was issued for September 22, 2013, as part of an event that involved completely closing off Atwater Avenue at the intersections of Duvernay and Rufus-Rockhead streets from 8 a.m. to 10 p.m. This event was approved for a temporary period (due to the road closure) at the borough council meeting that took place on September 3, 2013.

The events were submitted for opinion to the various departments and stakeholders involved for approval of the security measures and installation plans. A request for a police opinion to include with the decision-making summary was sent to the Service de police de la Ville de Montréal (SPVM) and the Service de sécurité incendie de Montréal (SIM).

**Conclusion**

**The two files selected as part of our audit demonstrate that Le Sud-Ouest borough's process for granting an occupancy permit to operate a street food vehicle in the public domain is adequately documented and follows the recommendations formulated by the Commission permanente sur le développement économique et urbain et l'habitation in March 2013.**

## 4.7.1.3. Rosemont–La Petite-Patrie Borough

### 4.7.1.3.A. Background and Findings

Every year, public events of all kinds are organized across the territory of the Rosemont–La Petite-Patrie borough. For this reason, a promoter's guide was put together to inform event promoters of the main municipal by-laws and steps related to requesting a permit for use of the public domain. Promoters must obtain authorization from the borough on a per event basis for the sale of food in the public domain for these events.

In 2013, seven events requiring a public area occupancy permit were handled by the borough, three of which required authorization for the sale of food in the public domain. Out of these three events, we selected two for the purposes of our audit:

- An event organized by the QSFA, which is a festival aimed at promoting local artists. Over the course of this day held on September 14, 2013, the 2,000 or so expected participants enjoyed the services of five street food vendors.
- An event offered by the borough consisting of a series of open-air movie screenings from July 16, 2013, to August 6, 2013, in various public parks. A street food pilot project was added to this event in collaboration with the QSFA. Two street food vehicles were on site during the five free screenings, and approximately 500 people were expected.

These events were submitted for opinion to the various departments and stakeholders involved for approval of the security measures and installation plans. In addition, they were mapped out in accordance with the applicable municipal regulations and administrative frameworks.

A memorandum of understanding between the QSFA and the borough for these events was authorized at the borough council meeting held on June 3, 2013. The council also imposed an order regarding these events permitting the sale of food and non-alcoholic beverages and the sound from audio devices broadcasting outside.

**Conclusion**

**The two files selected as part of our audit show that the Rosemont–La Petite-Patrie borough's process for granting occupancy permits to operate a street food vehicle in the public domain is adequately documented and follows the recommendations formulated by the Commission permanente sur le développement économique et urbain et l'habitation in March 2013.**

## 4.7.2. Street Food Vehicle Inspection Program

### 4.7.2.A. Background and Findings

According to the *Food Products Act*, street food vehicles are subject to the food inspection program pursuant to the agreement with the MAPAQ, because they are considered "mobile canteens." With regard to inspections, the establishment category of "mobile canteen" designates a motorized vehicle that is driven to consumption locations for the sale or serving of hot and/or cold food to consumers. This establishment category may also include on-site food preparation.

During routine inspections of street food vehicles, the DIA evaluates the critical points (evaluation of the 5Ms) and not the risk load since the inspection frequency related to this category is a fixed frequency (36 months). This said, if the street food vehicle participates in several special events, it may be subject to more frequent routine inspections. A visit is also triggered for a proficiency follow-up if a higher risk factor is detected or following a complaint.

The DIA also incorporated inspection visits of street food pilot projects into its 2013 annual food inspection plan. Large-scale, high-traffic public events where food is sold were already part of the usual inspections. Small-scale events or block parties, on the other hand, are visited based on the number of kiosks and the complexity of the food served. For all complaints received for these events, however, the DIA conducts an inspection or an investigation once the event is over.

In the summer of 2013, 36 public area occupancy permits were granted for the sale of food on the street or during public events. The Ville-Marie borough granted 27 permits as part of the street food pilot project, Le Sud-Ouest and Rosemont–La Petite-Patrie boroughs issued six and three similar permits respectively to allow street food vehicles to sell food during public events held on their territory.

As of October 15, 2013, the DIA had conducted 68 routine inspections and one proficiency follow-up inspection. These inspections involved 43 street food vehicles, and no non-compliance was identified.

In 2013, the DIA handled two complaints regarding minor food poisoning from food sold by street food vendors during public events. In one case for which the public event was held in a public park, the DIA was unable to locate the street food vehicle involved and realized that the event in question was not part of the QSFA events. In the other case, the complaint involved three street food vendors. The inspectors conducted visits within 24 hours and no lack of proficiency (5Ms) was observed.

### 4.7.2.B. Recommendation

**We recommend that the Direction de l'environnement, in collaboration with the boroughs, put in place a mechanism to list the street food vehicles authorized to participate in events and exercise effective control over their presence on the territory.**

**Business unit's response:**

> *[TRANSLATION] The DIA has asked the Direction de l'aménagement urbain et des services aux entreprises of the Ville-Marie borough to put in place a mechanism to list street food vehicles.* ***(Planned completion: March 2014)***
>
> *The Ville-Marie borough has submitted to the DIA the document entitled Projet-pilote de cuisine de rue 2014 – appel de candidatures and a statement listing the 14 authorized locations for street food vehicles.* ***(Planned completion: March 2014)***
>
> *The calendar used to list the presence of street food vehicles on the territory will be posted on the website of the Ville-Marie borough and updated every two weeks.* ***(Planned completion: May 2014)***
>
> *If the DIA needs to locate a street food vehicle following a complaint, the Direction de l'aménagement urbain et des services aux entreprises of the Ville-Marie borough will be able to find the information on the vehicle in question and share it with the DIA.* ***(Planned completion: May 2014)***

We verified with the DIA whether inspections had been conducted for 15 street food projects (10 for the Ville-Marie borough, 3 for the Rosemont–La Petite-Patrie borough and 2 for Le Sud-Ouest borough).

Out of the 10 street food projects of the Ville-Marie borough, the DIA conducted inspections of street food vehicles for 7 of them (70%). For the two other boroughs, the DIA informed us that because these were small-scale neighbourhood events (theatre and movies in parks), the projects were not inspected.

## 5. General Conclusion

Five agreements regarding food inspection on the territory of the agglomeration of Montréal have been concluded with the city since 2002. Each time, gradual improvements to the delivery of services have been made by the Direction de l'environnement. This audit revealed that the recommendations resulting from previous audits carried out by the auditor general of Québec (AGQ) and the Direction de l'évaluation de programmes et de la vérification interne (DEPVI), under the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ), as well as the action plans implemented by the management of the Division de l'inspection des aliments (DIA) following these audits, enabled the Direction de l'environnement, through the DIA and the Division de l'expertise technique (DET), to put in place effective tools, such as the Montréal food inspection system, the dynamic planning of inspection activities, ISO 17025 certification for the laboratory of the DET and the Laboratory

Information Management System (LIMS). However, certain deficiencies were also noted, namely:

- Unfilled inspector positions had an impact on the number of inspections performed, causing delays in carrying out certain inspections.
- The full costs to the city have not been determined by the DIA.
- Delayed updating of certain establishments.
- The expected advantages of the Montréal food inspection system (MFIS) have not been evaluated since its implementation.
- There is no evidence that activities planned in the *Plan d'uniformisation des activités d'inspection* (PUAI) of the MAPAQ have been carried out.
- There is no structured documentation of communications between the DIA and the MAPAQ.

In 2013, street food re-emerged on the Montréal landscape after 66 years of absence, thanks to a public consultation in which several stakeholders expressed a desire for its return. The summary report for the first year, produced in the fall of 2013 by the Québec Street Food Association (QSFA), an active partner in the pilot projects that the city and the Ville-Marie, Le Sud-Ouest and Rosemont–La Petite-Patrie boroughs put in place, is positive overall. Certain shortcomings were, however, uncovered during our audit, such as the granting of public area occupancy permits without the permit from the MAPAQ being included in the file when a permit application is submitted, as well as the absence of coercive measures with regard to street food vendors who modify the culinary offering for which they were qualified once they are operational.

# 6. Appendices

## 6.1. Establishment Classification According to the Recurrence of Determinants of Risk

**Table A – Determinants of the Level of Risk**

| Risk level | Determinants (causes) |
|---|---|
| Normal | • Acceptable risk, no higher risk event |
| Acute | • Risk load ≥ 600 with XF[a], VL[b] or CMC[c]: ≤ 3 times/3 years<br>• XF, VL or CMC: ≤ 2 times/3 years<br>• Substantiated or undetermined FP[d] with operator responsibility and lack of proficiency in the critical points in question: 1 time/3 years<br>• Substantiated health-related complaint with operator responsibility and lack of proficiency in the critical points in question: 1 time/1 year<br>• Notice of violation or small fine with a lack of proficiency: ≤ 2 times/3 years<br>• Test results with health risk: ≤ 2 times/3 years |
| Controlled acute | • Controlled acute higher risk *(no XF, VL or CMC during the last RBI or control follow-up visit)* |
| Chronic | • Risk load ≥ 600 with XF, VL or CMC: ≥ 4 times/3 years<br>• XF, VL (same critical point) or CMC: ≥ 3 times/3 years<br>• Substantiated or undetermined FP with operator responsibility and lack of proficiency in the critical points in question: ≥ 2 times/3 years<br>• Substantiated health-related complaint (same reason) with operator responsibility and lack of proficiency in the critical points in question: ≥ 2 times/1 year<br>• Substantiated health-related complaint (different reason) with operator responsibility and lack of proficiency in the critical points in question: ≥ 3 times/1 year<br>• Notice of violation or small fine with a lack of proficiency: ≥ 3 times/3 years<br>• *Test results with health risk: ≥ 3 times/3 years*<br>• *Deception or fraud with health risk: ≥ 2 times/3 years* |
| Controlled chronic | • Controlled chronic higher risk *(no XF, VL or CMC during the last RBI or proficiency follow-up visit)* |
| Critical | • Imminent danger identified during a visit |

[a] Multiplying factor.
[b] Very large.
[c] Combination of major critical points.
[d] Food poisoning.

Source: DIA.

## 6.2. RBI Priority and Proficiency Follow-Up Management Table

**Table B – RBI Priority and Proficiency Follow-Up Management**

| | | Execution period | | | |
|---|---|---|---|---|---|
| **Risk class** | **Risk load category** | **Accepted variance** | **Due** | **Late** | **Control follow-ups** |
| High | High (3 months) | From –30 to < 0 days | From ≥ 0 to 30 days | > 30 days | Response program |
| | Medium-high (6 months) | From –30 to < 0 days | From ≥ 0 to 30 days | > 30 days | |
| | New establishments priority categories | 7 | From ≥ 0 to 180 days<br>2 | > 180 days<br>1 | |
| Medium | Medium (12 months) | From –60 to < 0 days | From ≥ 0 to 30 days | > 30 days | |
| | New establishments other categories<br>New establishments with fixed frequency (FI) | 8 | From ≥ 0 to 365 days<br>5 | > 365 days<br>3 | |
| Low | Medium-low (36 months) | From –90 to < 0 days | From ≥ 0 to 30 days | > 30 days | |
| | Low (36 months) | From –90 to < 0 days | From ≥ 0 to 30 days | > 30 days | |
| | Establishments with fixed frequency (FI) | From –90 to < 0 days<br>9 | From ≥ 0 to 30 days<br>6 | > 30 days<br>4 | |

Source: DIA. Priorities are indicated in colour.