



City of Chicago



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Meeting Date: 9/10/2014

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 2-56 regarding powers and duties of Inspector General, and intergovernmental agreement with Public Building Commission authorizing City Inspector General to serve commission in same capacity

Committee(s) Assignment: Committee on Budget and Government Operations

BUDG-



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

September 10, 2014

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Corporation Counsel, I transmit herewith an ordinance amending Chapter 2-56 of the Municipal Code and authorizing the execution of an intergovernmental agreement with the Public Building Commission.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 2-56 of the Municipal Code of Chicago is hereby amended by inserting the language underscored and by adding a new Section 2-56-055, underscored as follows:

2-56-030 Inspector general – Powers and duties.

In addition to other powers conferred herein, the inspector general shall have the following powers and duties:

(Omitted text is unaffected by this ordinance)

(h) To issue subpoenas to compel the attendance of witnesses for purposes of examination and the production of documents and other items for inspection and/or duplication. Issuance of subpoenas shall be subject to the restrictions contained in Section 2-56-040;

(i) To exercise any of his powers or duties specified in this Code with respect to any sister agency, as that term is defined in Section 1-23-010, pursuant to an intergovernmental agreement that the city may enter into with such sister agency as authorized by the city council, and as such power or duty may be modified by such agreement;

(j) To promulgate rules and regulations for the conduct of investigations and public hearings consistent with the requirements of due process of law and equal protection under the law.

2-56-055 Functions with respect to sister agencies.

Nothing provided in this Chapter shall be construed to prohibit the inspector general from providing any service or undertaking any function with respect to a sister agency within the scope of an intergovernmental agreement entered into pursuant to Section 2-56-030(i).

SECTION 2. The Mayor is authorized to enter into an intergovernmental agreement with the Public Building Commission, in substantially the form attached to this ordinance as Exhibit A.

SECTION 3. This ordinance shall take effect upon passage and approval.

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EXHIBIT A

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE PUBLIC BUILDING
COMMISSION AND THE CITY OF CHICAGO PROVIDING THAT THE CITY'S
OFFICE OF INSPECTOR GENERAL WILL ALSO SERVE AS THE COMMISSION'S
INSPECTOR GENERAL**

This Intergovernmental Agreement ("Agreement"), dated and effective as of January 1, 2015, is made by and between the City of Chicago, an Illinois municipal corporation, having its principal office at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 (the "City"), and the Public Building Commission of Chicago, an Illinois municipal corporation, having its principal office at the Richard J. Daley Center, Room 200, Chicago, Illinois 60602 (the "Commission").

RECITALS

WHEREAS, the City is a home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City has established an office of the municipal government known as the Office of Inspector General (the "Inspector General"), which includes an Inspector General and other personnel as may be provided in the City's annual appropriation ordinance; and

WHEREAS, the Inspector General is authorized, among other things, to receive and register complaints and information concerning misconduct, inefficiency and waste within the City government; to investigate the performance of governmental officers, employees, functions and programs, either in response to complaint or on the Inspector General's own initiative, in order to detect and prevent misconduct, inefficiency and waste within the programs and operations of the City government; and to promote economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the City government by reviewing programs, identifying any inefficiencies, waste and potential for misconduct therein, and recommending to the Mayor and the City Council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct; and

WHEREAS, under Section 2-56-030 of the Municipal Code of Chicago ("Code"), the Inspector General is authorized to exercise any of his powers or duties specified in the Code with respect to any sister agency, as that term is defined in Section 1-23-010 of the Code, pursuant to an intergovernmental agreement the City may enter into with such sister agency and as such powers may be modified by such agreement; and

WHEREAS, the Commission was created pursuant to the Public Building Commission Act of the State of Illinois (50 ILCS 20/1 et seq.) (the "Act") for the purpose of facilitating the construction, acquisition and enlargement of public improvements; and

WHEREAS, pursuant to Section 8 of the Act, the government, control and management of the affairs of the Commission shall be vested in the Board of Commissioners of the Commission (the "Board"); and

WHEREAS, the Board has full power and authority to pass all necessary resolutions, rules and regulations for the proper conduct of the programs and operations of the Commission and to effectuate the objectives for which the Commission was created; and

WHEREAS, the Board is committed to the honest and efficient operation of the Commission and desires to provide for the establishment of an independent and objective inspection and investigative body for the Commission; and

WHEREAS, by Resolution No. ___, the Board authorized the Chairman of the Commission's Audit Committee to execute on behalf of the Commission an intergovernmental agreement with the City providing that the Inspector General shall also serve as the Commission's Inspector General and to perform independent investigations, reviews or audits relating to programs, operations and contracts of the Commission:

NOW, THEREFORE, the City, by and through its Mayor, and the Commission, by and through the Chairman of the Audit Committee, in consideration of the mutual agreements contained in this Agreement, agree as follows:

1. **Recitals.** The foregoing recitals are incorporated herein by reference.

2. **Goals and Objectives.** The goals and objectives of the Inspector General shall include the following:

2.1.1 promote integrity, effectiveness, efficiency and economy in the Commission's programs, contracts and operations.

2.1.2 detect, investigate, deter and prevent fraud, abuse, waste and potential for misconduct therein.

2.1.3 provide independent, fair and objective evaluations relating to the Commission's resources and operations.

2.1.4 recommend to the Board and the Executive Director policies, procedures and methods to eliminate and prevent inefficiency, waste and misconduct.

2.1.5 assist the Board and the Executive Director in improving the programs, activities and operations of the Commission.

3. **Powers and Duties.** The Inspector General shall have the authority to conduct audits, inspections, evaluations, and investigations respecting all Commission employees, officials and agents in the performance of their official duties; all contractors and subcontractors in the provision of goods or services to the Commission pursuant to a contract; and all persons or business entities seeking Commission contracts or pre-qualification to bid on Commission

contracts. In furtherance thereof, the Inspector General shall have the following powers and duties:

(a) To receive and register complaints and information concerning misconduct, inefficiency and waste within the Commission;

(b) To investigate the performance of Commission officers, employees, functions and programs, either in response to complaint or on the Inspector General's own initiative, in order to detect and prevent misconduct, inefficiency and waste within the programs and operations of the Commission;

(c) To promote economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the Commission by reviewing programs, identifying any inefficiencies, waste and potential for misconduct therein, and recommending to the Board policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct;

(d) To report to the Chairman of the Audit Committee or the Executive Director concerning results of investigations, audits or program reviews undertaken by the Inspector General; and

(e) To request information related to an investigation, audit or program review from any employee, officer, agent, licensee, contractor or subcontractor of the Commission and any person or business entity seeking a Commission contract or pre-qualification to bid on a Commission contract.

The jurisdiction of the Inspector General does not extend to any member of the Board, except in their capacity as members of the Board with respect to business or matters occurring before the Board and solely in connection with the Commission.

The jurisdiction of the Inspector General as set forth above shall extend to (i) any complaint received or information provided to or discovered by the Inspector General on or after the date of this Agreement and (ii) investigations pending on the effective date of this Agreement; provided, however, that the Inspector General shall not have jurisdiction to investigate alleged wrongdoing with respect to contracts as to which all applicable statutes of limitations have run and alleged wrongdoing by current and former Commission employees, officials, and agents or contractors and subcontractors as to which all applicable statutes of limitations have run.

4. Complaints. Complaints concerning Commission programs, operations and contracts may be made to the Inspector General by any means of transmittal, receipt or communication which provides information without sacrificing confidentiality, including the following:

a. Public website: www.chicagoinspectorgeneral.org

- b. **Email address:** reportcorruption@chicagoinspectorgeneral.org
- c. **OIG Telephone Hotline:** (866) IG-TIPLINE (866-448-4754)
- d. **TTY:** (773) 478-2066
- e. **Facsimile:** (773) 478-3949
- f. **United States Mail:** City of Chicago
Office of Inspector General
740 N. Sedgwick, Suite 200
Chicago, IL60654
- g. **PBC Compliance Hotline:** www.pbc.alertline.com

All complaints to the PBC Compliance Hotline will be exclusively and confidentially reviewed by the Inspector General for such action as he deems necessary.

5. Actions. Following a review of information provided, the Inspector General may take any of the following actions concerning a complaint respecting Commission programs, operations and contracts:

- a. Open an investigation based upon information or complaints received from a known or self-identified party, an anonymous party or on the Inspector General's own initiative;
- b. Refer the matter to the Commission's Ethics Officer if it involves the alleged violation of Commission's Ethics Policy (www.pbcchicago.com/contents/working/ethicss_policy.asp);
- c. Refer the complaint or information to the appropriate sister agency, governmental Inspector General, or appropriate federal, state or local law enforcement agency; or
- d. Decline to open an investigation for one or more reasons.

6. Reports. Upon the conclusion of any investigation, audit or program review the Inspector General shall submit a report: (i) to the Chairman of the Audit Committee, if the report concerns the investigation of a Commission contract; (ii) to the Executive Director, if the report concerns the investigation of Commission personnel; or (iii) to the Chairman of the Audit Committee and the Executive Director, if the report concerns a program review or audit or other matter not covered by (i) or (ii).

The Inspector General will provide the following types of reports respecting its activities:

- a. **Summary Reports of Investigation**

Upon conclusion of an investigation undertaken pursuant to this Agreement with sustained findings, the Inspector General shall submit a summary report (for purposes of this Agreement, "summary report") that shall include: a description of any complaints or other information received by the Inspector General pertinent to the investigation; a description of the misconduct, inefficiency, waste or abuse discovered in the course of the investigation; recommendations for disciplinary, administrative or other action as deemed appropriate; and such other information as the Inspector General may deem relevant to the investigation and any resulting recommendations.

The Inspector General's summary report shall not include the name of any informant, complainant, witness or person investigated or reviewed unless one of the following exceptions applies:

- (i) Where the copy of the summary report given to the Executive Director recommends disciplinary action against an employee of the Commission; or
- (ii) Where the copy of the summary report given to the Chairman of the Audit Committee makes recommendations concerning any contractor, subcontractor, applicant for a contract, or person seeking qualification of eligibility for a contract.

If complainants or informants request that their identity remain confidential, they will be notified in the event that disclosure of their identity is required by law.

b. Audit Reports

Inspector General performance audits are conducted in accordance with generally accepted Government Auditing Standards. Findings and conclusions of Inspector General performance audits will first be submitted to the auditee with an invitation to provide a written response to be included in the final report. Final performance audit reports will be submitted to the Chairman of the Audit Committee and the Executive Director and published on the Inspector General website, and will include any auditee responses.

c. Advisories or Notifications

The Inspector General may issue an advisory or department notification if investigative or audit activity undertaken pursuant to this Agreement identifies a problem that hinders effective and efficient execution of Commission operations and programs or opens the Commission up to liability or risk, but on which, due to limited resources, the Inspector General has not conducted an inquiry sufficient to issue authoritative findings in a summary report of investigation or an audit report. Such advisory or notification will be issued to the Chairman of the Audit Committee or the Executive Director, as appropriate given the subject matter, and the Board will be given an opportunity to, at its discretion and within a reasonable period of time, provide a written response.

7. **Response to Inspector General Summary Report.** Absent an extension of time as provided below, a maximum of 60 days shall elapse between the Inspector General's submission of a summary report and the Commission's final response to that summary report. Upon receipt of a summary report, the Chairman of the Audit Committee or the Executive Director, as appropriate given the subject matter, shall review the summary report and its recommendations and within a reasonable time provide a draft response and proposed course of action, together with a copy of the summary report, to the Chairman of the Board for review and comment. The Chairman of the Board shall promptly review and comment upon the draft response, and the Executive Director and/or Chairman of the Audit Committee will then provide a final written response to the Inspector General no later than 60 days after receipt of the summary report. This response must include a description of any disciplinary or administrative action taken by the Commission. If the Commission did not take action, or took different disciplinary or administrative action than that recommended by the Inspector General, the written response must describe the different action and explain the reasons for taking that action. The Inspector General may approve a request for an extension of this 60-day period for a period of time not to exceed 30 days if additional time is needed by the Executive Director or Chairman of the Audit Committee to review the summary report and its recommendation.

The Board shall have the exclusive authority to initiate any necessary corrective action pursuant to the Inspector General's summary report.

8. **Confidentiality.** All investigatory files and reports of the Inspector General respecting matters covered by this Agreement shall be confidential and shall not be divulged to any person or agency, except to the United States Attorney, the Illinois Attorney General, the States Attorney of Cook County, the Inspector General of a Sister Agency or as required by law. The Inspector General is authorized to issue public statements in the following circumstances: (a) if an investigation exonerates a person who is publicly known to have been under investigation, where such person requests such a statement; (b) if an investigation, audit or program review concerns inefficient or wasteful management; and (c) pursuant to Section 11 of this Agreement, in a Quarterly Report summarizing investigations resulting in sustained findings of misconduct. ~~The public summary shall briefly state, without disclosing the name or identity of any individual who was the subject of such investigation, (i) the nature of the allegation or complaint; (ii) the specific violations resulting in sustained findings; (iii) the Inspector General's recommendation for discipline or other corrective measures; and (iv) the Commission's response to and final decision on the Inspector General's recommendation.~~

9. **Duty to Report and Cooperate.** It shall be the duty of every employee, official, agent, contractor, subcontractor, consultant and vendor of the Commission to report any fraud, mismanagement, waste of funds or resources, abuse of authority, conflicts of interest, ethical violations or other impropriety involving Commission business, contracts or resources to the Inspector General. It shall be the duty of all Commission employees, officials, agents, contractors, subcontractors or persons or businesses seeking Commission contracts or prequalification to bid on Commission contracts to cooperate in the conduct of matters undertaken by the Inspector General pursuant to this Agreement. The Commission's premises,

equipment, personnel, books, records and papers shall be made available as soon as practicable to the Inspector General. Every Commission contract and every bid, proposal, application or solicitation for a Commission contract and every application for pre-qualification to bid on Commission contracts shall contain a statement that the person, individually and on behalf of the applicant, will abide by the requirements of this Section. In addition, nothing in this Agreement shall be interpreted to allow the Inspector General to require any statement, testimony, action or document that is subject to the attorney-client privilege.

10. Whistleblower Protection. The Inspector General shall conduct its investigations in a manner that ensures whistleblower protection to the fullest extent provided under the Whistleblower Act of the State of Illinois (740 ILCS 174/1 et. seq.) to any individual or entity providing information, cooperation or assistance to the Inspector General as a complainant or in response to any Inspector General investigative inquiry.

11. Quarterly Reports. No later than the fifteenth day of January, April, July and October of each year, the Inspector General shall file with the Audit Committee a quarterly report, accurate as of the last day of the preceding month, indicating the number of investigations and reviews initiated since the date of the last quarterly report, the number of investigations and reviews concluded since the last quarterly report, the number of investigations and reviews involving alleged waste, inefficiency, fraud and abuse in the Commission's programs, contracts or operations. The quarterly reports shall include the number of investigations which have not been completed within twelve months, the general nature of the allegations giving rise to those investigations, and shall state the reasons why the investigation is still pending. Each quarterly report will be publicly posted after it has been filed with the Audit Committee.

12. Compensation. The Commission shall make four equal quarterly payments to the City totaling 3.4% of the project fee revenue that the Commission is projected to receive per year, which shall be used by the City to fund the services provided under this Agreement.

13. Term of Agreement. Unless renewed by the mutual written agreement of the parties, the term of this Agreement shall be for the duration of the current, four-year term of the City's Inspector General; provided, however, the City or the Commission may terminate the Agreement at any time upon providing thirty days' prior notice to the other party.

14. Debarment. The reference to "Inspector General" or "PBC IG" in the Commission's "Procedural Guidelines for Debarment and Imposition of Sanction(s)" (the "Procedural Guidelines") shall be read to refer to the Inspector General referenced in this Agreement; provided, however, the Inspector General's duties and powers specified in Section 6.03, 6.08, 6.09, and 6.013 of the Procedural Guidelines shall not be exercised by the Inspector General referenced in this Agreement, and such roles shall be exercised as otherwise provided in the Procedural Guidelines.

15. Rules. The City of Chicago Office of Inspector General Rules and Regulations (Amended Effective March 4, 2014), as from time to time further amended (the "Rules"), shall apply to the activities of the Inspector General pursuant to this Agreement, except as to: (i) references in the Rules which do not apply to the Commission (e.g., references to the City of

Chicago and its officers, employees and activities), or (ii) references in the Rules to powers and functions that are outside the scope of the statutory powers vested in the Commission (e.g. Rules Section 3.11).

16. Miscellaneous.

A. All notices hereunder shall be in writing and shall be given as follows:

If to the City, to:
Inspector General
Office of Inspector General
740 N Sedgwick Street, Suite 200
Chicago, IL 60054-2996
Tel.: 773-478-7799
Fax: 773-478-3949

and

Corporation Counsel
City of Chicago Department of Law
121 N. LaSalle Street, Room 600
Chicago, IL 60602
Tel.: 312-744-0200
Fax: 312-742-0277

If to the Commission, to:

The Chairman of the Audit Committee
Richard J. Daley Center
50 West Washington Street, Room 200
Chicago, IL 60602
Tel.: 312-744-3090
Fax: 312-744-8005

Notices are deemed to have been received by the parties three (3) days after mailing (return receipt) or upon receipt if hand delivered.

The parties, by notice given hereunder, may designate any further or different addressee or addresses to which subsequent notices, certificates or other communications shall be sent.

B. The terms of this Agreement shall be binding upon the City and the Commission. None of the rights, duties or obligations under this Agreement may be assigned without the express written consent of the parties except as otherwise provided in this Agreement.

C. This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof. This Agreement shall not confer upon any person or entity other than the parties hereto any rights or remedies.

D. No provision of this Agreement, nor any act of the City or the Commission shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, or of principal or agent, or of limited or general partnership, or of joint venture, or of any association or relationship involving the City or the Commission.

E. The headings of the various sections and subsections of this Agreement have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

F. If any provision of this Agreement, or any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstance, is held invalid, the remainder of this Agreement shall be construed as if such invalid part were not included herein and the remainder of the terms of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

G. This Agreement may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by each party.

H. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Intergovernmental Agreement between the City of Chicago and the Public Building Commission of Chicago, all as of the date first written above.

CITY OF CHICAGO

By:

Mayor Rahm Emanuel

PUBLIC BUILDING COMMISSION OF CHICAGO

By:

Martin Cabrera, Jr.
Chairman of the Audit Committee