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**OFFICE OF INSPECTOR GENERAL**  
*City of Chicago*



***REPORT OF THE OFFICE OF INSPECTOR GENERAL:***

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***QUARTERLY REPORT OF THE OFFICE OF INSPECTOR GENERAL***  
***FOURTH QUARTER 2013***

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## OFFICE OF INSPECTOR GENERAL

*City of Chicago*

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January 15, 2014

To the Mayor, Members of the City Council, the City Clerk, the City Treasurer, and the residents of the City of Chicago:

Enclosed for your review is the public report on the operations of the City of Chicago Office of Inspector General (OIG) during the fourth quarter of 2013, filed with the City Council pursuant to Section 2-56-120 of the Municipal Code of Chicago.

The final quarterly report of 2013 reflects a maturing oversight body that fully inhabits its statutory mission to root out waste, fraud, abuse, and inefficiency. In its early years, this office was largely unknown, misunderstood, and unappreciated as an allied function of an economical, effective, and trusted City government. Today, it is seen as transparent, accountable, and a valuable force for stakeholders both inside and outside City government.

In recent years, OIG expanded its transparency and accountability through public reporting. Our quarterly reports evolved from bare statistical summaries to detailed accounts of all forms of OIG activities and operations. While working from a point of statutorily mandated confidentiality, we now inform our stakeholders about the depth of our work and the City's increasingly responsive actions in the service of the public's interest.

We also established robust principles and guidelines that meet national standards for oversight bodies. In 2012, OIG promulgated its first Rules and Regulations. In 2013, OIG concluded and published the first top to bottom external peer review of our office, which by regulation we have bound our self to renew triennially. These measures help assure City leaders and the public that OIG is held to the same high standards of performance that it calls for from City officials, employees, departments, and contractors.

Equally important given our unique mission, we are accomplishing more with less. The 2013 and 2014 OIG budgets made up a smaller percent of the City's total budget than in previous years. Despite this, OIG continued to mature. In the last year, the office completed the development of a fully operational Audit and Program Review section, which conducts performance audits to GAO Yellow Book standard. The 2014 Audit Plan, published in the last quarter after public notice and comment, demonstrates the broad array of City departments, operations, and programs that our audits cover. Likewise, the Hiring Oversight section, a function housed elsewhere in the City four years ago, is driving a compliance model that comports with industry standards and assures that the City will meet its legal and regulatory obligations under the *Shakman Accord*.

OIG implemented these services in the public interest, while improving the quality and efficiency of the OIG Investigations section. Our Investigations section continues to partner with local, state, and federal investigative and prosecutorial bodies in anti-corruption efforts. Through the work and dedication of a skilled staff, we innovated to optimize value to City stakeholders by leveraging institutional knowledge across operational realms. The results included new forms of public product, as reflected by the OIG Advisories released in the last quarter. One of these advisories prompted immediate City action to tighten anti-corruption mechanisms.

As always, this office is but one component of a vibrant oversight system. To be truly effective, this system requires an engaged public and the commitment of legislators and City officials to examine prevailing practices and continually pursue innovation and improvement in the delivery of public services. I therefore urge you to partner with OIG in 2014 in the effort to eliminate waste, fraud, abuse, and inefficiency. Please continue to send us your ideas and complaints and do not hesitate to alert our office if you have questions about, or suggestions for, improving City or OIG operations.

Respectfully,



Joseph M. Ferguson  
Inspector General  
City of Chicago

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This quarterly report provides an overview of the operations of the Office of Inspector General (OIG) during the period from October 1, 2013, through December 31, 2013. The report includes statistics and narrative descriptions of OIG's activity as required by the City's Municipal Code.

#### **A. MISSION OF THE OFFICE OF INSPECTOR GENERAL**

The mission of OIG is to root out corruption, waste, and mismanagement, while promoting effectiveness and efficiency in City government. OIG is a watchdog for the taxpayers of the City, and it has jurisdiction to conduct investigations and audits into most aspects of City government.

OIG accomplishes its mission through investigations, audits, advisories, and hiring reviews. OIG summary reports of investigations are sent to the Mayor and the responsible City management officials with findings and recommendations for corrective action and discipline. Narrative summaries of sustained investigations are released in quarterly reports. Audits and advisories are sent to the responsible management officials for comment and then are released to the public through publication on the [OIG website](#). OIG issues reports as required by the Hiring Plan and as otherwise necessary to carry out its hiring oversight functions.

#### **B. INVESTIGATIONS**

The OIG Investigation Section conducts both criminal and administrative investigations into the performance of governmental officers, employees, departments, functions, and programs, either in response to complaints or on the office's own initiative.

##### **1. Complaints**

OIG received 498 complaints during the preceding quarter. The following table provides detail on the actions OIG has taken in response to these complaints.

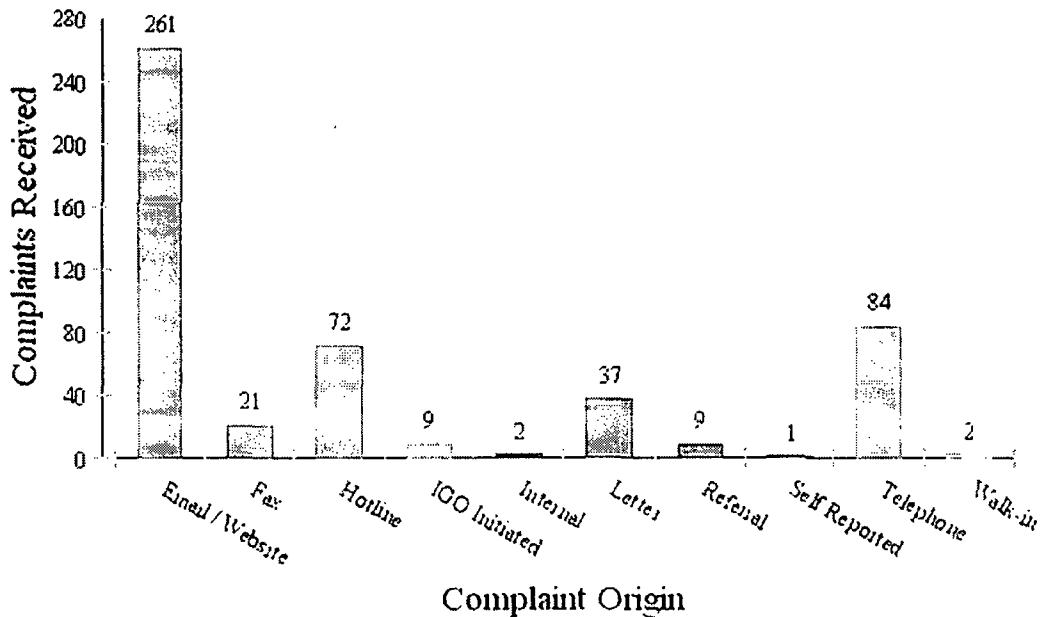
**Table #1 – Complaint Actions**

| <b>Status</b>        | <b>Number of Complaints</b> |
|----------------------|-----------------------------|
| Declined             | 342                         |
| Investigation        | 35                          |
| Referred             | 87                          |
| Other/Pending Review | 34                          |
| <b>Total</b>         | <b>498</b>                  |

As the table shows, for the vast majority of complaints, OIG declined to investigate the allegation. The primary reason that OIG declines a complaint is due to a lack of resources. That determination involves a form of cost/benefit evaluation by the Deputy Inspector General for Investigations which, among other factors, gauges potential magnitude or significance of the allegations advanced in the complaint both individually and programmatically, investigative

resources needed to effectively investigate the matter, and actual investigative resources presently available. More serious forms of misconduct, greater monetary losses, and significant operational vulnerabilities suggested by the allegations receive priority. A subset of matters of lesser individual significance but regular occurrence will also be opened. The chart below breaks down the complaints OIG received during the past quarter by the method in which the complaint was reported.

**Chart #1 - Complaints by Method**



## 2. Newly Opened Investigations

During the quarter, OIG opened 126 investigations. 125 were opened based on allegations of misconduct, and one was opened for other reasons. There were nine OIG-initiated complaints this quarter. Of these opened matters, 107 were immediately referred to other departments or investigative agencies. Thus, of all the investigations opened in the quarter, 19 proceeded to a full OIG investigation. Of the newly opened investigations, none were found to be not sustained before the end of the quarter, none were found to be sustained before the end of the quarter, and 19 remain open.

The following table categorizes the 126 matters logged by OIG based on the subject of the investigation.

**Table #2 – Subject of Investigations**

| <b>Subject of Investigations</b>                               | <b>Number of Investigations</b> |
|--|---------------------------------|
| City Employees   | 96                              |
| Contractors, Subcontractors and Persons Seeking City Contracts | 3                               |
| Appointed Officials  | 1                               |
| Elected Officials  | 1                               |
| Licensee   | 0                               |
| Other  | 25                              |
| <b>Total</b>   | <b>126</b>                      |

### **3. Cases Concluded in Quarter**

During the quarter, 159 investigative matters were concluded, 107 of which were the aforementioned referrals to City departments or other investigative agencies. Of the 107 referred investigative matters, 87 were referred to a City department, and 20 were referred to a sister agency. Of the remaining concluded matters, 9 were closed as sustained, 39 were closed not sustained, and four were closed administratively. A case is sustained when the preponderance of the evidence establishes that misconduct has occurred. A case is not sustained when OIG concludes that the available evidence is insufficient to prove wrongdoing under applicable burdens of proof. A case is closed administratively when another agency or department is investigating the matter, another agency or department took action, or the matter was consolidated with another investigation.

### **4. Pending Investigations**

Including the 126 investigations initiated this quarter, OIG has a total of 144 pending investigations.

### **5. Investigations Not Concluded in Twelve Months**

Under the Municipal Code, § 2-56-080, OIG must provide quarterly statistical data on pending investigations open for more than twelve months. Of the 144 pending investigations, 74 investigations have been open for at least twelve months.

The following table shows the general reasons that these investigations are not yet concluded.

**Table #3 – Reasons Investigations Were Not Concluded in Twelve Months**

| Reason  | Number of Investigations |
|---|--------------------------|
| Additional complaints were added during the course of the investigation.  | 3                        |
| Complex investigation. May involve difficult issues or multiple subjects.   | 38                       |
| Lack of sufficient investigative resources over the course of the investigation. Investigator's caseloads were too high to enable cases to be completed in a timely manner. | 27                       |
| On hold, in order not to interfere with another ongoing investigation.  | 2                        |
| Under review by the Legal Section or the Director of Investigations prior to closing.   | 4                        |
| <b>Total</b>  | <b>74</b>                |

## 6. Ethics Ordinance Complaints<sup>1</sup>

During this quarter, OIG received three ethics ordinance complaints. OIG did not decline or refer any ethics ordinance complaints, and three ethics ordinance complaints were opened for investigation.

### C. SUSTAINED ADMINISTRATIVE CASES

OIG sustained cases can be administrative, criminal, or both. Administrative cases generally involve violations of City rules, policies or procedures, and/or waste or inefficiency. For sustained administrative cases, OIG produces summary reports of investigation<sup>2</sup>—a thorough summary and analysis of the evidence and recommendations for disciplinary or other corrective action. These reports are sent to the Office of the Mayor, the Corporation Counsel, and the City departments affected or involved in the investigation.

Criminal cases involve violations of local, state, or federal criminal laws and are typically prosecuted by the Cook County State's Attorney's Office, the U.S. Attorney's Office, or the Illinois Attorney General's Office, as appropriate. OIG may issue summary reports of investigation recommending administrative action based on criminal conduct.

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<sup>1</sup> Effective July 1, 2013, the OIG ordinance, MCC § 2-56-120, was amended establishing a new requirement that OIG report the number of ethics ordinance complaints declined each quarter and the reasons for declination.

<sup>2</sup> Per MCC § 2-56-060, "Upon conclusion of an investigation the inspector general shall issue a summary report thereon. The report shall be filed with the mayor, and may be filed with the head of each department or other agency affected by or involved in the investigation."

## 1. Synopses of Cases

The following are brief synopses of investigations completed and reported as sustained matters. These synopses are intended solely to provide an illustrative overview of the general nature and outcome of the cases for public reporting purposes and thus do not contain all allegations and/or findings for each case.

In addition to OIG's findings, each description includes the action taken by the department in response to OIG's recommendations. Departments have 30 days to respond to OIG recommendations. This response informs OIG of what action the department intends to take. Departments must follow strict protocols, set forth in City's Personnel Rules, Procurement Rules, and/or applicable collective bargaining agreements, prior to imposing disciplinary or corrective action. Only when this process is complete and discipline has been imposed or corrective action taken on a City employee does OIG consider the department to have acted.

This process can often take several weeks. In deference to the deliberative processes of City departments and contractual rights of employees relating to discipline, OIG waits to report on cases regarding current City employees until the subject's department has acted on OIG's report. For cases in which a department has failed to respond within 30 days (or 60 days if a full extension has been granted), the response will be listed as late.

### (A) OIG Case # 09-0407(a)<sup>3</sup>

OIG concluded an investigation establishing that a former Chicago Department of Transportation official (the “CDOT Official” or the “Official”) violated the City’s Personnel Rules and the *Shakman* Accord by circumventing the City’s usual competitive procurement process in order to retain the services of a consultant, whom the Official had known for decades, and utilizing that consultant as a common-law CDOT employee.

More specifically, in September 2007, the CDOT Official sought to retain the services of a former City employee (the “Consultant”). The CDOT Official, who was familiar with the Consultant’s work, met with and informed the Consultant that CDOT was looking for help. Then, in November 2007, the Consultant contacted a consulting firm (the “Company”). The Company had an existing master consulting agreement with the City, and the Consultant sought to subcontract with the City under its contract. The Company agreed, and the CDOT Official issued a directed task order (TO) to the Company in December 2007, even though such direction was not appropriate under the City’s procurement rules. The CDOT Official’s issuance of the TO constituted preferential treatment because it ensured that CDOT would retain the CDOT Official’s favored consultant, thereby depriving other potentially, equally, or more qualified consultants of the opportunity to compete for the position.

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<sup>3</sup> OIG Case # 09-0407 began as one investigation but uncovered several similar but distinct schemes which have been reported out separately, that is why these matters have been designated (a), (b) and (c).

In addition, from the Consultant’s hire in January 2008 until January 2010, the CDOT Official used the Consultant as a common-law CDOT employee in violation of *Shakman*. The Consultant spent all of his time on City projects and reported to another senior CDOT official. The Company, a minority-owned business enterprise (MBE) for a substantial portion of the Consultant’s tenure at CDOT, effectively operated only as a payroll processor for the Consultant and therefore failed to perform a commercially useful function with respect to the Consultant’s services.

The Consultant’s funded employment under the TO ended in 2010. The Official attempted to retain the Consultant’s services through the use of the non-competitive procurement process. The Department of Procurement Services (DPS) rejected this request.

Based on these findings, OIG would have recommended that the CDOT Official receive discipline up to and including termination. However, the Official is no longer a City employee. OIG therefore recommended that the City issue findings with respect to the CDOT Official’s conduct and place a copy of the findings—and this report—in the Official’s personnel file for appropriate consideration in the event the Official seeks re-employment with the City.

OIG further recommended that DPS take action against the Company consistent with sanctions the Company had previously faced for a similar offense, including the recovery of monies the Company obtained in its capacity as a payroll service for the Consultant. Finally, OIG recommended that DPS adjust its historic MBE compliance figures to eliminate any inappropriate MBE credits awarded to the Company.

In response, DPS sent a redacted copy of OIG’s report to the Company and advised the Company that it had 30 days to provide DPS with a response. According to the DPS, after it receives the Company’s response, it will provide OIG with additional details on any actions it plans to take.

CDOT did not make specific findings regarding the CDOT Official, however the department did concur with OIG’s recommendation and directed that a copy of OIG’s report be placed in the CDOT Official’s Department of Human Resources personnel file to be considered in the event that the Official seeks re-employment with the City.

(B) OIG Case # 09-0407(b)

OIG concluded an investigation establishing that several current and former CDOT employees violated the *Shakman* Accord and the City’s Personnel Rules during the procurement and retention of two consultants (the “Consultants” or “Consultant I” and “Consultant II”). The investigation also revealed that the engineering services company (the “Company”) which hired the Consultants at CDOT’s direction violated the City’s False Claims Act (§ 1-22-020 of the Municipal Code of Chicago) by misrepresenting the Consultants as engineers in the invoices it submitted to the City for payment and overcharging the City for its administrative services.

More specifically, two former high-ranking CDOT officials violated *Shakman* in 2006 by directing the Company to hire Consultant II as a CDOT consultant. Consultant II was a former

CDOT employee with knowledge of certain data system reporting skills. Then, in 2007, CDOT Employees A, B, and C, along with one of the high-ranking officials, circumvented the City's competitive consultant procurement process, thus violating *Shakman*. They directed the Company, which had an existing construction engineering master consulting agreement (MCA) with the City, to hire Consultant I, a former City employee, as a CDOT programming consultant. CDOT directed Consultant I's hire because the consultant's personal services contract was expiring and Employees A and C had become reliant on Consultant I's knowledge of a CDOT data system.

In addition, the Department of Procurement Services (DPS) approved the task orders (TOs) and supplemental TOs that CDOT issued for the Consultants' services despite the fact that the programming and finance services Consultants I and II provided were outside the scope of the Company's engineering MCAs.

#### Findings concerning the Company

After CDOT directed the Company to hire the Consultants, CDOT utilized the Consultants as common-law employees in violation of *Shakman*. The Company effectively operated as a payroll processor and thus performed no commercially useful function and overcharged the City for its administrative payroll processing services. The Company also violated the City's False Claims Act by misrepresenting the Consultants as "senior project engineers" in the invoices it submitted to the City for payment, even though the Company knew that the Consultants did not have engineering backgrounds and served the City in primarily administrative capacities.

#### Findings concerning CDOT and City Employees

CDOT Employees A and B violated the City's personnel rules by signing and verifying for payment the vouchers the Company submitted to the City for one or both of the Consultants' services, even though the work the Consultants provided was outside the scope of the construction engineering MCA under which they were billing time. Employee A, a project manager for the Consultants' TOs, also violated the City's False Claims Act by knowingly drafting a false justification for one of the Consultant I's TOs that purposely excluded certain out-of-scope services that Consultant I was providing to CDOT in order to ensure Consultant II would continue consulting for CDOT.

CDOT Employee C, a project manager for at least one of the supplemental TOs and a signatory of Consultant I's timesheets, violated the City's Personnel Rules by allowing DPS to approve a supplemental TO that was outside the scope of the Company's MCA. Employee C subsequently allowed the City to pay for the Consultants' out-of-scope services.

#### OIG Recommendation and Department Response

OIG recommended that the City terminate CDOT Employee A's employment and impose discipline against CDOT Employees B and C, commensurate with the gravity of their respective violations, their past disciplinary and work history, and department standards. OIG further recommended that DPS impose sanctions on the Company pursuant to § VIII, ¶ 8.04 of the City

Debarment Rules for submitting invoices to the City that misrepresented the Consultants as engineers and overcharged the City for administrative services. OIG also recommended that the City consider a recovery action with respect to the Company's numerous violations of the City's False Claims Act.

In response, DPS sent a redacted copy of OIG's report to the Company and advised the Company that it had 30 days to provide DPS with a response. According to DPS, after it receives the Company's response, it will provide OIG with additional details on any actions it plans to take.

CDOT stated in its response that CDOT Employee A would resign in lieu of discharge on February 1, 2014, because Employee A "is needed to sustain the operations of the department." Ultimately, however, Employee A resigned in lieu of discharge effective December 20, 2013. CDOT further stated that CDOT Employees B and C would receive four and two-week suspensions respectively. Going forward, Employee B will also be excluded from the vendor selection and the management process.

Finally, CDOT stated that all CDOT employees involved in procurement and vendor management would receive additional *Shakman* training from the Department of Human Resources.

(C) OIG Case # 09-0407(c)

OIG concluded an investigation establishing that several current and former CDOT employees violated the *Shakman* Accord and the City's Personnel Rules during the procurement and retention of two CDOT consultants (the "Consultants" or "Consultant I" and "Consultant II"). It also established that a women-owned business enterprise (WBE) engineering company ("Company A") and an engineering services firm ("Company B"), participated in CDOT's scheme to circumvent the City's competitive consultant procurement process, thereby violating the City's False Statements Act (§ 1-21-010 of the Municipal Code of Chicago (M.C.C.)) (Company B), the City's False Claims Act (M.C.C. § 1-22-020) (Company A) and the City Debarment Rules (Company A and B).

More specifically, in 2006, two high-ranking CDOT officials and CDOT Employee A violated *Shakman* by directing Company A to hire Consultant I, a former CDOT employee whom CDOT knew had capital funding expertise, so that CDOT could utilize Consultant I's finance consulting services. At the time, Company A was a subcontractor to Company B on its existing master consulting agreement (MCA) for roadway construction engineering services. Company B agreed to let Company A use its MCA as a vehicle to provide Consultant I's financial consulting services to the City, even though those services were outside the scope of Company B's MCA. In 2007, a high-ranking CDOT official and CDOT Employee B similarly violated *Shakman* by directing Company A to place Consultant II, a former CDOT employee, at CDOT as a sign shop consultant pursuant to Company B's engineering MCA. CDOT subsequently utilized the Consultants as common-law employees in violation of *Shakman*.

### Findings concerning Company A and B

Company B submitted a number of false statements to the City. The false statements include WBE utilization reports stating that Company A provided the City construction engineering services. Additionally, Company B submitted Subcontractor Payment Certification forms falsely asserting that it conducted reasonable due diligence regarding the WBE utilization reports and the invoices it submitted with the Subcontractor Payment Certification forms.

Company A fraudulently billed the City for over \$200,000 of “burden and overhead” fees for the Consultants’ services, in addition to the Consultants’ hourly fee. During this time the Consultants worked at CDOT, used City equipment, were supervised by CDOT employees, and were overseen minimally, if at all, by Company A’s employees. Company A effectively operated as a payroll processor with respect to the Consultants and provided no meaningful supervision of the Consultants. Thus, it failed to perform a commercially useful function as Company B’s subcontractor.

After Company A obtained its own engineering MCA it continued to function only as a payroll processor for both Consultant I and Consultant II. This violated the MCA’s special conditions, which required it to perform at least 50% of the total dollar value of each task order (TO) with its own workforce.

### Findings concerning CDOT and City Employees

CDOT Employees A, B, C, and D all violated the City’s Personnel Rules by signing and verifying for payment vouchers for out-of-scope services. Employee A did so as the project manager for Company A and B’s TOs. Employee A knew, or should have known, that Consultant I’s work was outside the scope of the MCAs to which Consultant I was billing time. Employees B and D also admitted to signing and verifying payment of vouchers for the services of Consultant II and I, respectively. Employee B specifically admitted a failure to review the MCAs under which Consultant B was working prior to signing the vouchers. In Employee C’s role as the project manager for at least one of the supplemental TOs, Employee C further violated the City’s Personnel rules by allowing DPS to approve a supplemental TO that was outside the scope of Company B’s engineering MCA.

### OIG Recommendations and Department Action

Based on the conduct described above, OIG recommended that the City impose discipline against CDOT Employees A, C, and D, commensurate with the gravity of their respective violations, their past disciplinary and work history, and department standards. OIG would have recommended that CDOT Employee B receive discipline as well, but CDOT Employee B is no longer a City employee. OIG therefore recommended that the City make findings respecting CDOT Employee B’s conduct and direct that a copy of the findings be placed, along with this report, in CDOT Employee B’s personnel file for appropriate consideration in the event CDOT Employee B seeks re-employment with the City.

OIG recommended that DPS impose sanctions on Company B pursuant to § VIII, ¶ 8.04 of the City Debarment Rules for submitting false reports to the City and that the City consider initiating a recovery action against Company B with respect to the company’s numerous violations of the City’s False Statements Act.

With respect to Company A, OIG recommended that DPS impose sanctions on the Company pursuant to § VIII, ¶ 8.04 of the City Debarment Rules for failing to perform a commercially useful function under Company B’s MCA and breaching the Special Conditions of its own MCA. OIG also recommended that the City consider initiating a recovery action against Company A with respect to the company’s numerous violations of the City’s False Claims Act.

Finally, OIG recommended that DPS adjust its historic WBE compliance figures to eliminate any inappropriate WBE credits awarded to Company A or B. In response, DPS sent a redacted copy of OIG’s report to the Company and advised the Company that it had 30 days to provide DPS with a response. According to DPS, after it receives the Company’s response, it will provide OIG with additional details on any actions it plans to take.

CDOT responded that CDOT Employee A and C would receive a two and four week suspension respectively. These suspensions were designed to be served non-consecutively due to CDOT’s “operation needs” and “numerous vacancies.” In addition Employee C will be excluded from the vendor selection and management process. CDOT did not make specific findings regarding CDOT Employee B, however the department did concur with OIG’s recommendation and directed that a copy of OIG’s report be placed in CDOT Employee B’s DHR personnel file to be considered in the event CDOT Employee B seeks re-employment with the City.

Finally, CDOT stated that all CDOT employees involved in procurement and vendor management would receive additional *Shakman* training from the Department of Human Resources.

Employee D currently works at the Department of Streets and Sanitation (DSS). DSS stated that it felt “verbal counseling” was appropriate for CDOT Employee D based on his “stellar work history, his minor role in the misconduct, and the fact that this [was] his first offense.”

(D) OIG Case # 10-0922

OIG has concluded an investigation establishing that two former high-ranking CDOT officials (“CDOT Official A” and “CDOT Official B”) violated the *Shakman* Accord and the City’s Personnel Rules during the procurement and retention of a CDOT management accountability consultant. More specifically, the evidence established that CDOT Official A knowingly bypassed the City’s regular task order (TO) procurement process. The official personally selected a transportation consulting and engineering company (the “Company”) to provide construction management accountability services to CDOT, pursuant to a TO issued under the Company’s bridge construction engineering master consulting agreement (MCA) with the City. CDOT Official A made this selection knowing that the requested services had little or no direct connection to bridges or engineering.

After issuing the TO to the Company, Official A then violated the *Shakman* Accord and the City’s Personnel Rules by participating in CDOT’s directed selection of the specific consultant (the “Consultant”) whom the Company hired to perform the improperly procured, out of scope, services. The Consultant, a former City employee, had previously worked with CDOT Official B.

Subsequently, CDOT Official B directly supervised the Consultant while the Consultant functioned as a common-law CDOT employee. In doing so, CDOT Official B violated a long-established *Shakman* proscription against the use of common-law employees, as well as the City Personnel Rules, and exposed the City to potential liability.

OIG also established that the Company and CDOT Official A violated the City’s False Claims Act. The Company misrepresented the Consultant as an engineer in the voucher packages it submitted to the City, knowing that the Consultant did not have an engineering background and did not perform engineering services for the City. CDOT Official A was aware that the Consultant was not providing engineering services to the City, but nevertheless approved the Consultant’s invoices for payment.

OIG’s investigation further established that the Department of Procurement Services (DPS) approved the TO that CDOT issued to the Company despite the fact that the construction management accountability services were outside the scope of the underlying bridge construction engineering MCA.

Based on these findings, OIG recommended that DPS impose sanctions on the Company pursuant to § VIII, ¶ 8.04 of the City Debarment Rules for misrepresenting the consultant as an engineer in the voucher packages it consistently submitted to the City over a period of years. OIG also recommended that the City consider the commencement of a recovery action with respect to the Company’s numerous violations of the City’s False Claims Act. OIG did not make any disciplinary recommendations with respect to the DPS’s conduct because it appears that DPS has already identified, and taken appropriate steps to fix, the flaws that existed in its TO approval process.

OIG would have recommended that CDOT Officials A and B receive discipline up to and including termination for their respective violations of *Shakman* and the City Personnel Rules. However, neither of these individuals are still City employees. OIG therefore recommended that the City make findings respecting CDOT Official A and B’s conduct and direct a copy of any findings to the Officials’ personnel files, along with OIG’s report, for appropriate consideration in the event they seek re-employment with the City.

CDOT did not make specific findings regarding CDOT Officials A and B, however the department did concur with OIG’s recommendation and directed that a copy of OIG’s report be placed in the Officials’ DHR personnel files to be considered in the event that the Officials seek re-employment with the City.

(E) OIG Case # 10-1725

An OIG investigation established that a DSS Manager asked a subordinate to withdraw from consideration for a promotion in an effort to direct the promotion to another DSS subordinate (the Candidate). In addition, OIG found that the Manager, one of the authors of the promotional exam, repeatedly informed other candidates of the Manager's preference for the Candidate. The Manager thereby provided preferential treatment, exhibited conduct unbecoming a public employee, and performed at a level below what is ordinarily expected of those in the Manager's position, in violation of the City's Personnel Rule XVIII, section 1, paragraphs 27, 39, and 50.

OIG would have recommended that DSS impose discipline up to and including termination of the Manager. However, the Manager retired before the investigation was complete. OIG therefore recommended that DSS make findings regarding the Manager's conduct and direct that any findings along with the OIG report, be placed in the Manager's personnel file for appropriate consideration in the event the individual seeks re-employment with the City.

Additionally, in the course of its investigation, OIG closely examined a former high-ranking DSS Official's contact with DHR to determine if that conduct constituted advocacy for a specific candidate, which would violate the City's Hiring Plan. The evidence showed that the Official mentioned a particular candidate by name in a conversation with DHR, but only to clarify the process after DHR had made its decision. However, because the Official's comments raised an appearance of possible preferential treatment, OIG recommended that DHR consider advising hiring departments to refrain from making any reference to specific candidates, other than selected candidates, when inquiring about a hiring sequence. It also recommended that DHR continue instructing hiring departments to refer any candidate questions about the process directly to DHR.

DSS did not make specific findings regarding the Manager, however the department did concur with OIG's recommendation and directed that a copy of OIG's report be placed in the Manager's DHR personnel file to be considered in the event that the Manager seeks re-employment with the City. DHR also stated that while the PowerPoint presentation used in DHR's training does not specifically instruct departments not to use applicant names, trainers do inform attendees, "that it is best to never mention an applicant by name unless they are on the referral list because it can appear as advocating even if it is not intended as such." DHR also noted that when a department forwards inquiries from applicants who are not on the referral list, DHR reminds the department that it should direct the applicant to DHR and refrain from forwarding the inquiry.

## (F) OIG Case # 12-1508

OIG has concluded an investigation establishing that, during a City department's hiring meeting, a Department of Human Resources (DHR) employee (the Employee or the DHR Employee) made unsolicited remarks about the Employee's personal acquaintance with a candidate being considered as first alternate. Specifically, the DHR Employee stated that the employee had worked with the candidate at another employer and praised the candidate's qualifications and work experience.

The City's hiring process relies on DHR to facilitate the hiring department's adherence with the City's hiring plan and ensure that City job applicants are considered on an equal playing field. The DHR Employee was responsible for monitoring the meeting to ensure that no political or other improper motivation influenced the hiring deliberations. The DHR Employee was not authorized to mention prior relationships with candidates or to offer personal assessments of the candidates. The Employee's actions constituted substandard performance of defined duties as well as a form of preferential treatment.

OIG recommended that DHR impose discipline against the Employee consonant with the severity of the violations, the Employee's disciplinary and work history, department standards, and any other relevant considerations. In response to the recommendation, DHR stated that it would give the Employee verbal counseling regarding proper conduct at hiring meetings.

## (G) OIG Case # 12-0510

OIG established through documentation, surveillance, and interviews, that a multi-unit dwelling received City garbage collection in violation of the City Municipal Code. Initiated by a complaint, the investigation determined that there was a fundamental misunderstanding among DSS laborers and management regarding the City's refuse collection ordinance and DSS policies. Although the Ward Superintendent did issue one citation to the building's owner regarding the need to obtain a private scavenger service, the owner failed to remedy the problem and the Ward Superintendent made no follow-up. OIG found the Ward Superintendent, as the individual responsible for ensuring proper collection, ultimately responsible for this lapse.

In an interview with OIG, the Ward Superintendent admitted to not knowing the refuse collection policies, nor the procedures and standards for compliance and enforcement. The Ward Superintendent also claimed to have never received any training on the job duties of the position. Other interviewees confirmed this assertion, but noted that the Ward Superintendent never consulted a supervisor about the correct course of action. OIG determined that the Ward Superintendent's actions amounted to “[i]ncompetence... in the performance of the duties of [his/her] position,” which violates City Personnel Rule XVIII, Section 1, Paragraph 39.

OIG recommended that DSS impose discipline against the Ward Superintendent commensurate with the findings of its report. It also recommended that DSS conduct updated training with all Ward Superintendents to ensure they have the knowledge necessary to fulfill the responsibilities of their position and to appropriately instruct and guide subordinates, particularly in the area of identifying and addressing ordinance violations. DSS agreed with OIG's findings, stating that it

believed a written reprimand would be appropriate for the Ward Superintendent and indicated that it would conduct training on service enforcement regarding multi-unit buildings for all Ward Superintendents.

#### **D. CRIMINAL CASES, ADMINISTRATIVE APPEALS, GRIEVANCES, AND RECOVERIES**

OIG investigates both administrative and criminal allegations.

In criminal cases, OIG partners with a prosecuting agency, such as the U.S. or State's Attorney's Office, which prosecutes the case. For the purposes of OIG quarterly reports, criminal cases are considered concluded when the subject of the case is indicted.

In administrative cases, a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee's classification under the City's Personnel Rules and/or applicable collective bargaining agreements. OIG monitors the results of administrative appeals before the Human Resources Board (HRB)<sup>4</sup> and grievance arbitrations concerning our disciplinary recommendations.

##### **1. Synopses of Criminal Cases**

During the quarter, one OIG case produced criminal charges.

(A) *United States of America v. Laurance H. Freed and Caroline Walters, 13CR 951 (ND IL) (OIG Case # 10-0820)*

On December 12, 2013, two executives of a Chicago real estate development company were indicted on federal fraud charges. The charges allege that the executives lied and concealed information in order to secure bank loans and credit extensions at a time when they knew their firm was having serious financial difficulties including unpaid property taxes, the double-pledging of public financing notes issued by the City of Chicago, and the company's default on the City's notes. In early January, Freed was arraigned and a pretrial schedule was set.

The defendants, Laurance H. Freed, and Caroline Walters, are, respectively, the president and vice president/treasurer of Joseph Freed and Associates LLC (JFA), best known for its role in the development of Block 37 in Chicago's Loop. The charges involve, in part, two Tax Increment Financing (TIF) notes that the City agreed to issue in November 2002 to finance redevelopment of the former Goldblatt's department store in the City's Uptown neighborhood. Freed was manager of a limited liability company, formed by JFA, called Uptown Goldblatts Venture LLC,

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<sup>4</sup> HRB definition: A "three-member board is appointed by the Mayor and is charged with the responsibility of conducting hearings and rendering decisions in instances of alleged misconduct by career service employees. The Board also presides over appeal hearings brought about by disciplinary action taken against employees by individual city departments." City of Chicago, Department of Human Resources – Structure.

[http://www.cityofchicago.org/city/en/depts/dhr/auto\\_generated/dhr\\_our\\_structure.html](http://www.cityofchicago.org/city/en/depts/dhr/auto_generated/dhr_our_structure.html) (accessed April 13, 2010)

which received a \$4.3 million TIF redevelopment area note and a \$2.4 million TIF project note from the City to help finance the project.

Freed, 51, of Chicago, and Walters, 53, of Palatine, were each charged with seven counts of bank fraud, one count of mail fraud, and five counts of making false statements to banks in a 14-count indictment returned by a federal grand jury. The indictment also seeks forfeiture of \$2,995,295 in alleged fraud proceeds from both defendants. The indictment alleges three victims: the City of Chicago, Cole Taylor Bank, and a consortium of banks consisting of Bank of America (as successor to the former LaSalle Bank National Association), Associated Bank, Northern Trust, and Wachovia Bank. According to the indictment, between March 2008 and February 2011 both defendants made false statements to the City and the banks in order to obtain funds. During this period JFA was in the midst of a severe liquidity crisis that jeopardized its ability to pay operating expenses. Freed and Walters knew that JFA's inability to make required payments threatened the company's future. They allegedly made false statements,

- to the bank consortium in order to prevent default on a \$105 million line of credit and to obtain a loan modification that would have provided JFA with at least \$10 million in additional funds;
- to Cole Taylor Bank regarding the defendants' intent to persuade the bank consortium to release its claim on the TIF notes as collateral; and
- to the City of Chicago to obtain nearly \$1.75 million in payments from the TIF notes, knowing that the bank consortium and Cole Taylor were entitled to those payments.

An indictment contains merely charges and is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

## 2. Developments in Prior Charged Criminal Cases

During the quarter, there were developments in one of OIG's prior criminal investigations.

(A) *United States of America v. Brunt et al., 11CR 0017 (ND IL) (OIG Case # 07-2077)*

On February 25, 2012, Anthony Duffy pleaded guilty to lying to the Federal Bureau of Investigations about his failure to disclose two key investors in a sewer company that performed work on behalf of the City. On December 6, 2012, Jesse Brunt, Duffy's co-conspirator, pleaded guilty to one count of mail fraud for acting as a minority "pass-through" on the sewer cleaning contracts.

On October 30, 2013, Duffy was sentenced to 17 months in prison. Brunt's sentencing was postponed, a new date has not been set. OIG will continue to report on the developments in this case in future quarterlies.

### **3. Synopses and Results of Administrative Appeals or Grievances**

To date, OIG has been notified of updates in two appeals to the Human Resource Board (HRB) occurring in the 4<sup>th</sup> Quarter regarding discipline imposed as a result of an OIG investigation.

#### **(A) *Update of OIG Case # 11-0999***

In July 2013, OIG reported that the Chicago Department of Aviation (CDA) discharged an employee after an OIG investigation revealed that the employee violated the City's residency requirement, M.C.C. § 2-152-050.

On December 2, 2013, after a full hearing, an administrative hearing officer issued a report recommending that the City's Human Resources Board uphold CDA's decision to discharge the employee. On December 13, 2013, the City's Human Resources Board upheld CDA's decision to discharge the employee.

#### **(B) *Update of IGO Case # 10-0863***

An OIG investigation established that a Building Inspector with the Conservation Bureau of the Department of Buildings (DOB) improperly signed off on building permits associated with three properties. These properties were the subjects of Administrative Hearing cases because of building code violations. Without conducting valid assessments, the Inspector signed the reinspection permit documents thereby indicating that the mandated repair work was complete and the properties were in compliance. The evidence also showed that the same General Contractor performed work on these three properties and that the Contractor had a personal relationship with the Inspector. These findings showed a pattern of misrepresentation and preferential treatment by the Inspector which not only constituted personnel rule violations, but also fundamentally undermined the Inspector's trustworthiness. DOB ultimately discharged the Inspector.

The Inspector appealed DOB's discharge order to the Human Resources Board (HRB). Following the presentation of evidence and testimony, the Hearing Officer found that the City sufficiently proved multiple violations of City Personnel Rule XVIII paragraphs 6, 27, and 48, as well as individual violations of paragraphs 8 and 50. Nevertheless, the Hearing Officer recommended that the HRB reverse the discharge and impose a two-year suspension. The Hearing Officer noted that while the violations were severe and that one of the Inspector's compliance sign offs was used to inappropriately dismiss an Administrative Hearing matter, there was no evidence that the Inspector's compliance findings were incorrect or that the Inspector received any financial gain. In addition, the Hearing Officer cited the lack of any prior disciplinary history, the fact that the Inspector is a recovering alcoholic, and the fact that the Inspector was allowed to work as an Inspector during the pendency of this investigation as mitigating factors. Ultimately, the Hearing Officer concluded that. “[a] two year suspension would not deprecate the seriousness of the conduct.”

Following oral argument on October 15, 2013, HRB rejected the Hearing Officer's recommendation and affirmed the discharge, concluding that, "the conduct was so egregious that discharge is the appropriate discipline."

#### 4. Recoveries

This quarter OIG received no reports of cost recovery actions or other financial recoveries related to an OIG investigation.

#### E. AUDITS

In addition to confidential disciplinary investigations, OIG produces a variety of public reports including independent, objective, analysis and evaluations of City programs and operations with recommendations to strengthen and improve the delivery of City services. These engagements focus on the integrity, accountability, economy, efficiency, and effectiveness of each subject.

The following are summaries of six audits and follow-up reports that were released this quarter.

(A) *Follow-Up Report on 2012 OIG Audit of the Chicago Police Department Evidence and Recovered Property Section*

On October 10, 2013, OIG released the findings of a follow-up inquiry into actions taken by the Chicago Police Department (CPD) in response to a September 2012 OIG audit of internal controls at CPD's Evidence & Recovered Property Section (ERPS). The 2012 OIG audit showed that CPD ERPS failed to ensure that evidence and property seized or taken into custody by CPD were adequately protected, properly documented, and readily available when required. OIG recommended that CPD management,

- immediately design and implement internal controls to ensure that all physical inventory and records can be located;
- implement the recommendations made by CPD Internal Auditing and Control Division in a 2005 audit and make necessary changes to ensure that inventory is transported to ERPS in a timely manner and its location is accurately recorded; and
- adopt the standards established by the International Association for Property and Evidence related to ventilation systems within the narcotics storage area.

OIG's follow-up inquiry found that CPD ERPS was still implementing many of the corrective actions it committed itself to in response to the September 2012 audit. While those actions remained incomplete, once fully implemented, OIG believes the corrective actions reported by CPD ERPS may reasonably be expected to resolve the core findings noted above.

*(B) Chicago Fire Department Fire and Medical Incident Response Times Audit*

On October 18, 2013, OIG released an audit of the Chicago Fire Department's (CFD) fire and medical incident response times for calendar year 2012. The OIG audit determined that CFD was not meeting the response times for National Fire Protection Association (NFPA) Standard 1710 that it had historically claimed to meet or exceed. It also found that CFD's internal reports lacked the elements necessary to accurately assess whether the Department was in fact meeting or exceeding the national standards it claimed to be meeting.

CFD agreed with one of the audit's main findings, that CFD was not strictly meeting NFPA Standard 1710. It argued that NFPA standards are useful as guidelines rather than stringent rules for fire departments. OIG does not have an opinion about the usefulness of NFPA standards, but encouraged CFD to set and state its goals clearly and to regularly check its status in meeting those goals.

*(C) Department of Water Management Inventory Process Follow-Up Audit*

On November 5, 2013, OIG released an audit that followed up on a 2012 OIG audit of inventory processes at the Department of Water Management's (DWM) Bureau of Operations and Distribution storage facilities. These facilities hold an inventory of parts such as pipes, valves, clamps, and couplings used by DWM employees to repair water and sewer mains. The 2012 audit found that 43% of physical inventory amounts did not match the inventory amounts recorded in DWM's asset management system.

The follow-up audit report found that,

- Physical inventory amounts failed to match electronic records in 40% of the parts sampled. That was only a 3% improvement from the OIG 2012 audit. In its response, DWM outlined some of the steps it needs to take in order to correct this problem;
- Inaccurate inventory balances of some fire hydrant repair parts may lead to a year-end financial overstatement of 2013 inventory. This means that the dollar value of fire hydrant repair parts physically present may be less than the amount recorded. The original audit found a similar overstatement for 2011;
- There was still no consistent guidance for reporting and oversight of inventory processes. However, DWM stated that it was seeking to follow the Comptroller's required citywide inventory policies and procedures by developing written materials to guide manual inventory operations;
- DWM implemented increased security measures to safeguard inventory; and
- DWM addressed an understated year-end balance described in the OIG 2012 audit.

*(D) Chicago Police Department Gun Turn-In Program Audit*

On November 13, 2013, OIG released an audit of CPD’s 2012 Gun Turn-In Event. The Gun Turn-In Program gives participants a gift card in exchange for turning in a gun. It is one of many initiatives to reduce crime in Chicago and has the stated intention of removing guns from the city’s streets.

OIG’s audit of CPD’s 2012 Gun Turn-In Event found that CPD accurately and appropriately accounted for all the gift cards distributed to event participants. However, the department misclassified up to 6.5% of the replicas as firearms, which could have resulted in up to \$4,680 in overpayments.

To avoid future misclassification and address operational risks, OIG recommended that CPD review its on-site weapon classification process and develop formally documented policies and procedures regarding the operations of the Gun Turn-In Program. In its response, CPD committed to reviewing its existing policies and ensuring standards are sufficient.

The audit was unable to determine how effective the program is at removing guns from the streets of Chicago due to CPD’s “no questions asked” policy, under which CPD neither requests nor records identifying information, including proof of residency, from the individuals turning in guns. The risks of this policy came to light in a publicly reported incident in which people from outside the Chicago area turned in “non-firing junk” and used the program gift cards to buy new guns and ammunition.

In addition, CPD did not conduct ballistics tests to determine if collected weapons had been used in a crime, stating that to do so would compromise participant anonymity. In its management response, CPD also notes that it considers any gun turned in through the program to be beneficial, regardless of where the gun originates or its owner resides.

*(E) Follow-Up Report on 2012 OIG Review of Opportunities for Civilianization in the Chicago Police Department*

On December 5, 2013, OIG released the findings of a follow-up inquiry into actions taken by CPD in response to a January 2013 OIG review of opportunities for civilianization of positions at CPD. In the original review, OIG examined 370 CPD positions and found a total of 292 full-duty sworn officers filling jobs that did not require the authority, skills, knowledge, or experience specific to sworn officers. The review estimated annual savings from civilianization of these positions ranging from \$6.4 million to \$16.6 million per year.

In response to OIG’s follow-up inquiry this fall, CPD reported that it had,

- moved 126 sworn officers from administrative and dispatch positions to field duties;
- identified 65 positions to be filled by civilians; and

- made efforts outside of personnel changes to advocate for a change to state law that will allow retired police officers to serve summons.

OIG's follow-up was unable to determine if the 126 positions will be filled by civilians or if the 65 vacated positions were left by the same sworn officers moved into the field. Similarly, OIG could not verify whether any of these positions are related to the 292 identified by the January review.

CPD reasserted its general commitment to civilianization efforts. However, OIG concluded that CPD's civilianization efforts remain a work in progress as, among other things, it had yet to initiate a department-wide assessment of positions that could be civilianized, as was recommended by OIG in January.

*(F) Follow-Up Report on 2013 OIG Audit of the Department of Water Management Material Truck Haul Program*

On December 19, 2013, OIG released a follow-up report on DWM's progress in reforming vendor payment structures in the Material Truck Haul Program (MTHP). The original audit, published in February 2013, found that many vendors were paid late and/or were underpaid. DWM reported in December 2013 that it had corrected the problems.

Specifically, to address OIG's findings that in 2011 vendors were underpaid by \$612,589 and \$10 million in invoices were paid late or remained unpaid more than seven months past the invoice date, DWM now pays all invoices within the 60-day period stated in the contracts and includes a "grand total" in monthly summary accounts for vendors. To address the finding that 94.8% of signatures confirming delivery or pick-up did not match the list of authorized signatures, DWM created a new authorization signature list for delivery and pick-up confirmation.

OIG concluded that DWM had fully implemented the corrective actions recommended in the February 2013 audit of the MTHP.

**F. ADVISORIES**

Advisories describe a management problem observed by OIG in the course of other activities including Audits and Investigations. These are problems that OIG believes it should apprise the City of in an official capacity. The following are summaries for two advisories that were released this quarter.

*(A) The Duty of Vendors to Report Unlawful Conduct (OIG Case # 12-1216)*

In September OIG sent the Mayor's Office an advisory regarding the duty of City vendors to report corruption or other unlawful conduct. The advisory resulted from an investigation that found that an employee of a subcontractor to a City vendor had, on two separate occasions.

unlawfully solicited and received money from members of the public with promises to take official City action on their behalf.

OIG's investigation found that the subcontractor had terminated the employee for the misconduct described above and had required him to repay money. However, neither the vendor nor the subcontractor informed the City about this incident. The City learned of the incident only after a different member of the public filed a complaint with the City about a similar but separate incident involving the same employee.

Current vendor contracts require cooperation with OIG in investigative matters. However, unlike City employees, vendors are not expressly required to report unlawful activity committed by employees connected to performance of the City contract. As it stands, the City is robbed of the opportunity to identify and address potential risk areas as represented by the employee in question.

On November 13, 2013, Mayor Rahm Emanuel proposed Ordinance 02013-8498 that requires City contractors to report any and all information that the contractor knows or reasonably should know to involve corrupt or other unlawful activity by its employees or by another individual involved in City business. The mandate mirrors current reporting requirements already in place for City employees and officials.<sup>5</sup>

The ordinance would be incorporated as an explicit term in all future City contracts. A violation of this ordinance constitutes an event of default, which may be punishable by termination of city contracts held by the contractor.

#### *(B) Suspensions Issued for Historical Shakman Violations*

In November, OIG sent the Commissioner of the Department of Human Resources (DHR) an advisory regarding the suspensions issued for historical *Shakman* Violations. The advisory highlights inconsistencies in the implementation of employee discipline meted out by the City. The lack of a clear central policy resulted in some employees escaping the full professional and financial consequences of disciplinary sanction and rendered payroll records inaccurate.

The advisory follows an OIG Hiring Oversight inquiry into disciplinary actions arising from *Shakman* Monitor Office investigations. The inquiry found critical variations in the way sanctions were carried out across and within City departments. For example, suspensions served by employees were inconsistent with the City's stated disciplinary sanctions. OIG also found departments using incorrect coding including the entry of "excused absence" on a suspension day, personnel files that were missing notices of suspension, and variability in how and when suspensions were served.

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<sup>5</sup> Proposed Ordinance 02013-84980 is available on the Clerk's website  
<https://chicago.legistar.com/LegislationDetail.aspx?ID=1519629&GUID=14C01F4C-C536-4237-A859-2AEC874C2BF1&Options=Advanced&Search=>

In the advisory, OIG recommended that DHR and the Department of Finance establish a City-wide policy for the assessment, coding, and enforcement of unpaid suspensions and other disciplinary sanctions. The departments agreed with OIG and, in their response, noted that they have already begun drafting a new policy.

## **G. HIRING COMPLIANCE**

Under Chapter XII of the City of Chicago General Hiring Plan, Chapter XI of the CPD Hiring Plan, and Chapter IX of the CFD Hiring Plan,<sup>6</sup> OIG is required to review and audit various components of the hiring process and report on them quarterly. The Hiring Plan requires both reviews and compliance audits. The plan defines reviews as a “check of all relevant documentation and data concerning a matter” and audits as a “check of a random sample or risk-based sample of the documentation and data concerning a hiring element.”

The following section first details results of OIG’s reviews followed by results of OIG’s compliance audits. The last section covers OIG hiring related escalations, complaints, and inquiries.

### **1. Hiring Process Reviews**

#### *(A) Contacts by Hiring Departments*

OIG reviews all reported or discovered instances where hiring departments contacted the Department of Human Resources (DHR) to lobby for or advocate on behalf of actual or potential Applicants or Bidders for Covered Positions or to request that specific individuals be added to any referral or eligibility list except as permitted by the Hiring Plan.

During the last quarter, OIG did not receive any reports of direct departmental contacts from DHR.

#### *(B) Exemptions*

OIG reviews adherence to exemption requirements and Exempt Lists and propriety of Exempt List<sup>7</sup> modifications. OIG receives and reviews notifications of all *Shakman-Exempt*

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<sup>6</sup> On June 24, 2011, the City of Chicago filed the 2011 City of Chicago Hiring Plan (“General Hiring Plan”). The General Hiring Plan, which was agreed to by the parties and approved by the Court on June 29, 2011, replaced the 2007 City of Chicago Hiring Plan which was previously in effect. The City of Chicago also filed the 2011 Chicago Police Department Hiring Plan (CPD Hiring Plan) on October 14, 2011, and the 2011 Chicago Fire Department Hiring plan (CFD Hiring Plan) on December 15, 2011. Collectively, the General Hiring Plan, the CPD Hiring Plan, and the CFD Hiring Plan will be referred to as the “City’s Hiring Plans”.

<sup>7</sup> The Exempt List is a list of all City positions that are exempted from the requirements governing Covered positions (*Shakman-Exempt*). *Shakman-Exempt* Positions are those where any factor may be considered in actions covered by the City’s Hiring Plans and Other Employment Actions, unless otherwise prohibited by law.

appointments and modifications to the Exempt List on an ongoing basis. In addition to these ongoing reviews, OIG conducts annual reviews of the Exempt List to ensure that the City is complying with the *Shakman* requirements and to determine whether DHR is maintaining an accurate record of *Shakman*-Exempt employees and titles.

The reviews are based on DHR's last Exempt List update on February 8, 2013, which is available on DHR's website.<sup>8</sup> The List included 1,280 City positions to be classified as *Shakman*-Exempt. These positions cover various titles with a specific number of slots, which the City is allowed to fill using the *Shakman*-Exempt Hire Process outlined in Chapter VIII of the General Hiring Plan. The review also used DHR's Exempt List database and a report from the Chicago Integrated Personnel and Payroll System (CHIPPS). DHR's database tracks *Shakman*-Exempt employees and *Shakman*-Exempt titles (DHR List). The CHIPPS List includes all employees who have a *Shakman*-Exempt status.

In the first quarter of 2013, OIG completed its 2013 annual Exempt List review. Generally, the 2013 annual review found DHR's records of Exempt employees and titles to be thorough and substantially accurate. OIG did, however, identify some discrepancies and issues during the course of our review, including,

- instances where employees were accounted for on the CHIPPS List but not the DHR List and vice versa;
- discrepancies in employee titles;
- discrepancies in the number of slots available for various positions; and
- other miscellaneous discrepancies between DHR, CHIPPS, and Exempt Lists.

In its response, DHR provided justifications for the various discrepancies and updated the City's personnel database as well as its own personnel tracking system to reconcile the identified discrepancies. After reviewing DHR's response, OIG had no further comments or concerns regarding the City's Exempt List and personnel records.

#### (C) Senior Manager Hires

OIG reviews hires using Chapter VI, the Senior Manager Hiring Process.<sup>9</sup>

Of the 38 hire packets<sup>10</sup> OIG reviewed this past quarter, seven were for Senior Manager positions. One of these Senior Manager hire packets contained an error. Specifically, the hire

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<sup>8</sup> The link to the current Exempt List can be viewed [here](#).

<sup>9</sup> Senior Managers are (1) not covered by a collective bargaining agreement; (2) at-will employees; (3) not *Shakman* Exempt; and (4) perform significant managerial responsibilities. These positions are filled pursuant to a Court-approved process.

<sup>10</sup> Hire packets include all documents and notes maintained by City employees involved in the selection and hiring process.

packet contained improper marks on the candidate assessment forms. OIG communicated this error to DHR and recommended that all documentation related to the correction of this error be included in the hire packet. OIG did not monitor interviews for Senior Manager hiring sequences this past quarter.

*(D) Written Rationale*

OIG reviews any written rationale when no consensus selection was reached during a Consensus Meeting.<sup>11</sup>

Consensus selections were reached during all Consensus Meetings that occurred during the 4<sup>th</sup> Quarter of 2013.

*(E) Emergency Appointments*

OIG reviews circumstances and written justifications for any emergency hires made pursuant to the Personnel Rules and Section 2-74-050(8) of the Chicago Municipal Code.

The City has reported no emergency appointments during the 4<sup>th</sup> Quarter of 2013.

*(F) Review of Contracting Activity*

Prior to offering any contract or other agreement terms to any not-for-profit agency, for-profit contractor, or other organization or entity to provide services for the City, the requesting Department shall give OIG Hiring Oversight advance notification. OIG is required to review City departments' compliance with the City's "Contractor Policy" (Exhibit C to the City's Hiring Plan). Per the Contractor Policy, OIG may choose to review draft contract or agreement terms to assess whether they are in compliance with the Policy. The following chart details these contract notifications.

**Table #4 – Contract Notifications**

| Name of the Contractor, Agency or other Organization | Name of Contracting Department | Duration of such Contract or Agreement | Approved by DHR? |
|--|--------------------------------|--|------------------|
| Urban Alliance Internship Program                    | CPL                            | 10/2013- 8/2014                        | Yes              |
| M3 Medical Management                                | CDPH                           | 1/31/2014                              | Yes              |
| Dayspring Janitorial Services                        | 2FM                            | 11/20/13                               | N/A              |
| Civil Consulting Alliance/ Aspen Institute Forum     | Mayor's Office                 | 1/6/2014- 8/31/14                      | Yes              |

<sup>11</sup> A Consensus Meeting is a discussion that is led by the DHR Recruiter held at the conclusion of the interview process. During the Consensus Meeting, the interviewers and the Hiring Manager review their respective interview results and any other relevant information to arrive at a hiring recommendation.

## 2. Hiring Process Audits

### (A) *Modifications to Class Specifications,<sup>12</sup> Minimum Qualifications, and Screening and Hiring Criteria*

OIG audits modifications to class specifications, minimum qualifications, and screening/hiring criteria. In the last quarter, the City changed the minimum qualifications or included equivalencies for six positions in the Department of Water Management, Chicago Police Department, Chicago Department of Transportation, and the Department of Business Affairs and Consumer Protection. OIG raised no objections to these changes.

### (B) *Referral Lists*

OIG audits the lists of Applicants/Bidders who meet the predetermined minimum qualifications for the Position that are generated by DHR. Each quarter, OIG examines a sample of referral lists and provides commentary to DHR whenever potential issues arise. OIG recognizes that aspects of candidate assessment can be subjective and that there can be differences of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "errors" is limited to cases in which applicants who, based on the information they provided,

- were referred and did not quantitatively meet the minimum qualifications,
- were referred and failed to provide all of the required information and/or documents listed on the job posting,
- were not referred and quantitatively met the minimum qualifications.

This quarter, OIG audited eight referral lists, none of which presented errors.

### (C) *Testing*

OIG also audited testing administration materials<sup>13</sup> for 16 completed test administrations<sup>14</sup> completed in the 3<sup>rd</sup> Quarter of 2013. OIG found four errors in the test administration audit and

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<sup>12</sup>Class Specifications are descriptions of the duties and responsibilities of a Class of Positions that distinguish one Class from another. They are, in effect, the general descriptions utilized to determine the proper level to which a Position should be assigned, and they include the general job duties and minimum qualifications of the Position. Class Specifications shall include sufficient detail so as to accurately reflect the job duties.

<sup>13</sup> Testing administration materials include (1) the test booklet (or booklets, if multiple versions of the test were administered); (2) the sign in/sign out sheets; (3) the answer key; (4) the final cut score(s) and any documentation regarding the change of a cut score(s); (5) the individual test scores for each candidate for each test(s) that was administered; (6) the finalized test results sent to the DHR Recruiter; (7) the answer sheets completed by the candidates; (8) the rating sheets completed by the interviewers as part of the Foreman Promotional Process; (9) any additional emails or notes identifying issues surrounding the test administration or scoring (e.g. documentation identifying the individual test score changes for tests that are rescored, memos to file regarding non-scheduled candidates being allowed to test, etc.).

reported the errors to DHR. The individual errors and DHR’s response to each error are detailed below. OIG found the first error to be a violation of the Hiring Plan. The remainder of the errors did not affect the candidates’ placement on position eligibility lists nor the final candidate selection decisions. Therefore, these errors did not constitute a violation of the Hiring Plan.

#### i. Chicago Department of Aviation A

OIG determined that the grading of a candidate’s answer sheet did not conform to the answer key. As a result, the candidate’s reported score was significantly lower than his actual score. The DHR Testing Manager agreed with our assessment and rescored the candidate’s test. Because all candidates were interviewed for the position regardless of their score on the test, the rescore did not affect the candidate’s placement on the eligibility list. However, after reviewing the Candidate Assessment Form for the individual’s interview, OIG determined that the incorrect scoring did impact the final selection decision for the position. The seriousness of this error constitutes a violation of the Hiring Plan as it ultimately affected the candidate selection decision. After this error was brought to the attention of DHR and the Department of Aviation, the candidate was reinserted into the consideration process.

#### ii. Chicago Department of Aviation B

OIG determined that a candidate’s answers were inaccurately transferred to the overall score spreadsheet. The candidate’s final score was recorded correctly, but had the answers on the spreadsheet been used to recalculate the scores, the candidate would have received two additional points. The DHR Testing Manager confirmed that the scores were recorded incorrectly. Because the final score was recorded correctly, this error did not affect the candidate’s placement on the eligibility list or the final selection decision for the position.

#### iii. Chicago Department of Aviation C

OIG determined that a candidate’s score was incorrectly calculated and recorded on the overall score spreadsheet. The DHR Testing Manager confirmed the computation error. Because the candidate’s pass/fail status remained the same after correction of the error, the error did not affect the candidate’s placement on the eligibility list or the final selection decision for the position.

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<sup>14</sup> A test administration is considered to be completed when a test has been administered and the final candidate scores have been sent from the DHR Testing Division to the DHR Recruiting Division for candidate selection and processing.

#### iv. Department of Finance

OIG determined that a candidate's score was incorrectly recorded on the overall score spreadsheet. The DHR Testing Manager confirmed the error. Because the candidate's pass/fail status remained the same after correction of the error, the error did not affect the candidate's placement on the eligibility list or the final selection decision for the position.

##### *(D) Selected Hiring Sequences*

The Hiring Plan requires OIG to audit 10% in the aggregate of in-process and at least 5% of completed hiring sequences from the following departments or their successors: Streets and Sanitation, Water Management, Aviation, Transportation, Buildings, Fleet, and six other City departments selected each quarter at the discretion of OIG Hiring Oversight.

Hire packets include all documents and notes maintained by City employees involved in the selection and hiring process. As required by the Hiring Plan, OIG examines some hire packets prior to the hires being completed and others after the hires have been completed.

During the 4<sup>th</sup> Quarter of 2013, OIG completed an audit of hire packets for 38 hiring sequences. OIG selected these packets based on past errors, complaints, historical issues, and other risk factors. Of the packets audited, seven contained at least one error. These errors included missing or invalid documentation (for example, an expired driver's license), missing Hire Certifications, or improper marks on Candidate Assessment Forms. The errors in one hiring packet were attributable to CPD-HR rather than DHR.

##### *(E) Monitoring Hiring Sequences*

In addition to auditing hire packets, OIG audits hiring sequences through in-person monitoring of intake meetings, interviews, and consensus meetings. Monitoring involves observing and detecting compliance anomalies in real time, with a primary goal of identifying gaps in compliance on a regular basis.

During the past quarter, OIG monitored one intake meeting, five testing administrations, six sets of job interviews, and five consensus meetings. OIG did not identify any errors while monitoring these hiring activities. The table below shows the breakdown of monitoring activity by department.<sup>15</sup>

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<sup>15</sup> If a department is not included in this table, OIG did not monitor any elements for a hiring sequences for that department in-person.

**Table #5 – 4<sup>th</sup> Quarter 2013 OIG Monitoring Activities**

| Department                                  | Number of Intake Meetings Monitored | Number of Tests Monitored | Number of Interview Sets Monitored | Number of Consensus Meetings Monitored |
|---|-------------------------------------|---------------------------|------------------------------------|--|
| Chicago Department of Aviation              | 0                                   | 1                         | 0                                  | 0                                      |
| Chicago Fire Department                     | 1                                   | 0                         | 2                                  | 1                                      |
| Chicago Police Department                   | 0                                   | 2                         | 1                                  | 0                                      |
| Department of Family and Support Services   | 0                                   | 0                         | 1                                  | 1                                      |
| Department of Fleet and Facility Management | 0                                   | 0                         | 1                                  | 1                                      |
| Department of Streets and Sanitation        | 0                                   | 1                         | 1                                  | 1                                      |
| Department of Water Management              | 0                                   | 1                         | 0                                  | 0                                      |
| Independent Police Review Authority         | 0                                   | 0                         | 0                                  | 1                                      |
| <b>Total</b>                                | <b>1</b>                            | <b>5</b>                  | <b>6</b>                           | <b>5</b>                               |

**(F) Hiring Certifications**

Hiring Certifications are the required certifications attesting that no Political Reasons or Factors or other Improper considerations were taken into account in the applicable action.

Of the 38 hire packets audited in the last quarter, three contained missing, invalid, or late Hiring Certifications from DHR and/or the Hiring Department. The “Selected Hiring Sequences” section above included these errors in its tally. In one of the three hire packets, Hire Certifications were missing for everyone involved in screening candidates. This omission is attributable to CPD-HR. After reporting the omissions to DHR and CPD-HR, the missing certifications were provided and included in the packets.

**(G) Acting Up<sup>16</sup>**

OIG audits the City’s compliance with Chapter XI of the General Hiring Plan,<sup>17</sup> the Acting Up Policy, and all Acting Up waivers processed by DHR.

DHR has finalized its Acting Up Policy, effective January 1, 2014. OIG worked with DHR, the Department of Finance, and the *Shakman* Monitor’s Office to ensure that the policy enables OIG

<sup>16</sup> Acting Up is where an employee is directed to, and does perform, or is held accountable for, substantially all of the responsibilities of a higher position.

<sup>17</sup> Chapter VIII of the CFD Hiring Plan and Chapter X of the CPD Hiring Plan follow the same guidelines as Chapter XI of the General Hiring Plan.

to efficiently audit Acting Up data to determine whether departments administer and report Acting Up properly. OIG will report its auditing results in future quarterly reports.

The following chart details waivers to the City's 520-hour Acting-Up limit approved by DHR in the last quarter.

**Table #6 – DHR Approved Waivers to the City's 520-hour Acting-Up Limit**

| Department | Position                                      | Number of Employees | Date of Response | Duration of Waiver |
|------------|---|---------------------|------------------|--------------------|
| CDOT       | Foreman of Lineman of Small Gangs             | 2                   | 10/9/13          | 12/26/13           |
| 2FM        | Foreman of Steamfitters                       | 1                   | 10/15/13         | 12/31/13           |
| 2FM        | Foreman of Electrical Mechanics               | 2                   | 10/21/13         | 12/31/13           |
| CDPH       | Supervising Communicable Disease Investigator | 1                   | 10/22/13         | 12/31/13           |
| DWM        | Operating Engineer-Group A                    | 1                   | 11/19/13         | 12/31/13           |
| DWM        | Supervising Drain Inspector                   | 1                   | 11/21/13         | 12/31/13           |
| DWM        | Chief Operating Engineer                      | 1                   | 12/5/13          | 12/31/13           |
| DWM        | Operating Engineer- Group A                   | 1                   | 12/5/13          | 12/31/13           |
| 2FM        | Supervising Watchmen                          | 4                   | 12/9/13          | 12/31/13           |
| DWM        | Operating Engincer- Group C                   | 5                   | 12/9/13          | 12/31/13           |
| DWM        | Chief Operating Engineer                      | 1                   | 12/11/13         | 12/31/13           |
| DWM        | Operating Engineer- Group A                   | 1                   | 12/16/13         | 12/31/13           |
| DWM        | Operating Engineer- Group A                   | 1                   | 12/31/13         | 12/31/13           |
| DWM        | Operating Engineer- Group A                   | 1                   | 12/20/13         | 12/31/13           |

*(H) Arbitrations and Potential Resolution of Grievances by Settlement.*

OIG is required to conduct audits of all arbitration decisions and grievance settlement agreements that arise out of Accord complaints or that may impact the procedures under the City's Hiring Plans or Other Employment Actions.<sup>18</sup>

In the last quarter, OIG gained access to the City of Chicago Grievance database, the Chicago Department of Aviation Labor Management System, and the Chicago Police Department Management and Labor Affairs database. This access marks a positive change in how OIG receives information about arbitrations and grievance settlements and is an important first step toward completing a satisfactory audit. OIG will continue to work with the Department of Innovation and Technology and other departments as necessary to render the databases useful for

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<sup>18</sup> An Other Employment Action is any change in the terms and conditions of employment in addition to those detailed in this Hiring Plan and includes, but is not limited to: hiring, firing, promotion, demotion, lay-off, reinstatement, reemployment, transfer, reclassification, granting overtime, assignment, withholding of any job benefit and imposition of any employment sanction or detriment.

conducting meaningful audits of arbitration decisions and grievance settlement agreements that may result in an Employment Action, as dictated by the Hiring Plan.

In the last quarter, OIG received and reviewed two settlement agreements from DHR and Law. The following chart details the Union involved in each settlement agreement, the City Department(s) affected by the settlement agreement, the position(s) affected by the settlement agreement, and a brief description of the terms of the settlement agreement.

**Table #7 – Settlement Agreements in Received and Reviewed in 4<sup>th</sup> Quarter**

| Union                      | City Department | Position            | Settlement Description   |
|----------------------------|-----------------|---------------------|--|
| Local 1001                 | 2FM             | Foreman of Laborers | The City agreed to convert the titles of all Foreman of Laborers to Supervising Watchman           |
| Firefighters Union Local 2 | CFD             | Paramedic-In-Charge | The City agreed to promote the grievant to the title of Paramedic-in-Charge effective July 1, 2012 |

### **3. Reporting of Other OIG Hiring Oversight Activity**

#### *(A) Escalations*

Recruiters and Analysts in DHR must escalate concerns regarding improper hiring to OIG. OIG evaluates the circumstances surrounding the escalation and may do one or more of the following: investigate the matter, conduct a review of the hiring sequence, refer the matter to the DHR Commissioner or appropriate Department Head for resolution, and/or refer the matter to the Investigations Section of OIG.

OIG received two escalations in the last quarter, both of which are still pending. The details of these pending escalations will be reported in a future quarterly report, once the review is complete. OIG concluded one escalation in the 4<sup>th</sup> Quarter of 2013 which is detailed below.

##### *i. Chicago Department of Transportation*

On August 19, 2013 a DHR Testing Administrator told OIG that a department interviewer contacted the Testing Administrator indicating a rating error on a June 2013 skill assessment. Specifically, the interviewer erroneously marked the candidate as having passed the skills assessment when that candidate should have been marked as failing. After conducting its own review, OIG recommended DHR include the following documentation in the hiring packet:

- the interview panelists explanation of the candidate's failure;
- the escalation e-mail;

- written confirmation from the representative from the *Shakman* monitors office regarding the candidates failure of the skills assessment; and
- a copy of any notices sent to the candidate and/or CDOT regarding the candidates failure of the skills assessment.

DHR agreed with OIG's recommendations.

*(B) Processing of Complaints*

OIG Hiring Oversight receives complaints regarding the hiring process, including allegations of unlawful political discrimination and retaliation and other improper influence in connection with any aspect of City employment. Complaints received by the OIG Hiring Oversight Section may be resolved in several ways depending upon the nature of the complaint. If there is an allegation of misconduct, the complaint may be referred to the Investigations Section of OIG. If there is an allegation of a breach of policy or procedure, the OIG Hiring Oversight Section may conduct an inquiry into the matter to determine if such a breach occurred. If a breach of policy or procedure is found, the OIG Hiring Oversight Section may resolve the matter by making corrective recommendations to the appropriate department or referring the matter to the Investigations Section of OIG. If no breach of policy or procedure is found, the OIG Hiring Oversight Section may refer the matter to DHR and/or the appropriate department for resolution or close the complaint.

The OIG Hiring Oversight Section received 23 complaints in the past quarter. Of those complaints, 2 were referred from the *Shakman* Monitor's Office. The chart below summarizes the disposition of these 23 complaints as well complaints from the previous quarter, which were not closed when OIG issued its last report.

**Table #8 – Disposition of Hiring Oversight Complaints Received in 4<sup>th</sup> Quarter**

| Status  | Number of Complaints |
|---|----------------------|
| Complaints Pending as of the end of the 3 <sup>rd</sup> Quarter of 2013 | 13                   |
| Complaints Received in the 4 <sup>th</sup> Quarter of 2013              | 23                   |
| Total closed in the 4 <sup>th</sup> Quarter                             | 16                   |
| Closed by Referral to OIG Investigations                                | 0                    |
| Closed by Referral to DHR   | 0                    |
| Closed with Recommendations to the Hiring Department and/or DHR         | 0                    |
| Pending with OIG Hiring Oversight as of 12/31/2013                      | 35                   |

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This quarterly report provides an overview of the operations of the Office of Inspector General (OIG) during the period from October 1, 2013, through December 31, 2013. The report includes statistics and narrative descriptions of OIG's activity as required by the City's Municipal Code.

#### **A. MISSION OF THE OFFICE OF INSPECTOR GENERAL**

The mission of OIG is to root out corruption, waste, and mismanagement, while promoting effectiveness and efficiency in City government. OIG is a watchdog for the taxpayers of the City, and it has jurisdiction to conduct investigations and audits into most aspects of City government.

OIG accomplishes its mission through investigations, audits, advisories, and hiring reviews. OIG summary reports of investigations are sent to the Mayor and the responsible City management officials with findings and recommendations for corrective action and discipline. Narrative summaries of sustained investigations are released in quarterly reports. Audits and advisories are sent to the responsible management officials for comment and then are released to the public through publication on the [OIG website](#). OIG issues reports as required by the Hiring Plan and as otherwise necessary to carry out its hiring oversight functions.

#### **B. INVESTIGATIONS**

The OIG Investigation Section conducts both criminal and administrative investigations into the performance of governmental officers, employees, departments, functions, and programs, either in response to complaints or on the office's own initiative.

##### **1. Complaints**

OIG received 498 complaints during the preceding quarter. The following table provides detail on the actions OIG has taken in response to these complaints.

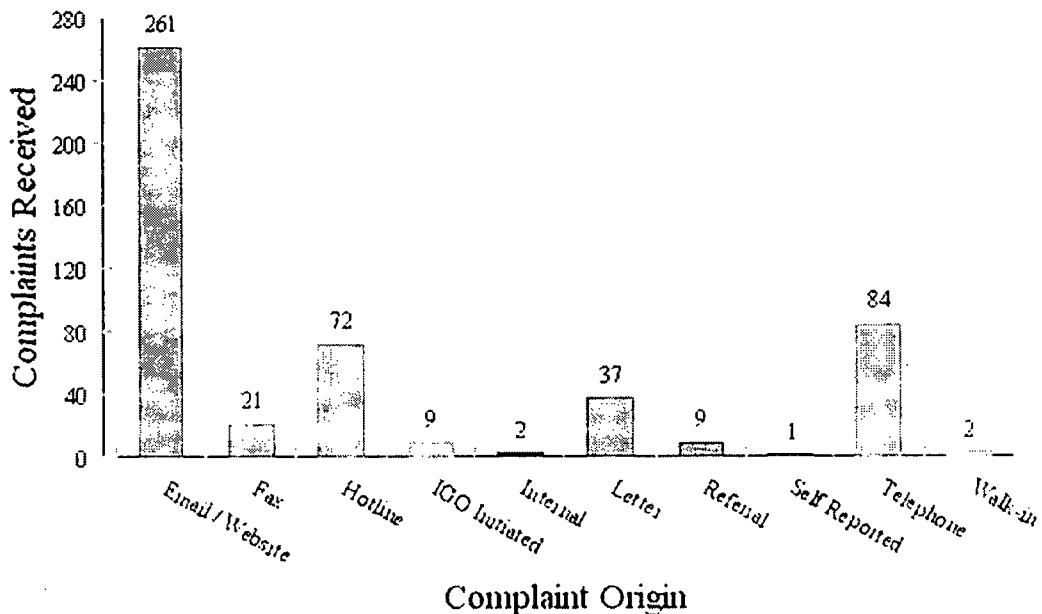
**Table #1 – Complaint Actions**

| <b>Status</b>        | <b>Number of Complaints</b> |
|----------------------|-----------------------------|
| Declined             | 342                         |
| Investigation        | 35                          |
| Referred             | 87                          |
| Other/Pending Review | 34                          |
| <b>Total</b>         | <b>498</b>                  |

As the table shows, for the vast majority of complaints, OIG declined to investigate the allegation. The primary reason that OIG declines a complaint is due to a lack of resources. That determination involves a form of cost/benefit evaluation by the Deputy Inspector General for Investigations which, among other factors, gauges potential magnitude or significance of the allegations advanced in the complaint both individually and programmatically, investigative

resources needed to effectively investigate the matter, and actual investigative resources presently available. More serious forms of misconduct, greater monetary losses, and significant operational vulnerabilities suggested by the allegations receive priority. A subset of matters of lesser individual significance but regular occurrence will also be opened. The chart below breaks down the complaints OIG received during the past quarter by the method in which the complaint was reported.

**Chart #1 - Complaints by Method**



## 2. Newly Opened Investigations

During the quarter, OIG opened 126 investigations. 125 were opened based on allegations of misconduct, and one was opened for other reasons. There were nine OIG-initiated complaints this quarter. Of these opened matters, 107 were immediately referred to other departments or investigative agencies. Thus, of all the investigations opened in the quarter, 19 proceeded to a full OIG investigation. Of the newly opened investigations, none were found to be not sustained before the end of the quarter, none were found to be sustained before the end of the quarter, and 19 remain open.

The following table categorizes the 126 matters logged by OIG based on the subject of the investigation.

**Table #2 – Subject of Investigations**

| <b>Subject of Investigations</b>                               | <b>Number of Investigations</b> |
|--|---------------------------------|
| City Employees   | 96                              |
| Contractors, Subcontractors and Persons Seeking City Contracts | 3                               |
| Appointed Officials  | 1                               |
| Elected Officials  | 1                               |
| Licensee   | 0                               |
| Other  | 25                              |
| <b>Total</b>   | <b>126</b>                      |

**3. Cases Concluded in Quarter**

During the quarter, 159 investigative matters were concluded, 107 of which were the aforementioned referrals to City departments or other investigative agencies. Of the 107 referred investigative matters, 87 were referred to a City department, and 20 were referred to a sister agency. Of the remaining concluded matters, 9 were closed as sustained, 39 were closed not sustained, and four were closed administratively. A case is sustained when the preponderance of the evidence establishes that misconduct has occurred. A case is not sustained when OIG concludes that the available evidence is insufficient to prove wrongdoing under applicable burdens of proof. A case is closed administratively when another agency or department is investigating the matter, another agency or department took action, or the matter was consolidated with another investigation.

**4. Pending Investigations**

Including the 126 investigations initiated this quarter, OIG has a total of 144 pending investigations.

**5. Investigations Not Concluded in Twelve Months**

Under the Municipal Code, § 2-56-080, OIG must provide quarterly statistical data on pending investigations open for more than twelve months. Of the 144 pending investigations, 74 investigations have been open for at least twelve months.

The following table shows the general reasons that these investigations are not yet concluded.

**Table #3 – Reasons Investigations Were Not Concluded in Twelve Months**

| Reason  | Number of Investigations |
|---|--------------------------|
| Additional complaints were added during the course of the investigation.  | 3                        |
| Complex investigation. May involve difficult issues or multiple subjects.   | 38                       |
| Lack of sufficient investigative resources over the course of the investigation. Investigator's caseloads were too high to enable cases to be completed in a timely manner. | 27                       |
| On hold, in order not to interfere with another ongoing investigation.  | 2                        |
| Under review by the Legal Section or the Director of Investigations prior to closing.   | 4                        |
| <b>Total</b>  | <b>74</b>                |

## 6. Ethics Ordinance Complaints<sup>1</sup>

During this quarter, OIG received three ethics ordinance complaints. OIG did not decline or refer any ethics ordinance complaints, and three ethics ordinance complaints were opened for investigation.

### C. SUSTAINED ADMINISTRATIVE CASES

OIG sustained cases can be administrative, criminal, or both. Administrative cases generally involve violations of City rules, policies or procedures, and/or waste or inefficiency. For sustained administrative cases, OIG produces summary reports of investigation<sup>2</sup>—a thorough summary and analysis of the evidence and recommendations for disciplinary or other corrective action. These reports are sent to the Office of the Mayor, the Corporation Counsel, and the City departments affected or involved in the investigation.

Criminal cases involve violations of local, state, or federal criminal laws and are typically prosecuted by the Cook County State's Attorney's Office, the U.S. Attorney's Office, or the Illinois Attorney General's Office, as appropriate. OIG may issue summary reports of investigation recommending administrative action based on criminal conduct.

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<sup>1</sup> Effective July 1, 2013, the OIG ordinance, MCC § 2-56-120, was amended establishing a new requirement that OIG report the number of ethics ordinance complaints declined each quarter and the reasons for declination.

<sup>2</sup> Per MCC § 2-56-060, "Upon conclusion of an investigation the inspector general shall issue a summary report thereon. The report shall be filed with the mayor, and may be filed with the head of each department or other agency affected by or involved in the investigation."

## 1. Synopses of Cases

The following are brief synopses of investigations completed and reported as sustained matters. These synopses are intended solely to provide an illustrative overview of the general nature and outcome of the cases for public reporting purposes and thus do not contain all allegations and/or findings for each case.

In addition to OIG's findings, each description includes the action taken by the department in response to OIG's recommendations. Departments have 30 days to respond to OIG recommendations. This response informs OIG of what action the department intends to take. Departments must follow strict protocols, set forth in City's Personnel Rules, Procurement Rules, and/or applicable collective bargaining agreements, prior to imposing disciplinary or corrective action. Only when this process is complete and discipline has been imposed or corrective action taken on a City employee does OIG consider the department to have acted.

This process can often take several weeks. In deference to the deliberative processes of City departments and contractual rights of employees relating to discipline, OIG waits to report on cases regarding current City employees until the subject's department has acted on OIG's report. For cases in which a department has failed to respond within 30 days (or 60 days if a full extension has been granted), the response will be listed as late.

### (A) OIG Case # 09-0407(a)<sup>3</sup>

OIG concluded an investigation establishing that a former Chicago Department of Transportation official (the “CDOT Official” or the “Official”) violated the City’s Personnel Rules and the *Shakman* Accord by circumventing the City’s usual competitive procurement process in order to retain the services of a consultant, whom the Official had known for decades, and utilizing that consultant as a common-law CDOT employee.

More specifically, in September 2007, the CDOT Official sought to retain the services of a former City employee (the “Consultant”). The CDOT Official, who was familiar with the Consultant’s work, met with and informed the Consultant that CDOT was looking for help. Then, in November 2007, the Consultant contacted a consulting firm (the “Company”). The Company had an existing master consulting agreement with the City, and the Consultant sought to subcontract with the City under its contract. The Company agreed, and the CDOT Official issued a directed task order (TO) to the Company in December 2007, even though such direction was not appropriate under the City’s procurement rules. The CDOT Official’s issuance of the TO constituted preferential treatment because it ensured that CDOT would retain the CDOT Official’s favored consultant, thereby depriving other potentially, equally, or more qualified consultants of the opportunity to compete for the position.

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<sup>3</sup> OIG Case # 09-0407 began as one investigation but uncovered several similar but distinct schemes which have been reported out separately, that is why these matters have been designated (a), (b) and (c).

In addition, from the Consultant’s hire in January 2008 until January 2010, the CDOT Official used the Consultant as a common-law CDOT employee in violation of *Shakman*. The Consultant spent all of his time on City projects and reported to another senior CDOT official. The Company, a minority-owned business enterprise (MBE) for a substantial portion of the Consultant’s tenure at CDOT, effectively operated only as a payroll processor for the Consultant and therefore failed to perform a commercially useful function with respect to the Consultant’s services.

The Consultant’s funded employment under the TO ended in 2010. The Official attempted to retain the Consultant’s services through the use of the non-competitive procurement process. The Department of Procurement Services (DPS) rejected this request.

Based on these findings, OIG would have recommended that the CDOT Official receive discipline up to and including termination. However, the Official is no longer a City employee. OIG therefore recommended that the City issue findings with respect to the CDOT Official’s conduct and place a copy of the findings—and this report—in the Official’s personnel file for appropriate consideration in the event the Official seeks re-employment with the City.

OIG further recommended that DPS take action against the Company consistent with sanctions the Company had previously faced for a similar offense, including the recovery of monies the Company obtained in its capacity as a payroll service for the Consultant. Finally, OIG recommended that DPS adjust its historic MBE compliance figures to eliminate any inappropriate MBE credits awarded to the Company.

In response, DPS sent a redacted copy of OIG’s report to the Company and advised the Company that it had 30 days to provide DPS with a response. According to the DPS, after it receives the Company’s response, it will provide OIG with additional details on any actions it plans to take.

CDOT did not make specific findings regarding the CDOT Official, however the department did concur with OIG’s recommendation and directed that a copy of OIG’s report be placed in the CDOT Official’s Department of Human Resources personnel file to be considered in the event that the Official seeks re-employment with the City.

(B) OIG Case # 09-0407(b)

OIG concluded an investigation establishing that several current and former CDOT employees violated the *Shakman* Accord and the City’s Personnel Rules during the procurement and retention of two consultants (the “Consultants” or “Consultant I” and “Consultant II”). The investigation also revealed that the engineering services company (the “Company”) which hired the Consultants at CDOT’s direction violated the City’s False Claims Act (§ 1-22-020 of the Municipal Code of Chicago) by misrepresenting the Consultants as engineers in the invoices it submitted to the City for payment and overcharging the City for its administrative services.

More specifically, two former high-ranking CDOT officials violated *Shakman* in 2006 by directing the Company to hire Consultant II as a CDOT consultant. Consultant II was a former

CDOT employee with knowledge of certain data system reporting skills. Then, in 2007, CDOT Employees A, B, and C, along with one of the high-ranking officials, circumvented the City's competitive consultant procurement process, thus violating *Shakman*. They directed the Company, which had an existing construction engineering master consulting agreement (MCA) with the City, to hire Consultant I, a former City employee, as a CDOT programming consultant. CDOT directed Consultant I's hire because the consultant's personal services contract was expiring and Employees A and C had become reliant on Consultant I's knowledge of a CDOT data system.

In addition, the Department of Procurement Services (DPS) approved the task orders (TOs) and supplemental TOs that CDOT issued for the Consultants' services despite the fact that the programming and finance services Consultants I and II provided were outside the scope of the Company's engineering MCAs.

#### Findings concerning the Company

After CDOT directed the Company to hire the Consultants, CDOT utilized the Consultants as common-law employees in violation of *Shakman*. The Company effectively operated as a payroll processor and thus performed no commercially useful function and overcharged the City for its administrative payroll processing services. The Company also violated the City's False Claims Act by misrepresenting the Consultants as "senior project engineers" in the invoices it submitted to the City for payment, even though the Company knew that the Consultants did not have engineering backgrounds and served the City in primarily administrative capacities.

#### Findings concerning CDOT and City Employees

CDOT Employees A and B violated the City's personnel rules by signing and verifying for payment the vouchers the Company submitted to the City for one or both of the Consultants' services, even though the work the Consultants provided was outside the scope of the construction engineering MCA under which they were billing time. Employee A, a project manager for the Consultants' TOs, also violated the City's False Claims Act by knowingly drafting a false justification for one of the Consultant I's TOs that purposely excluded certain out-of-scope services that Consultant I was providing to CDOT in order to ensure Consultant II would continue consulting for CDOT.

CDOT Employee C, a project manager for at least one of the supplemental TOs and a signatory of Consultant I's timesheets, violated the City's Personnel Rules by allowing DPS to approve a supplemental TO that was outside the scope of the Company's MCA. Employee C subsequently allowed the City to pay for the Consultants' out-of-scope services.

#### OIG Recommendation and Department Response

OIG recommended that the City terminate CDOT Employee A's employment and impose discipline against CDOT Employees B and C, commensurate with the gravity of their respective violations, their past disciplinary and work history, and department standards. OIG further recommended that DPS impose sanctions on the Company pursuant to § VIII, ¶ 8.04 of the City

Debarment Rules for submitting invoices to the City that misrepresented the Consultants as engineers and overcharged the City for administrative services. OIG also recommended that the City consider a recovery action with respect to the Company's numerous violations of the City's False Claims Act.

In response, DPS sent a redacted copy of OIG's report to the Company and advised the Company that it had 30 days to provide DPS with a response. According to DPS, after it receives the Company's response, it will provide OIG with additional details on any actions it plans to take.

CDOT stated in its response that CDOT Employee A would resign in lieu of discharge on February 1, 2014, because Employee A "is needed to sustain the operations of the department." Ultimately, however, Employee A resigned in lieu of discharge effective December 20, 2013. CDOT further stated that CDOT Employees B and C would receive four and two-week suspensions respectively. Going forward, Employee B will also be excluded from the vendor selection and the management process.

Finally, CDOT stated that all CDOT employees involved in procurement and vendor management would receive additional *Shakman* training from the Department of Human Resources.

(C) OIG Case # 09-0407(c)

OIG concluded an investigation establishing that several current and former CDOT employees violated the *Shakman* Accord and the City's Personnel Rules during the procurement and retention of two CDOT consultants (the "Consultants" or "Consultant I" and "Consultant II"). It also established that a women-owned business enterprise (WBE) engineering company ("Company A") and an engineering services firm ("Company B"), participated in CDOT's scheme to circumvent the City's competitive consultant procurement process, thereby violating the City's False Statements Act (§ 1-21-010 of the Municipal Code of Chicago (M.C.C.)) (Company B), the City's False Claims Act (M.C.C. § 1-22-020) (Company A) and the City Debarment Rules (Company A and B).

More specifically, in 2006, two high-ranking CDOT officials and CDOT Employee A violated *Shakman* by directing Company A to hire Consultant I, a former CDOT employee whom CDOT knew had capital funding expertise, so that CDOT could utilize Consultant I's finance consulting services. At the time, Company A was a subcontractor to Company B on its existing master consulting agreement (MCA) for roadway construction engineering services. Company B agreed to let Company A use its MCA as a vehicle to provide Consultant I's financial consulting services to the City, even though those services were outside the scope of Company B's MCA. In 2007, a high-ranking CDOT official and CDOT Employee B similarly violated *Shakman* by directing Company A to place Consultant II, a former CDOT employee, at CDOT as a sign shop consultant pursuant to Company B's engineering MCA. CDOT subsequently utilized the Consultants as common-law employees in violation of *Shakman*.

### Findings concerning Company A and B

Company B submitted a number of false statements to the City. The false statements include WBE utilization reports stating that Company A provided the City construction engineering services. Additionally, Company B submitted Subcontractor Payment Certification forms falsely asserting that it conducted reasonable due diligence regarding the WBE utilization reports and the invoices it submitted with the Subcontractor Payment Certification forms.

Company A fraudulently billed the City for over \$200,000 of “burden and overhead” fees for the Consultants’ services, in addition to the Consultants’ hourly fee. During this time the Consultants worked at CDOT, used City equipment, were supervised by CDOT employees, and were overseen minimally, if at all, by Company A’s employees. Company A effectively operated as a payroll processor with respect to the Consultants and provided no meaningful supervision of the Consultants. Thus, it failed to perform a commercially useful function as Company B’s subcontractor.

After Company A obtained its own engineering MCA it continued to function only as a payroll processor for both Consultant I and Consultant II. This violated the MCA’s special conditions, which required it to perform at least 50% of the total dollar value of each task order (TO) with its own workforce.

### Findings concerning CDOT and City Employees

CDOT Employees A, B, C, and D all violated the City’s Personnel Rules by signing and verifying for payment vouchers for out-of-scope services. Employee A did so as the project manager for Company A and B’s TOs. Employee A knew, or should have known, that Consultant I’s work was outside the scope of the MCAs to which Consultant I was billing time. Employees B and D also admitted to signing and verifying payment of vouchers for the services of Consultant II and I, respectively. Employee B specifically admitted a failure to review the MCAs under which Consultant B was working prior to signing the vouchers. In Employee C’s role as the project manager for at least one of the supplemental TOs, Employee C further violated the City’s Personnel rules by allowing DPS to approve a supplemental TO that was outside the scope of Company B’s engineering MCA.

### OIG Recommendations and Department Action

Based on the conduct described above, OIG recommended that the City impose discipline against CDOT Employees A, C, and D, commensurate with the gravity of their respective violations, their past disciplinary and work history, and department standards. OIG would have recommended that CDOT Employee B receive discipline as well, but CDOT Employee B is no longer a City employee. OIG therefore recommended that the City make findings respecting CDOT Employee B’s conduct and direct that a copy of the findings be placed, along with this report, in CDOT Employee B’s personnel file for appropriate consideration in the event CDOT Employee B seeks re-employment with the City.

OIG recommended that DPS impose sanctions on Company B pursuant to § VIII, ¶ 8.04 of the City Debarment Rules for submitting false reports to the City and that the City consider initiating a recovery action against Company B with respect to the company's numerous violations of the City's False Statements Act.

With respect to Company A, OIG recommended that DPS impose sanctions on the Company pursuant to § VIII, ¶ 8.04 of the City Debarment Rules for failing to perform a commercially useful function under Company B's MCA and breaching the Special Conditions of its own MCA. OIG also recommended that the City consider initiating a recovery action against Company A with respect to the company's numerous violations of the City's False Claims Act.

Finally, OIG recommended that DPS adjust its historic WBE compliance figures to eliminate any inappropriate WBE credits awarded to Company A or B. In response, DPS sent a redacted copy of OIG's report to the Company and advised the Company that it had 30 days to provide DPS with a response. According to DPS, after it receives the Company's response, it will provide OIG with additional details on any actions it plans to take.

CDOT responded that CDOT Employee A and C would receive a two and four week suspension respectively. These suspensions were designed to be served non-consecutively due to CDOT's "operation needs" and "numerous vacancies." In addition Employee C will be excluded from the vendor selection and management process. CDOT did not make specific findings regarding CDOT Employee B, however the department did concur with OIG's recommendation and directed that a copy of OIG's report be placed in CDOT Employee B's DHR personnel file to be considered in the event CDOT Employee B seeks re-employment with the City.

Finally, CDOT stated that all CDOT employees involved in procurement and vendor management would receive additional *Shakman* training from the Department of Human Resources.

Employee D currently works at the Department of Streets and Sanitation (DSS). DSS stated that it felt "verbal counseling" was appropriate for CDOT Employee D based on his "stellar work history, his minor role in the misconduct, and the fact that this [was] his first offense."

(D) OIG Case # 10-0922

OIG has concluded an investigation establishing that two former high-ranking CDOT officials ("CDOT Official A" and "CDOT Official B") violated the *Shakman* Accord and the City's Personnel Rules during the procurement and retention of a CDOT management accountability consultant. More specifically, the evidence established that CDOT Official A knowingly bypassed the City's regular task order (TO) procurement process. The official personally selected a transportation consulting and engineering company (the "Company") to provide construction management accountability services to CDOT, pursuant to a TO issued under the Company's bridge construction engineering master consulting agreement (MCA) with the City. CDOT Official A made this selection knowing that the requested services had little or no direct connection to bridges or engineering.

After issuing the TO to the Company, Official A then violated the *Shakman* Accord and the City’s Personnel Rules by participating in CDOT’s directed selection of the specific consultant (the “Consultant”) whom the Company hired to perform the improperly procured, out of scope, services. The Consultant, a former City employee, had previously worked with CDOT Official B.

Subsequently, CDOT Official B directly supervised the Consultant while the Consultant functioned as a common-law CDOT employee. In doing so, CDOT Official B violated a long-established *Shakman* proscription against the use of common-law employees, as well as the City Personnel Rules, and exposed the City to potential liability.

OIG also established that the Company and CDOT Official A violated the City’s False Claims Act. The Company misrepresented the Consultant as an engineer in the voucher packages it submitted to the City, knowing that the Consultant did not have an engineering background and did not perform engineering services for the City. CDOT Official A was aware that the Consultant was not providing engineering services to the City, but nevertheless approved the Consultant’s invoices for payment.

OIG’s investigation further established that the Department of Procurement Services (DPS) approved the TO that CDOT issued to the Company despite the fact that the construction management accountability services were outside the scope of the underlying bridge construction engineering MCA.

Based on these findings, OIG recommended that DPS impose sanctions on the Company pursuant to § VIII, ¶ 8.04 of the City Debarment Rules for misrepresenting the consultant as an engineer in the voucher packages it consistently submitted to the City over a period of years. OIG also recommended that the City consider the commencement of a recovery action with respect to the Company’s numerous violations of the City’s False Claims Act. OIG did not make any disciplinary recommendations with respect to the DPS’s conduct because it appears that DPS has already identified, and taken appropriate steps to fix, the flaws that existed in its TO approval process.

OIG would have recommended that CDOT Officials A and B receive discipline up to and including termination for their respective violations of *Shakman* and the City Personnel Rules. However, neither of these individuals are still City employees. OIG therefore recommended that the City make findings respecting CDOT Official A and B’s conduct and direct a copy of any findings to the Officials’ personnel files, along with OIG’s report, for appropriate consideration in the event they seek re-employment with the City.

CDOT did not make specific findings regarding CDOT Officials A and B, however the department did concur with OIG’s recommendation and directed that a copy of OIG’s report be placed in the Officials’ DHR personnel files to be considered in the event that the Officials seek re-employment with the City.

## (E) OIG Case # 10-1725

An OIG investigation established that a DSS Manager asked a subordinate to withdraw from consideration for a promotion in an effort to direct the promotion to another DSS subordinate (the Candidate). In addition, OIG found that the Manager, one of the authors of the promotional exam, repeatedly informed other candidates of the Manager's preference for the Candidate. The Manager thereby provided preferential treatment, exhibited conduct unbecoming a public employee, and performed at a level below what is ordinarily expected of those in the Manager's position, in violation of the City's Personnel Rule XVIII, section 1, paragraphs 27, 39, and 50.

OIG would have recommended that DSS impose discipline up to and including termination of the Manager. However, the Manager retired before the investigation was complete. OIG therefore recommended that DSS make findings regarding the Manager's conduct and direct that any findings along with the OIG report, be placed in the Manager's personnel file for appropriate consideration in the event the individual seeks re-employment with the City.

Additionally, in the course of its investigation, OIG closely examined a former high-ranking DSS Official's contact with DHR to determine if that conduct constituted advocacy for a specific candidate, which would violate the City's Hiring Plan. The evidence showed that the Official mentioned a particular candidate by name in a conversation with DHR, but only to clarify the process after DHR had made its decision. However, because the Official's comments raised an appearance of possible preferential treatment, OIG recommended that DHR consider advising hiring departments to refrain from making any reference to specific candidates, other than selected candidates, when inquiring about a hiring sequence. It also recommended that DHR continue instructing hiring departments to refer any candidate questions about the process directly to DHR.

DSS did not make specific findings regarding the Manager, however the department did concur with OIG's recommendation and directed that a copy of OIG's report be placed in the Manager's DHR personnel file to be considered in the event that the Manager seeks re-employment with the City. DHR also stated that while the PowerPoint presentation used in DHR's training does not specifically instruct departments not to use applicant names, trainers do inform attendees, "that it is best to never mention an applicant by name unless they are on the referral list because it can appear as advocating even if it is not intended as such." DHR also noted that when a department forwards inquiries from applicants who are not on the referral list, DHR reminds the department that it should direct the applicant to DHR and refrain from forwarding the inquiry.

## (F) OIG Case # 12-1508

OIG has concluded an investigation establishing that, during a City department's hiring meeting, a Department of Human Resources (DHR) employee (the Employee or the DHR Employee) made unsolicited remarks about the Employee's personal acquaintance with a candidate being considered as first alternate. Specifically, the DHR Employee stated that the employee had worked with the candidate at another employer and praised the candidate's qualifications and work experience.

The City's hiring process relies on DHR to facilitate the hiring department's adherence with the City's hiring plan and ensure that City job applicants are considered on an equal playing field. The DHR Employee was responsible for monitoring the meeting to ensure that no political or other improper motivation influenced the hiring deliberations. The DHR Employee was not authorized to mention prior relationships with candidates or to offer personal assessments of the candidates. The Employee's actions constituted substandard performance of defined duties as well as a form of preferential treatment.

OIG recommended that DHR impose discipline against the Employee consonant with the severity of the violations, the Employee's disciplinary and work history, department standards, and any other relevant considerations. In response to the recommendation, DHR stated that it would give the Employee verbal counseling regarding proper conduct at hiring meetings.

## (G) OIG Case # 12-0510

OIG established through documentation, surveillance, and interviews, that a multi-unit dwelling received City garbage collection in violation of the City Municipal Code. Initiated by a complaint, the investigation determined that there was a fundamental misunderstanding among DSS laborers and management regarding the City's refuse collection ordinance and DSS policies. Although the Ward Superintendent did issue one citation to the building's owner regarding the need to obtain a private scavenger service, the owner failed to remedy the problem and the Ward Superintendent made no follow-up. OIG found the Ward Superintendent, as the individual responsible for ensuring proper collection, ultimately responsible for this lapse.

In an interview with OIG, the Ward Superintendent admitted to not knowing the refuse collection policies, nor the procedures and standards for compliance and enforcement. The Ward Superintendent also claimed to have never received any training on the job duties of the position. Other interviewees confirmed this assertion, but noted that the Ward Superintendent never consulted a supervisor about the correct course of action. OIG determined that the Ward Superintendent's actions amounted to “[i]ncompetence... in the performance of the duties of [his/her] position,” which violates City Personnel Rule XVIII, Section 1, Paragraph 39.

OIG recommended that DSS impose discipline against the Ward Superintendent commensurate with the findings of its report. It also recommended that DSS conduct updated training with all Ward Superintendents to ensure they have the knowledge necessary to fulfill the responsibilities of their position and to appropriately instruct and guide subordinates, particularly in the area of identifying and addressing ordinance violations. DSS agreed with OIG's findings, stating that it

believed a written reprimand would be appropriate for the Ward Superintendent and indicated that it would conduct training on service enforcement regarding multi-unit buildings for all Ward Superintendents.

#### **D. CRIMINAL CASES, ADMINISTRATIVE APPEALS, GRIEVANCES, AND RECOVERIES**

OIG investigates both administrative and criminal allegations.

In criminal cases, OIG partners with a prosecuting agency, such as the U.S. or State's Attorney's Office, which prosecutes the case. For the purposes of OIG quarterly reports, criminal cases are considered concluded when the subject of the case is indicted.

In administrative cases, a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee's classification under the City's Personnel Rules and/or applicable collective bargaining agreements. OIG monitors the results of administrative appeals before the Human Resources Board (HRB)<sup>4</sup> and grievance arbitrations concerning our disciplinary recommendations.

##### **1. Synopses of Criminal Cases**

During the quarter, one OIG case produced criminal charges.

(A) *United States of America v. Laurance H. Freed and Caroline Walters, 13CR 951 (ND IL) (OIG Case # 10-0820)*

On December 12, 2013, two executives of a Chicago real estate development company were indicted on federal fraud charges. The charges allege that the executives lied and concealed information in order to secure bank loans and credit extensions at a time when they knew their firm was having serious financial difficulties including unpaid property taxes, the double-pledging of public financing notes issued by the City of Chicago, and the company's default on the City's notes. In early January, Freed was arraigned and a pretrial schedule was set.

The defendants, Laurance H. Freed, and Caroline Walters, are, respectively, the president and vice president/treasurer of Joseph Freed and Associates LLC (JFA), best known for its role in the development of Block 37 in Chicago's Loop. The charges involve, in part, two Tax Increment Financing (TIF) notes that the City agreed to issue in November 2002 to finance redevelopment of the former Goldblatt's department store in the City's Uptown neighborhood. Freed was manager of a limited liability company, formed by JFA, called Uptown Goldblatts Venture LLC,

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<sup>4</sup> HRB definition: A "three-member board is appointed by the Mayor and is charged with the responsibility of conducting hearings and rendering decisions in instances of alleged misconduct by career service employees. The Board also presides over appeal hearings brought about by disciplinary action taken against employees by individual city departments." City of Chicago. Department of Human Resources – Structure.

[http://www.cityofchicago.org/city/en/depts/dhr/auto\\_generated/dhr\\_our\\_structure.html](http://www.cityofchicago.org/city/en/depts/dhr/auto_generated/dhr_our_structure.html) (accessed April 13, 2010)

which received a \$4.3 million TIF redevelopment area note and a \$2.4 million TIF project note from the City to help finance the project.

Freed, 51, of Chicago, and Walters, 53, of Palatine, were each charged with seven counts of bank fraud, one count of mail fraud, and five counts of making false statements to banks in a 14-count indictment returned by a federal grand jury. The indictment also seeks forfeiture of \$2,995,295 in alleged fraud proceeds from both defendants. The indictment alleges three victims: the City of Chicago, Cole Taylor Bank, and a consortium of banks consisting of Bank of America (as successor to the former LaSalle Bank National Association), Associated Bank, Northern Trust, and Wachovia Bank. According to the indictment, between March 2008 and February 2011 both defendants made false statements to the City and the banks in order to obtain funds. During this period JFA was in the midst of a severe liquidity crisis that jeopardized its ability to pay operating expenses. Freed and Walters knew that JFA’s inability to make required payments threatened the company’s future. They allegedly made false statements,

- to the bank consortium in order to prevent default on a \$105 million line of credit and to obtain a loan modification that would have provided JFA with at least \$10 million in additional funds;
- to Cole Taylor Bank regarding the defendants’ intent to persuade the bank consortium to release its claim on the TIF notes as collateral; and
- to the City of Chicago to obtain nearly \$1.75 million in payments from the TIF notes, knowing that the bank consortium and Cole Taylor were entitled to those payments.

An indictment contains merely charges and is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

## **2. Developments in Prior Charged Criminal Cases**

During the quarter, there were developments in one of OIG’s prior criminal investigations.

(A) *United States of America v. Brunt et al., 11CR 0017 (ND IL) (OIG Case # 07-2077)*

On February 25, 2012, Anthony Duffy pleaded guilty to lying to the Federal Bureau of Investigations about his failure to disclose two key investors in a sewer company that performed work on behalf of the City. On December 6, 2012, Jesse Brunt, Duffy’s co-conspirator, pleaded guilty to one count of mail fraud for acting as a minority “pass-through” on the sewer cleaning contracts.

On October 30, 2013, Duffy was sentenced to 17 months in prison. Brunt’s sentencing was postponed, a new date has not been set. OIG will continue to report on the developments in this case in future quarterlies.

### **3. Synopses and Results of Administrative Appeals or Grievances**

To date, OIG has been notified of updates in two appeals to the Human Resource Board (HRB) occurring in the fourth quarter regarding discipline imposed as a result of an OIG investigation.

#### **(A) *Update of OIG Case # 11-0999***

In July 2013, OIG reported that the Chicago Department of Aviation (CDA) discharged an employee after an OIG investigation revealed that the employee violated the City's residency requirement, M.C.C. § 2-152-050.

On December 2, 2013, after a full hearing, an administrative hearing officer issued a report recommending that the City's Human Resources Board uphold CDA's decision to discharge the employee. On December 13, 2013, the City's Human Resources Board upheld CDA's decision to discharge the employee.

#### **(B) *Update of IGO Case # 10-0863***

An OIG investigation established that a Building Inspector with the Conservation Bureau of the Department of Buildings (DOB) improperly signed off on building permits associated with three properties. These properties were the subjects of Administrative Hearing cases because of building code violations. Without conducting valid assessments, the Inspector signed the reinspection permit documents thereby indicating that the mandated repair work was complete and the properties were in compliance. The evidence also showed that the same General Contractor performed work on these three properties and that the Contractor had a personal relationship with the Inspector. These findings showed a pattern of misrepresentation and preferential treatment by the Inspector which not only constituted personnel rule violations, but also fundamentally undermined the Inspector's trustworthiness. DOB ultimately discharged the Inspector.

The Inspector appealed DOB's discharge order to the Human Resources Board (HRB). Following the presentation of evidence and testimony, the Hearing Officer found that the City sufficiently proved multiple violations of City Personnel Rule XVIII paragraphs 6, 27, and 48, as well as individual violations of paragraphs 8 and 50. Nevertheless, the Hearing Officer recommended that the HRB reverse the discharge and impose a two-year suspension. The Hearing Officer noted that while the violations were severe and that one of the Inspector's compliance sign offs was used to inappropriately dismiss an Administrative Hearing matter, there was no evidence that the Inspector's compliance findings were incorrect or that the Inspector received any financial gain. In addition, the Hearing Officer cited the lack of any prior disciplinary history, the fact that the Inspector is a recovering alcoholic, and the fact that the Inspector was allowed to work as an Inspector during the pendency of this investigation as mitigating factors. Ultimately, the Hearing Officer concluded that, "[a] two year suspension would not deprecate the seriousness of the conduct."

Following oral argument on October 15, 2013, HRB rejected the Hearing Officer's recommendation and affirmed the discharge, concluding that, "the conduct was so egregious that discharge is the appropriate discipline."

#### 4. Recoveries

This quarter OIG received no reports of cost recovery actions or other financial recoveries related to an OIG investigation.

#### E. AUDITS

In addition to confidential disciplinary investigations, OIG produces a variety of public reports including independent, objective, analysis and evaluations of City programs and operations with recommendations to strengthen and improve the delivery of City services. These engagements focus on the integrity, accountability, economy, efficiency, and effectiveness of each subject.

The following are summaries of six audits and follow-up reports that were released this quarter.

*(A) Follow-Up Report on 2012 OIG Audit of the Chicago Police Department Evidence and Recovered Property Section*

On October 10, 2013, OIG released the findings of a follow-up inquiry into actions taken by the Chicago Police Department (CPD) in response to a September 2012 OIG audit of internal controls at CPD's Evidence & Recovered Property Section (ERPS). The 2012 OIG audit showed that CPD ERPS failed to ensure that evidence and property seized or taken into custody by CPD were adequately protected, properly documented, and readily available when required. OIG recommended that CPD management,

- immediately design and implement internal controls to ensure that all physical inventory and records can be located;
- implement the recommendations made by CPD Internal Auditing and Control Division in a 2005 audit and make necessary changes to ensure that inventory is transported to ERPS in a timely manner and its location is accurately recorded; and
- adopt the standards established by the International Association for Property and Evidence related to ventilation systems within the narcotics storage area.

OIG's follow-up inquiry found that CPD ERPS was still implementing many of the corrective actions it committed itself to in response to the September 2012 audit. While those actions remained incomplete, once fully implemented, OIG believes the corrective actions reported by CPD ERPS may reasonably be expected to resolve the core findings noted above.

*(B) Chicago Fire Department Fire and Medical Incident Response Times Audit*

On October 18, 2013, OIG released an audit of the Chicago Fire Department's (CFD) fire and medical incident response times for calendar year 2012. The OIG audit determined that CFD was not meeting the response times for National Fire Protection Association (NFPA) Standard 1710 that it had historically claimed to meet or exceed. It also found that CFD's internal reports lacked the elements necessary to accurately assess whether the Department was in fact meeting or exceeding the national standards it claimed to be meeting.

CFD agreed with one of the audit's main findings, that CFD was not strictly meeting NFPA Standard 1710. It argued that NFPA standards are useful as guidelines rather than stringent rules for fire departments. OIG does not have an opinion about the usefulness of NFPA standards, but encouraged CFD to set and state its goals clearly and to regularly check its status in meeting those goals.

*(C) Department of Water Management Inventory Process Follow-Up Audit*

On November 5, 2013, OIG released an audit that followed up on a 2012 OIG audit of inventory processes at the Department of Water Management's (DWM) Bureau of Operations and Distribution storage facilities. These facilities hold an inventory of parts such as pipes, valves, clamps, and couplings used by DWM employees to repair water and sewer mains. The 2012 audit found that 43% of physical inventory amounts did not match the inventory amounts recorded in DWM's asset management system.

The follow-up audit report found that,

- Physical inventory amounts failed to match electronic records in 40% of the parts sampled. That was only a 3% improvement from the OIG 2012 audit. In its response, DWM outlined some of the steps it needs to take in order to correct this problem;
- Inaccurate inventory balances of some fire hydrant repair parts may lead to a year-end financial overstatement of 2013 inventory. This means that the dollar value of fire hydrant repair parts physically present may be less than the amount recorded. The original audit found a similar overstatement for 2011;
- There was still no consistent guidance for reporting and oversight of inventory processes. However, DWM stated that it was seeking to follow the Comptroller's required citywide inventory policies and procedures by developing written materials to guide manual inventory operations;
- DWM implemented increased security measures to safeguard inventory; and
- DWM addressed an understated year-end balance described in the OIG 2012 audit.

*(D) Chicago Police Department Gun Turn-In Program Audit*

On November 13, 2013, OIG released an audit of CPD’s 2012 Gun Turn-In Event. The Gun Turn-In Program gives participants a gift card in exchange for turning in a gun. It is one of many initiatives to reduce crime in Chicago and has the stated intention of removing guns from the city’s streets.

OIG’s audit of CPD’s 2012 Gun Turn-In Event found that CPD accurately and appropriately accounted for all the gift cards distributed to event participants. However, the department misclassified up to 6.5% of the replicas as firearms, which could have resulted in up to \$4,680 in overpayments.

To avoid future misclassification and address operational risks, OIG recommended that CPD review its on-site weapon classification process and develop formally documented policies and procedures regarding the operations of the Gun Turn-In Program. In its response, CPD committed to reviewing its existing policies and ensuring standards are sufficient.

The audit was unable to determine how effective the program is at removing guns from the streets of Chicago due to CPD’s “no questions asked” policy, under which CPD neither requests nor records identifying information, including proof of residency, from the individuals turning in guns. The risks of this policy came to light in a publicly reported incident in which people from outside the Chicago area turned in “non-firing junk” and used the program gift cards to buy new guns and ammunition.

In addition, CPD did not conduct ballistics tests to determine if collected weapons had been used in a crime, stating that to do so would compromise participant anonymity. In its management response, CPD also notes that it considers any gun turned in through the program to be beneficial, regardless of where the gun originates or its owner resides.

*(E) Follow-Up Report on 2012 OIG Review of Opportunities for Civilianization in the Chicago Police Department*

On December 5, 2013, OIG released the findings of a follow-up inquiry into actions taken by CPD in response to a January 2013 OIG review of opportunities for civilianization of positions at CPD. In the original review, OIG examined 370 CPD positions and found a total of 292 full-duty sworn officers filling jobs that did not require the authority, skills, knowledge, or experience specific to sworn officers. The review estimated annual savings from civilianization of these positions ranging from \$6.4 million to \$16.6 million per year.

In response to OIG’s follow-up inquiry this fall, CPD reported that it had,

- moved 126 sworn officers from administrative and dispatch positions to field duties;
- identified 65 positions to be filled by civilians; and

- made efforts outside of personnel changes to advocate for a change to state law that will allow retired police officers to serve summons.

OIG's follow-up was unable to determine if the 126 positions will be filled by civilians or if the 65 vacated positions were left by the same sworn officers moved into the field. Similarly, OIG could not verify whether any of these positions are related to the 292 identified by the January review.

CPD reasserted its general commitment to civilianization efforts. However, OIG concluded that CPD's civilianization efforts remain a work in progress as, among other things, it had yet to initiate a department-wide assessment of positions that could be civilianized, as was recommended by OIG in January.

*(F) Follow-Up Report on 2013 OIG Audit of the Department of Water Management Material Truck Haul Program*

On December 19, 2013, OIG released a follow-up report on DWM's progress in reforming vendor payment structures in the Material Truck Haul Program (MTHP). The original audit, published in February 2013, found that many vendors were paid late and/or were underpaid. DWM reported in December 2013 that it had corrected the problems.

Specifically, to address OIG's findings that in 2011 vendors were underpaid by \$612,589 and \$10 million in invoices were paid late or remained unpaid more than seven months past the invoice date, DWM now pays all invoices within the 60-day period stated in the contracts and includes a "grand total" in monthly summary accounts for vendors. To address the finding that 94.8% of signatures confirming delivery or pick-up did not match the list of authorized signatures, DWM created a new authorization signature list for delivery and pick-up confirmation.

OIG concluded that DWM had fully implemented the corrective actions recommended in the February 2013 audit of the MTHP.

**F. ADVISORIES**

Advisories describe a management problem observed by OIG in the course of other activities including Audits and Investigations. These are problems that OIG believes it should apprise the City of in an official capacity. The following are summaries for two advisories that were released this quarter.

*(A) The Duty of Vendors to Report Unlawful Conduct (OIG Case # 12-1216)*

In September OIG sent the Mayor's Office an advisory regarding the duty of City vendors to report corruption or other unlawful conduct. The advisory resulted from an investigation that found that an employee of a subcontractor to a City vendor had, on two separate occasions,

unlawfully solicited and received money from members of the public with promises to take official City action on their behalf.

OIG’s investigation found that the subcontractor had terminated the employee for the misconduct described above and had required him to repay money. However, neither the vendor nor the subcontractor informed the City about this incident. The City learned of the incident only after a different member of the public filed a complaint with the City about a similar but separate incident involving the same employee.

Current vendor contracts require cooperation with OIG in investigative matters. However, unlike City employees, vendors are not expressly required to report unlawful activity committed by employees connected to performance of the City contract. As it stands, the City is robbed of the opportunity to identify and address potential risk areas as represented by the employee in question.

On November 13, 2013, Mayor Rahm Emanuel proposed Ordinance 02013-8498 that requires City contractors to report any and all information that the contractor knows or reasonably should know to involve corrupt or other unlawful activity by its employees or by another individual involved in City business. The mandate mirrors current reporting requirements already in place for City employees and officials.<sup>5</sup>

The ordinance would be incorporated as an explicit term in all future City contracts. A violation of this ordinance constitutes an event of default, which may be punishable by termination of city contracts held by the contractor.

#### *(B) Suspensions Issued for Historical *Shakman* Violations*

In November, OIG sent the Commissioner of the Department of Human Resources (DHR) an advisory regarding the suspensions issued for historical *Shakman* Violations. The advisory highlights inconsistencies in the implementation of employee discipline meted out by the City. The lack of a clear central policy resulted in some employees escaping the full professional and financial consequences of disciplinary sanction and rendered payroll records inaccurate.

The advisory follows an OIG Hiring Oversight inquiry into disciplinary actions arising from *Shakman* Monitor Office investigations. The inquiry found critical variations in the way sanctions were carried out across and within City departments. For example, suspensions served by employees were inconsistent with the City’s stated disciplinary sanctions. OIG also found departments using incorrect coding including the entry of “excused absence” on a suspension day, personnel files that were missing notices of suspension, and variability in how and when suspensions were served.

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<sup>5</sup> Proposed Ordinance 02013-84980 is available on the Clerk’s website <https://chicago.legistar.com/LegislationDetail.aspx?ID=1519629&GUID=14C01F4C-C536-4237-A859-2AEC874C2BF1&Options=Advanced&Search=>

In the advisory, OIG recommended that DHR and the Department of Finance establish a City-wide policy for the assessment, coding, and enforcement of unpaid suspensions and other disciplinary sanctions. The departments agreed with OIG and, in their response, noted that they have already begun drafting a new policy.

## **G. HIRING COMPLIANCE**

Under Chapter XII of the City of Chicago General Hiring Plan, Chapter XI of the CPD Hiring Plan, and Chapter IX of the CFD Hiring Plan,<sup>6</sup> OIG is required to review and audit various components of the hiring process and report on them quarterly. The Hiring Plan requires both reviews and compliance audits. The plan defines reviews as a “check of all relevant documentation and data concerning a matter” and audits as a “check of a random sample or risk-based sample of the documentation and data concerning a hiring element.”

The following section first details results of OIG’s reviews followed by results of OIG’s compliance audits. The last section covers OIG hiring related escalations, complaints, and inquiries.

### **1. Hiring Process Reviews**

#### *(A) Contacts by Hiring Departments*

OIG reviews all reported or discovered instances where hiring departments contacted the Department of Human Resources (DHR) to lobby for or advocate on behalf of actual or potential Applicants or Bidders for Covered Positions or to request that specific individuals be added to any referral or eligibility list except as permitted by the Hiring Plan.

During the last quarter, OIG did not receive any reports of direct departmental contacts from DHR.

#### *(B) Exemptions*

OIG reviews adherence to exemption requirements and Exempt Lists and propriety of Exempt List<sup>7</sup> modifications. OIG receives and reviews notifications of all *Shakman-Exempt*

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<sup>6</sup> On June 24, 2011, the City of Chicago filed the 2011 City of Chicago Hiring Plan (“General Hiring Plan”). The General Hiring Plan, which was agreed to by the parties and approved by the Court on June 29, 2011, replaced the 2007 City of Chicago Hiring Plan which was previously in effect. The City of Chicago also filed the 2011 Chicago Police Department Hiring Plan (CPD Hiring Plan) on October 14, 2011, and the 2011 Chicago Fire Department Hiring plan (CFD Hiring Plan) on December 15, 2011. Collectively, the General Hiring Plan, the CPD Hiring Plan, and the CFD Hiring Plan will be referred to as the “City’s Hiring Plans”.

<sup>7</sup> The Exempt List is a list of all City positions that are exempted from the requirements governing Covered positions (*Shakman-Exempt*). *Shakman-Exempt* Positions are those where any factor may be considered in actions covered by the City’s Hiring Plans and Other Employment Actions, unless otherwise prohibited by law.

appointments and modifications to the Exempt List on an ongoing basis. In addition to these ongoing reviews, OIG conducts annual reviews of the Exempt List to ensure that the City is complying with the *Shakman* requirements and to determine whether DHR is maintaining an accurate record of *Shakman*-Exempt employees and titles.

The reviews are based on DHR's last Exempt List update on February 8, 2013, which is available on DHR's website.<sup>8</sup> The List included 1,280 City positions to be classified as *Shakman*-Exempt. These positions cover various titles with a specific number of slots, which the City is allowed to fill using the *Shakman*-Exempt Hire Process outlined in Chapter VIII of the General Hiring Plan. The review also used DHR's Exempt List database and a report from the Chicago Integrated Personnel and Payroll System (CHIPPS). DHR's database tracks *Shakman*-Exempt employees and *Shakman*-Exempt titles (DHR List). The CHIPPS List includes all employees who have a *Shakman*-Exempt status.

In the first quarter of 2013, OIG completed its 2013 annual Exempt List review. Generally, the 2013 annual review found DHR's records of Exempt employees and titles to be thorough and substantially accurate. OIG did, however, identify some discrepancies and issues during the course of our review, including,

- instances where employees were accounted for on the CHIPPS List but not the DHR List and vice versa;
- discrepancies in employee titles;
- discrepancies in the number of slots available for various positions; and
- other miscellaneous discrepancies between DHR, CHIPPS, and Exempt Lists.

In its response, DHR provided justifications for the various discrepancies and updated the City's personnel database as well as its own personnel tracking system to reconcile the identified discrepancies. After reviewing DHR's response, OIG had no further comments or concerns regarding the City's Exempt List and personnel records.

#### (C) Senior Manager Hires

OIG reviews hires using Chapter VI, the Senior Manager Hiring Process.<sup>9</sup>

Of the 38 hire packets<sup>10</sup> OIG reviewed this past quarter, seven were for Senior Manager positions. One of these Senior Manager hire packets contained an error. Specifically, the hire

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<sup>8</sup> The link to the current Exempt List can be viewed [here](#).

<sup>9</sup> Senior Managers are (1) not covered by a collective bargaining agreement; (2) at-will employees; (3) not *Shakman* Exempt; and (4) perform significant managerial responsibilities. These positions are filled pursuant to a Court-approved process.

<sup>10</sup> Hire packets include all documents and notes maintained by City employees involved in the selection and hiring process.

packet contained improper marks on the candidate assessment forms. OIG communicated this error to DHR and recommended that all documentation related to the correction of this error be included in the hire packet. OIG did not monitor interviews for Senior Manager hiring sequences this past quarter.

*(D) Written Rationale*

OIG reviews any written rationale when no consensus selection was reached during a Consensus Meeting.<sup>11</sup>

Consensus selections were reached during all Consensus Meetings that occurred during the fourth quarter of 2013.

*(E) Emergency Appointments*

OIG reviews circumstances and written justifications for any emergency hires made pursuant to the Personnel Rules and Section 2-74-050(8) of the Chicago Municipal Code.

The City has reported no emergency appointments during the fourth quarter of 2013.

*(F) Review of Contracting Activity*

Prior to offering any contract or other agreement terms to any not-for-profit agency, for-profit contractor, or other organization or entity to provide services for the City, the requesting Department shall give OIG Hiring Oversight advance notification. OIG is required to review City departments' compliance with the City's "Contractor Policy" (Exhibit C to the City's Hiring Plan). Per the Contractor Policy, OIG may choose to review draft contract or agreement terms to assess whether they are in compliance with the Policy. The following chart details these contract notifications.

**Table #4 – Contract Notifications**

| Name of the Contractor, Agency or other Organization | Name of Contracting Department | Duration of such Contract or Agreement | Approved by DHR? |
|--|--------------------------------|--|------------------|
| Urban Alliance Internship Program                    | CPL                            | 10/2013- 8/2014                        | Yes              |
| M3 Medical Management                                | CDPH                           | 1/31/2014                              | Yes              |
| Dayspring Janitorial Services                        | 2FM                            | 11/20/13                               | N/A              |
| Civil Consulting Alliance/ Aspen Institute Forum     | Mayor's Office                 | 1/6/2014- 8/31/14                      | Yes              |

<sup>11</sup> A Consensus Meeting is a discussion that is led by the DHR Recruiter held at the conclusion of the interview process. During the Consensus Meeting, the interviewers and the Hiring Manager review their respective interview results and any other relevant information to arrive at a hiring recommendation.

## 2. Hiring Process Audits

### *(A) Modifications to Class Specifications,<sup>12</sup> Minimum Qualifications, and Screening and Hiring Criteria*

OIG audits modifications to class specifications, minimum qualifications, and screening/hiring criteria. In the last quarter, the City changed the minimum qualifications or included equivalencies for six positions in the Department of Water Management, Chicago Police Department, Chicago Department of Transportation, and the Department of Business Affairs and Consumer Protection. OIG raised no objections to these changes.

### *(B) Referral Lists*

OIG audits the lists of Applicants/Bidders who meet the predetermined minimum qualifications for the Position that are generated by DHR. Each quarter, OIG examines a sample of referral lists and provides commentary to DHR whenever potential issues arise. OIG recognizes that aspects of candidate assessment can be subjective and that there can be differences of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "errors" is limited to cases in which applicants who, based on the information they provided,

- were referred and did not quantitatively meet the minimum qualifications,
- were referred and failed to provide all of the required information and/or documents listed on the job posting,
- were not referred and quantitatively met the minimum qualifications.

This quarter, OIG audited eight referral lists, none of which presented errors.

### *(C) Testing*

OIG also audited testing administration materials<sup>13</sup> for 16 completed test administrations<sup>14</sup> completed in the third quarter of 2013. OIG found four errors in the test administration audit and

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<sup>12</sup>Class Specifications are descriptions of the duties and responsibilities of a Class of Positions that distinguish one Class from another. They are, in effect, the general descriptions utilized to determine the proper level to which a Position should be assigned, and they include the general job duties and minimum qualifications of the Position. Class Specifications shall include sufficient detail so as to accurately reflect the job duties.

<sup>13</sup> Testing administration materials include (1) the test booklet (or booklets, if multiple versions of the test were administered); (2) the sign in/sign out sheets; (3) the answer key; (4) the final cut score(s) and any documentation regarding the change of a cut score(s); (5) the individual test scores for each candidate for each test(s) that was administered; (6) the finalized test results sent to the DHR Recruiter; (7) the answer sheets completed by the candidates; (8) the rating sheets completed by the interviewers as part of the Foreman Promotional Process; (9) any additional emails or notes identifying issues surrounding the test administration or scoring (e.g. documentation identifying the individual test score changes for tests that are rescored, memos to file regarding non-scheduled candidates being allowed to test, etc.).

reported the errors to DHR. The individual errors and DHR’s response to each error are detailed below. OIG found the first error to be a violation of the Hiring Plan. The remainder of the errors did not affect the candidates’ placement on position eligibility lists nor the final candidate selection decisions. Therefore, these errors did not constitute a violation of the Hiring Plan.

i. Chicago Department of Aviation A

OIG determined that the grading of a candidate’s answer sheet did not conform to the answer key. As a result, the candidate’s reported score was significantly lower than his actual score. The DHR Testing Manager agreed with our assessment and rescored the candidate’s test. Because all candidates were interviewed for the position regardless of their score on the test, the rescore did not affect the candidate’s placement on the eligibility list. However, after reviewing the Candidate Assessment Form for the individual’s interview, OIG determined that the incorrect scoring did impact the final selection decision for the position. The seriousness of this error constitutes a violation of the Hiring Plan as it ultimately affected the candidate selection decision. After this error was brought to the attention of DHR and the Department of Aviation, the candidate was reinserted into the consideration process.

ii. Chicago Department of Aviation B

OIG determined that a candidate’s answers were inaccurately transferred to the overall score spreadsheet. The candidate’s final score was recorded correctly, but had the answers on the spreadsheet been used to recalculate the scores, the candidate would have received two additional points. The DHR Testing Manager confirmed that the scores were recorded incorrectly. Because the final score was recorded correctly, this error did not affect the candidate’s placement on the eligibility list or the final selection decision for the position.

iii. Chicago Department of Aviation C

OIG determined that a candidate’s score was incorrectly calculated and recorded on the overall score spreadsheet. The DHR Testing Manager confirmed the computation error. Because the candidate’s pass/fail status remained the same after correction of the error, the error did not affect the candidate’s placement on the eligibility list or the final selection decision for the position.

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<sup>14</sup> A test administration is considered to be completed when a test has been administered and the final candidate scores have been sent from the DHR Testing Division to the DHR Recruiting Division for candidate selection and processing.

#### iv. Department of Finance

OIG determined that a candidate's score was incorrectly recorded on the overall score spreadsheet. The DHR Testing Manager confirmed the error. Because the candidate's pass/fail status remained the same after correction of the error, the error did not affect the candidate's placement on the eligibility list or the final selection decision for the position.

##### *(D) Selected Hiring Sequences*

The Hiring Plan requires OIG to audit 10% in the aggregate of in-process and at least 5% of completed hiring sequences from the following departments or their successors: Streets and Sanitation, Water Management, Aviation, Transportation, Buildings, Fleet, and six other City departments selected each quarter at the discretion of OIG Hiring Oversight.

Hire packets include all documents and notes maintained by City employees involved in the selection and hiring process. As required by the Hiring Plan, OIG examines some hire packets prior to the hires being completed and others after the hires have been completed.

During the fourth quarter of 2013, OIG completed an audit of hire packets for 38 hiring sequences. OIG selected these packets based on past errors, complaints, historical issues, and other risk factors. Of the packets audited, seven contained at least one error. These errors included missing or invalid documentation (for example, an expired driver's license), missing Hire Certifications, or improper marks on Candidate Assessment Forms. The errors in one hiring packet were attributable to CPD-HR rather than DHR.

##### *(E) Monitoring Hiring Sequences*

In addition to auditing hire packets, OIG audits hiring sequences through in-person monitoring of intake meetings, interviews, and consensus meetings. Monitoring involves observing and detecting compliance anomalies in real time, with a primary goal of identifying gaps in compliance on a regular basis.

During the past quarter, OIG monitored one intake meeting, five testing administrations, six sets of job interviews, and five consensus meetings. OIG did not identify any errors while monitoring these hiring activities. The table below shows the breakdown of monitoring activity by department.<sup>15</sup>

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<sup>15</sup> If a department is not included in this table, OIG did not monitor any elements for a hiring sequences for that department in-person.

**Table #5 – Fourth Quarter 2013 OIG Monitoring Activities**

| Department                                  | Number of Intake Meetings Monitored | Number of Tests Monitored | Number of Interview Sets Monitored | Number of Consensus Meetings Monitored |
|---|-------------------------------------|---------------------------|------------------------------------|--|
| Chicago Department of Aviation              | 0                                   | 1                         | 0                                  | 0                                      |
| Chicago Fire Department                     | 1                                   | 0                         | 2                                  | 1                                      |
| Chicago Police Department                   | 0                                   | 2                         | 1                                  | 0                                      |
| Department of Family and Support Services   | 0                                   | 0                         | 1                                  | 1                                      |
| Department of Fleet and Facility Management | 0                                   | 0                         | 1                                  | 1                                      |
| Department of Streets and Sanitation        | 0                                   | 1                         | 1                                  | 1                                      |
| Department of Water Management              | 0                                   | 1                         | 0                                  | 0                                      |
| Independent Police Review Authority         | 0                                   | 0                         | 0                                  | 1                                      |
| <b>Total</b>                                | <b>1</b>                            | <b>5</b>                  | <b>6</b>                           | <b>5</b>                               |

**(F) Hiring Certifications**

Hiring Certifications are the required certifications attesting that no Political Reasons or Factors or other Improper considerations were taken into account in the applicable action.

Of the 38 hire packets audited in the last quarter, three contained missing, invalid, or late Hiring Certifications from DHR and/or the Hiring Department. The “Selected Hiring Sequences” section above included these errors in its tally. In one of the three hire packets, Hire Certifications were missing for everyone involved in screening candidates. This omission is attributable to CPD-HR. After reporting the omissions to DHR and CPD-HR, the missing certifications were provided and included in the packets.

**(G) Acting Up<sup>16</sup>**

OIG audits the City’s compliance with Chapter XI of the General Hiring Plan,<sup>17</sup> the Acting Up Policy, and all Acting Up waivers processed by DHR.

DHR has finalized its Acting Up Policy, effective January 1, 2014. OIG worked with DHR, the Department of Finance, and the *Shakman* Monitor’s Office to ensure that the policy enables OIG

<sup>16</sup> Acting Up is where an employee is directed to, and does perform, or is held accountable for, substantially all of the responsibilities of a higher position.

<sup>17</sup> Chapter VIII of the CFD Hiring Plan and Chapter X of the CPD Hiring Plan follow the same guidelines as Chapter XI of the General Hiring Plan.

to efficiently audit Acting Up data to determine whether departments administer and report Acting Up properly. OIG will report its auditing results in future quarterly reports.

The following chart details waivers to the City's 520-hour Acting-Up limit approved by DHR in the last quarter.

**Table #6 – DHR Approved Waivers to the City's 520-hour Acting-Up Limit**

| <b>Department</b> | <b>Position</b>                               | <b>Number of Employees</b> | <b>Date of Response</b> | <b>Duration of Waiver</b> |
|-------------------|---|----------------------------|-------------------------|---------------------------|
| CDOT              | Foreman of Lineman of Small Gangs             | 2                          | 10/9/13                 | 12/26/13                  |
| 2FM               | Foreman of Steamfitters                       | 1                          | 10/15/13                | 12/31/13                  |
| 2FM               | Foreman of Electrical Mechanics               | 2                          | 10/21/13                | 12/31/13                  |
| CDPH              | Supervising Communicable Disease Investigator | 1                          | 10/22/13                | 12/31/13                  |
| DWM               | Operating Engineer-Group A                    | 1                          | 11/19/13                | 12/31/13                  |
| DWM               | Supervising Drain Inspector                   | 1                          | 11/21/13                | 12/31/13                  |
| DWM               | Chief Operating Engineer                      | 1                          | 12/5/13                 | 12/31/13                  |
| DWM               | Operating Engineer- Group A                   | 1                          | 12/5/13                 | 12/31/13                  |
| 2FM               | Supervising Watchmen                          | 4                          | 12/9/13                 | 12/31/13                  |
| DWM               | Operating Engineer- Group C                   | 5                          | 12/9/13                 | 12/31/13                  |
| DWM               | Chief Operating Engineer                      | 1                          | 12/11/13                | 12/31/13                  |
| DWM               | Operating Engineer- Group A                   | 1                          | 12/16/13                | 12/31/13                  |
| DWM               | Operating Engineer- Group A                   | 1                          | 12/31/13                | 12/31/13                  |
| DWM               | Operating Engineer- Group A                   | 1                          | 12/20/13                | 12/31/13                  |

*(H) Arbitrations and Potential Resolution of Grievances by Settlement.*

OIG is required to conduct audits of all arbitration decisions and grievance settlement agreements that arise out of Accord complaints or that may impact the procedures under the City's Hiring Plans or Other Employment Actions.<sup>18</sup>

In the last quarter, OIG gained access to the City of Chicago Grievance database, the Chicago Department of Aviation Labor Management System, and the Chicago Police Department Management and Labor Affairs database. This access marks a positive change in how OIG receives information about arbitrations and grievance settlements and is an important first step toward completing a satisfactory audit. OIG will continue to work with the Department of Innovation and Technology and other departments as necessary to render the databases useful for

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<sup>18</sup> An Other Employment Action is any change in the terms and conditions of employment in addition to those detailed in this Hiring Plan and includes, but is not limited to: hiring, firing, promotion, demotion, lay-off, reinstatement, reemployment, transfer, reclassification, granting overtime, assignment, withholding of any job benefit and imposition of any employment sanction or detriment.

conducting meaningful audits of arbitration decisions and grievance settlement agreements that may result in an Employment Action, as dictated by the Hiring Plan.

In the last quarter, OIG received and reviewed two settlement agreements from DHR and Law. The following chart details the Union involved in each settlement agreement, the City Department(s) affected by the settlement agreement, the position(s) affected by the settlement agreement, and a brief description of the terms of the settlement agreement.

**Table #7 – Settlement Agreements in Received and Reviewed in Fourth Quarter**

| Union                      | City Department | Position            | Settlement Description   |
|----------------------------|-----------------|---------------------|--|
| Local 1001                 | 2FM             | Foreman of Laborers | The City agreed to convert the titles of all Foreman of Laborers to Supervising Watchman           |
| Firefighters Union Local 2 | CFD             | Paramedic-In-Charge | The City agreed to promote the grievant to the title of Paramedic-in-Charge effective July 1, 2012 |

### **3. Reporting of Other OIG Hiring Oversight Activity**

#### *(A) Escalations*

Recruiters and Analysts in DHR must escalate concerns regarding improper hiring to OIG. OIG evaluates the circumstances surrounding the escalation and may do one or more of the following: investigate the matter, conduct a review of the hiring sequence, refer the matter to the DHR Commissioner or appropriate Department Head for resolution, and/or refer the matter to the Investigations Section of OIG.

OIG received two escalations in the last quarter, both of which are still pending. The details of these pending escalations will be reported in a future quarterly report, once the review is complete. OIG concluded one escalation in the fourth Quarter of 2013 which is detailed below.

##### *i. Chicago Department of Transportation*

On August 19, 2013 a DHR Testing Administrator told OIG that a department interviewer contacted the Testing Administrator indicating a rating error on a June 2013 skill assessment. Specifically, the interviewer erroneously marked the candidate as having passed the skills assessment when that candidate should have been marked as failing. After conducting its own review, OIG recommended DHR include the following documentation in the hiring packet:

- the interview panelists explanation of the candidate's failure;
- the escalation e-mail;

- written confirmation from the representative from the *Shakman* monitors office regarding the candidates failure of the skills assessment; and
- a copy of any notices sent to the candidate and/or CDOT regarding the candidates failure of the skills assessment.

DHR agreed with OIG's recommendations.

*(B) Processing of Complaints*

OIG Hiring Oversight receives complaints regarding the hiring process, including allegations of unlawful political discrimination and retaliation and other improper influence in connection with any aspect of City employment. Complaints received by the OIG Hiring Oversight Section may be resolved in several ways depending upon the nature of the complaint. If there is an allegation of misconduct, the complaint may be referred to the Investigations Section of OIG. If there is an allegation of a breach of policy or procedure, the OIG Hiring Oversight Section may conduct an inquiry into the matter to determine if such a breach occurred. If a breach of policy or procedure is found, the OIG Hiring Oversight Section may resolve the matter by making corrective recommendations to the appropriate department or referring the matter to the Investigations Section of OIG. If no breach of policy or procedure is found, the OIG Hiring Oversight Section may refer the matter to DHR and/or the appropriate department for resolution or close the complaint.

The OIG Hiring Oversight Section received 23 complaints in the past quarter. Of those complaints, 2 were referred from the *Shakman* Monitor's Office. The chart below summarizes the disposition of these 23 complaints as well complaints from the previous quarter, which were not closed when OIG issued its last report.

**Table #8 – Disposition of Hiring Oversight Complaints Received in Fourth Quarter**

| Status  | Number of Complaints |
|---|----------------------|
| Complaints Pending as of the end of the 3 <sup>rd</sup> Quarter of 2013 | 13                   |
| Complaints Received in the 4 <sup>th</sup> Quarter of 2013              | 23                   |
| Total closed in the 4 <sup>th</sup> Quarter                             | 16                   |
| Closed by Referral to OIG Investigations                                | 0                    |
| Closed by Referral to DHR   | 0                    |
| Closed with Recommendations to the Hiring Department and/or DHR         | 0                    |
| Pending with OIG Hiring Oversight as of 12/31/2013                      | 35                   |