



# Office of Chicago City Clerk



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



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

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***QUARTERLY REPORT OF THE INSPECTOR GENERAL'S OFFICE***

***FOURTH QUARTER 2010***

**JANUARY 2011**

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Joseph M. Ferguspn  
Inspector General

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

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OFFICE OF THE  
CITY CLERK

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January 13, 2011

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 Office of Inspector General (IGO) during the fourth quarter of 2010; filed with the City Council pursuant to Section 2-156-120 of the Municipal Code of Chicago. In order to keep you apprised of IGO activities and operations, the enclosed report once again includes summaries of sustained IGO investigations, policy recommendations, and hiring compliance efforts.

Given the confidentiality of IGO investigations as prescribed by City ordinance, the summaries do not reveal the identities of the subjects of investigations, but do detail the general nature and subject matter of the IGO investigations, the results of those investigations to include IGO disciplinary and program recommendations, and the final departmental actions on those recommendations. Please note that this report does not summarize cases reported out by the IGO for which a disciplinary response from the subject department is still pending.

This quarter's report reflects the IGO's continuing efforts to fully inhabit its enabling ordinance and seeks to provide better public understanding of and accountability for the work we do. This report includes summaries of the IGO's Budget Options Report and a review of the City's Home Repairs for Accessible and Independent Living (HRAIL) program. These, as all public IGO documents, are available on the IGO website.

The report also specifies a number of policy and program recommendations advanced during the quarter, including those implemented by the City as well as those for which response or action remains pending. We again encourage City officials and the broader community to contact the IGO with feedback in order to help us continue to improve this report.

The report has also been sent to the heads of City Departments to distribute as they see fit. We hope the report will help City employees better understand the IGO's mission, as well as how their conduct is governed by the City Personnel Rules and their own Department's policies and procedures.

This report marks the end of the first calendar year of the IGO's operation since the departure of David Hoffman, who was responsible for building the office into a vibrant oversight body for the City. During this year, the office has reduced a backlog of older investigations and shortened the average turnaround for concluding and reporting out investigations. IGO investigations concluded this year have resulted in indictments and successful prosecutions in partnership with the Federal Bureau of Investigation, U.S. Postal Inspection Service, U.S. Department of Labor, U.S. Attorney's Office, U.S. Department of Justice, and Cook County State's Attorney's Office.

The IGO Audit Section issued audit reports this year identifying millions in misplaced, misdirected and misspent funds. More importantly, these reports advanced numerous recommendations for procedures and controls to mitigate future risk. The audits issued in 2010 have spanned a number of areas of City operations and expenditures, including, among others, TIF, the Chicago Department of Aviation, and the City Clerk's Office. Financial and administrative reviews conducted through both the Investigations and Audit Sections have further identified procedural and control vulnerabilities that call into question the effectiveness of certain types of delegate agencies through which the City provides critical social services to the segments of our community in greatest need.

We have also issued broader program reviews pointing to areas where the City can improve performance, reduce fraud, cut waste, and save taxpayer money. Most notable in this regard are: (1) our May 2010 report provided a comprehensive review and assessment of one of the City's more socially significant economic engines, the Minority and Women-owned Business Enterprise program, and identified substantial over-reporting of actual participation as well as historical mismanagement of the program as some of the potential causes and effects of broad scale fraud; and (2) our October 2010 Budget Options Report served as a springboard for discussion by providing information and analysis regarding possible savings of hundreds of millions of dollars to address the City's structural deficit. Finally, we inherited oversight authority of the City's hiring practices subject to continuing *Shakman* monitoring. We have worked to establish this as a productive unit and expect its work to bear fruit in the coming year in the form of, among other things, court-approved implementation of Hiring Plans for the City.

These achievements have required overcoming a fundamental obstacle to the execution of our mission. One item not noted in the quarterly report is the Inspector General's continued difficulty in exercising independent authority to operate and manage the office. In June, the IGO informed the Mayor of its plan for restructuring the office to meet our fiscally challenged environment by better serving a longstanding but little appreciated part of the IGO's mission under its enabling ordinance – the promotion of economy, efficiency, and effectiveness. This plan did not require additional City resources, but rather shifted existing positions to work on this part of the office's mission. The restructure was written into the IGO's budget which was approved by the City Council in November and received the Mayor's verbal support. However, the Administration has not permitted the office to effectuate the plan.

The primary goal of the IGO is to save the City money by rooting out waste, fraud, and abuse while finding efficiencies. This goal can only be achieved if the IGO is truly independent. We cannot be truly independent if the Administration, through control of how we spend our budget and staff our office, has functional veto power over our operations. Fundamentally, the lack of a budget floor and independent spending authority places the functional integrity of the IGO's essential operations and independence at risk.

Public reports of the IGO's work understandably and properly highlight the bad actors and inefficient and wasteful use of taxpayer money. The downside to this focus, however, is that the more important issue of how to fix the underlying problems and whether the Administration is acting to implement those fixes, gets lost. This is unfortunate, because the City's response, rather than the misstep or error, is often the more accurate measure of the Administration. When an IG issues findings and recommendations, it is seldom a good day for the subject administration or department. As a result, the relationship between an oversight body and those under its jurisdictional reach ranges from complicated to openly contentious. It is no different here. But over the past year, we have found the leadership in many City Departments to be quite responsive in responding to problems highlighted by our findings and recommendations. For example, we have observed the Department of Procurement Services to be particularly responsive. Regardless of whether our work is welcomed by the Administration, it is the implementation of corrective action that should be the focus of observers of City government.

Resource challenges notwithstanding, the office will continue to work vigorously and independently to uncover waste, fraud, abuse, and inefficient use of City resources and to generate proposals and recommendations for making the City operate more efficiently and effectively. We will strive to improve the quality of our work, and will continue to work to increase public awareness and understanding of our mission and of City government at large. We hope this report reflects those goals and look forward to any and all comments, critiques, or concerns.

Respectfully,

A handwritten signature in black ink, appearing to be 'J. Ferguson', with a long horizontal stroke extending to the right.

Joseph M. Ferguson  
Inspector General  
City of Chicago

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This quarterly report provides an overview of the operations of the Inspector General's Office (IGO) during the period from October 1, 2010 through December 31, 2010. The report includes statistics and narrative description of the IGO's activity that the IGO is required to report per the City's Municipal Code.

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

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

The IGO accomplishes its mission through investigations, audits, inspections, evaluations, research, and data collection. IGO summary reports 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, inspections, and evaluations are sent to the responsible management officials for comment and then are released to the public through publication on the IGO website.

#### **B. INVESTIGATIONS**

The IGO Investigations 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**

The IGO received 406 complaints over the preceding quarter. The following table provides detail on the actions the IGO has taken in response to these complaints.

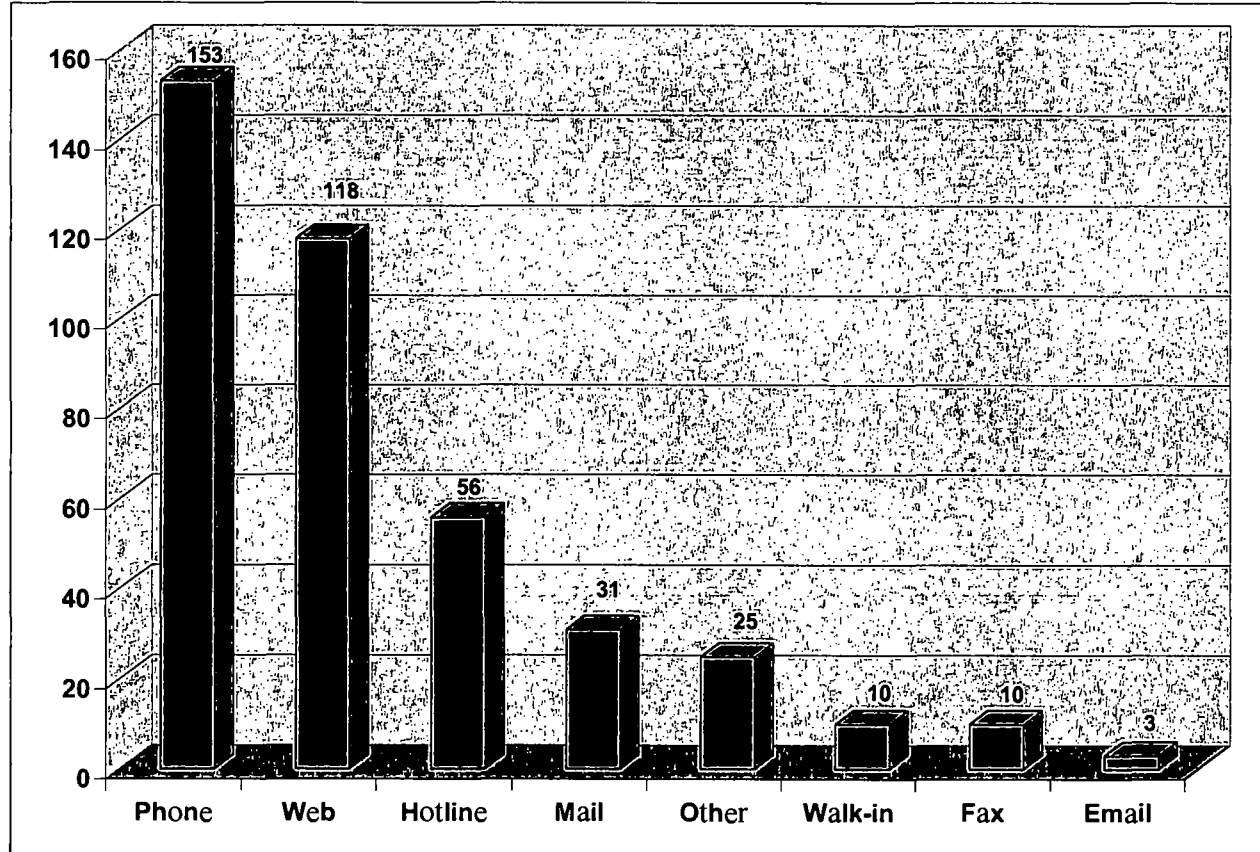
**Table #1 – Complaint Actions**

<b>Status</b>	<b>Number of Complaints</b>
Declined	311
Investigation	67
Referred	28
<b>Total</b>	<b>406</b>

As the table shows, for the vast majority of complaints, the IGO declined to investigate the allegation. The primary reason that the IGO declines a complaint is due to a lack of resources. That determination involves a form of cost/benefit evaluation by the Director of 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 the IGO has received during the past quarter by the method in which the complaint was reported.

**Chart #1 - Complaints by Method**



## 2. Newly Opened Investigations

Over the quarter, the IGO opened 95 investigations. Ninety (90) were opened based on allegations of misconduct and 5 based on allegations of waste or inefficiency. Of these opened matters, 28 were immediately referred to other departments or investigative agencies. Thus, of all the complaints received in the quarter, 67 (16.5%) proceeded to a full IGO investigation. Of the 67 newly opened investigations, six were found to be not sustained before the end of the quarter, while 61 remain open. The table below categorizes the 95 matters logged by the IGO based on the subject of the investigation.



**Table #2 – Subject of Investigations**

Subject of Investigations	Number of Investigations
City Employees	82
Contractors, Subcontractors, and Persons Seeking City Contracts	9
Appointed Officials	3
Elected Officials	1
Investigations of Persons Seeking Certification of Eligibility	0

### 3. Cases Concluded in Quarter

During the quarter, 100 matters were concluded, 28 of which were the aforementioned referrals to City departments or other investigative agencies. Of the remaining concluded matters, 18 were closed as sustained and 54 were closed not sustained. A case is sustained when the preponderance of the evidence establishes that misconduct has occurred. A case is not sustained when the IGO concludes that the available evidence is insufficient to prove wrongdoing under applicable burdens of proof.

### 4. Pending Investigations

Including the investigations initiated this quarter, the IGO has a total of 280 pending investigations.

### 5. Investigations Not Concluded in Twelve Months

Under the Municipal Code, § 2-56-080 (2010), the IGO must report provide quarterly statistical data on pending investigations opened for more than twelve months. Of the 280 pending investigations, 87 investigations have been open for at least twelve months. Continuing our increased efforts to close older cases, there are 22 fewer cases older than one year than were reported at the end of last quarter.

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

**Table #3 – Reasons Investigations are not Concluded in Twelve Months**

Reason	Number of Investigations
Additional complaints were added during the course of the investigation.	1
Complex investigation. May involve difficult issues or multiple subjects.	47
Lack of sufficient investigative resources over the course of the investigation. Investigators' caseloads were too high to enable cases to be completed in a more timely manner.	15
On hold, in order not to interfere with another ongoing investigation.	3
Under review by the Legal Section or the Director of Investigations prior to closing.	21
<b>Total</b>	<b>87</b>

## C. SUSTAINED ADMINISTRATIVE CASES

IGO sustained cases can either 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, the IGO produces summary reports<sup>1</sup> – a thorough summary and analysis of the evidence and a recommendation 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 U.S. Attorney's Office, the Cook County State's Attorney's Office, or the Illinois Attorney General's Office, as appropriate. The IGO may issue summary reports recommending administrative action based on criminal conduct.

### 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.<sup>2</sup>

In addition to the IGO's findings, each description includes the action taken by the department in response to the IGO's recommendations. Departments have 30 days to respond to IGO recommendations.<sup>3</sup> This response informs the IGO 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 or contractor does the IGO 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, the IGO waits to report on cases until the subject's department has acted on the IGO'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.

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<sup>1</sup> Per *Chicago Municipal Code*, § 2-56-060 (2010), "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."

<sup>2</sup> Per *Chicago Municipal Code*, § 2-56-110 (2010), "All investigatory files and reports of the office of inspector general should be confidential and shall not be divulged to any person or agency, except to the United States Attorney, the Illinois Attorney General or the State's Attorney of Cook County, or as otherwise provided by this chapter. The inspector general is authorized to issue public statements concerning in the following circumstances: ... (c) in a public summary of each investigation resulting in sustained findings of misconduct. The public summary shall briefly state, without disclosing the name of any individual who was the subject of such investigation, (i) the nature of the allegation or complaint; (ii) the specific violations resulting in sustained findings; (iii) the inspector general's recommendation for discipline or other corrective measures; and (iv) the city's response to and final decision on the inspector general's recommendation." The synopses provided in this quarterly report in no way waive the confidential status of the IGO's investigative files and reports.

<sup>3</sup> Departments may request an extension of up to 30 days. *Chicago Municipal Code*, § 2-56-065 (2010)

*(A) Cases Sustained in Previous Quarters*

The following 8 cases summarized below were originally closed prior to the fourth quarter but, until recently, still had disciplinary action pending.

IGO Case # 06-0225

An IGO investigation revealed that a project-management firm retained by the O'Hare Modernization Project (OMP) entirely ignored the OMP's written policies and procedures regarding change orders, cost approval, and subcontractor approval, resulting in potentially significant increased costs on an OMP project. The investigation also revealed that an OMP Deputy Director in charge of project management who was supposed to supervise the project-management firm exercised no supervision over the firm's employees in this situation, conducted no relevant follow-up inquiry once it became clear that changed circumstances created a problem on the project, and failed to notice that OMP's policies and procedures were being ignored.

The IGO recommended that the City (1) debar the project-management firm for a period of between one and three years, (2) permanently debar the firm's two employees (and temporarily debar any of their future employers for whom they have a management role) principally responsible for these failings, and (3) require the project-management firm to cover the amount that the City determines is owed to its contractor beyond what was originally agreed upon. The IGO also recommended that the OMP Deputy Director be suspended for 30 days. However, because the OMP Deputy Director had left City employment at the time this report was issued, the IGO recommended that he/she serve the 30 day suspension if he/she again obtains City employment.

The IGO also noted that this investigation raised substantial questions about the sufficiency of oversight protocols to prevent wasteful spending and cost overruns at OMP. Considering that this project will likely continue for many years, the IGO recommended that the Chicago Department of Aviation (CDA) consider conducting an audit to determine, at the least, (i) if the change-order process and related procedures were followed when unexpected changed circumstances occurred, and (ii) whether unnecessary expenditures were made in these circumstances. Finally, the IGO recommended that the costs associated with such an audit be paid by the project-management firm.

CDA agreed with the IGO's recommendation of debarment for the firm's two employees, but it disagreed with the IGO's recommendations regarding the firm itself and requested that the Department of Procurement Services (DPS) not move to debar it. CDA also disagreed with the IGO's audit recommendation, noting that it would be unnecessary. CDA also disagreed with the IGO's discipline recommendation regarding the OMP Deputy Director.

In keeping with the IGO's recommendation, DPS moved to impose debarment for the firm from future business with the City for a period of one year and also moved to permanently debar the firm's employees responsible for the malfeasance. DPS based the proposed one year term of future business debarment for the firm on the fact that the conduct giving rise to this report

occurred more than four years ago and that virtually all of the individuals involved in the conduct are no longer employed by the firm or otherwise involved in the OMP.

IGO Case # 07-0807

An IGO investigation found that a laborer with the Department of Streets and Sanitation (DSS) falsified his/her time while on duty by going home after swiping in for work in the morning, and also by going home for lunch and remaining there for substantially longer than his/her allotted 30 minute lunch break.

The IGO recommended that the laborer be suspended for 30 work days.

DSS agreed with the IGO's findings and recommendation, but a mediation session lowered the discipline to 29 days.

IGO Case # 08-0079

An IGO investigation determined that an employee of a CDA supplier, Vendor A, engaged in a scheme to defraud the City. In December 2007, Vendor A's employee began to prepare a bid on a City contract for the supply of "Taxi and Runway Guidance Signs, Parts, and Accessories." The specification mandated that the signs be purchased from a specific supplier. As required by the specifications, Vendor A's employee contacted the specified supplier and received a letter designating Vendor A as an approved distributor of the supplier's signs.

Vendor A's employee then realized the contract was designated as a "target market" contract, meaning that only certified Minority and Women-owned Business Enterprise (M/WBE) firms were eligible to win the contract. Vendor A's employee encouraged Vendor B, a certified M/WBE firm, to bid on the contract. Vendor A's employee altered the distributor letter she had received from the supplier to make it appear as though the supplier had issued the letter to Vendor B. Vendor A's employee gave the altered distributor letter to the president of Vendor B, who included it with the bid that Vendor B submitted to DPS.

DPS quickly discovered the forgery and promptly contacted the IGO. Ultimately, Vendor B's president, who became aware that the letter was forged a few days after submitting it to the City, withdrew the bid. But the president of Vendor B never informed the City about the forged letter.

Vendor A's employee confided in a CDA employee that she had caused the forged letter to be submitted by Vendor B. The CDA employee, who had a duty to report misconduct, never informed CDA, DPS or the IGO that one of its vendors submitted a forged letter in connection with a bid.

The IGO recommended that (1) Vendor A's employee be permanently debarred from City business and placed on the do-not-hire list, (2) Vendor B and its president receive a 6-month debarment from City business, and (3) the CDA employee be suspended from City service for five business days, and that no paid leave or unpaid furlough days be included in this suspension period.

DPS permanently debarred Vendor A's employee and debarred Vendor B and its president for 6 months. CDA imposed a two day suspension on the CDA employee who failed to disclose the forgery and resulting attempted subversion of M/WBE and procurement procedures.

IGO Case # 08-1455

An IGO investigation found that a Department of Buildings (DOB) building inspector violated DOB department mles, the Ethics Ordinance, and Personnel Rules by concealing his ownership interests in buildings that he rented throughout the City of Chicago.

For several years, the employee submitted annual Statements of Financial Interests (SFI) with the City's Board of Ethics (BOE) in which he concealed (1) that he owned property other than his primary residence and (2) that he derived more than \$2,500 from any business organization other than his City salary. Further, the employee repeatedly lied to IGO investigators by saying that his ailing father (who has the same name) owned the properties and that he merely attended to the day-to-day responsibilities that his father was unable to perform. He had previously told the same lie to DOB personnel during an earlier department inquiry.

The investigation revealed evidence that showed the employee (not his father) was the owner of the properties and president of the management company of those properties, including (among other things): (i) that the employee was the sole accountholder of the management company's bank accounts; (ii) that the employee represented himself as the company's president and the properties' owner on applications for loans and lines-of-credit; (iii) that tenants' rent checks were sent to the employee's residence and deposited by him; (iv) the employee (eventually admitted that he) made personal auto loan and credit card payments from rental proceeds; and (v) the employee deducted the management company's losses from his personal tax returns. In a second interview with IGO investigators, the employee admitted that he owned the properties and the management company.

The IGO recommended the employee be terminated from City employment. The DOB initially agreed and served the employee with termination papers. The DOB later changed course, however, after it enlisted an opinion from the BOE as to the IGO's finding that the employee violated the Ethics Ordinance. The BOE did not request a review of the IGO's evidentiary file and thus appears to have based its opinion only on the IGO's Summary Report.

The BOE concluded that the facts set forth in the Summary Report did not support a finding that the employee intended to mislead the City despite his answering "No" in multiple years on his SFIs to the questions about property ownership and income derived (in excess of \$2,500) from sources other than his City employment. Further, despite the fact that the investigation, as detailed in the Summary Report, showed several instances (described above) of the employee being rewarded financially from the operation of the rental properties, including his auto loan and credit card payments being debited from the management company's account the BOE glossed over these facts and concluded that the Summary Report lacked sufficient proof that the employee derived income which he failed to disclose.

Without examination of the investigative file and apparently without appreciation for the fact that the employee subsequently admitted to IGO investigators that he lied about owning the

properties, the BOE also opined that the employee “tends to show that he honestly believed” that he did not have to disclose his connection to the properties. In support of its opinion that the employee may have made an honest mistake, the BOE noted that the employee’s personal *attorney* wrote a letter stating that he *felt* the same way. And while the BOE thought the IGO should have followed up on certain evidence that it believed could have made a stronger case for an Ethics Ordinance violation, it has not indicated that it wishes to pursue that endeavor.

After receiving the BOE’s opinion letter, the DOB suspended the employee for 90 days.

#### IGO Case # 09-0120

The IGO investigated a contract amendment for the Chicago Department of Public Health (CDPH) that increased the value of the contract from \$5.1 million to \$31.1 million. The IGO investigation determined that the scope of services set forth in the amendment was unrelated to the original contract scope, and therefore state and City law mandated a new contract procured through a competitive process. The IGO concluded that two DPS employees failed to recognize the requirement for a new contract and competitive procurement process, and failed to properly advise CDPH and the City’s Chief Procurement Officer.

While one of the employees resigned before the investigation was concluded, the IGO recommended that the employee currently working for the City be suspended for 10 business days.

The IGO investigation also revealed that the CDPH vendor over-reported the M/WBE participation on the contract. The MBE-certified vendor claimed to have performed approximately 95% of the contract. The IGO investigation showed that the vendor was only self-performing approximately 60% of the contract and was “passing through” payments to non-certified firms for the other 35%.

The IGO’s report pointed out that a significant presence of non-certified firms was obvious from a review of the documents submitted to the City (such as disclosures of retained parties and presentations made describing the project); however, DPS’ contracts compliance staff looked only at the documents submitted that are specific to the City’s M/WBE program. The IGO recommended that DPS change its process so that vendors identify every subcontractor in a single disclosure.

DPS declined to impose discipline on the employee because the employee was not alleged to have engaged in any fraud, misrepresentation or other ethical impropriety. Regarding the recommendation to have vendors identify every subcontractor in a single disclosure, DPS did not agree that this would have prevented the over-reporting of M/WBE participation on this contract.

The Office of Compliance advised that it was reviewing the contract to determine whether the actual levels of MBE participation should be adjusted and if appropriate, it will calculate the shortfall and submit that information to DPS.

IGO Case # 09-0330

An IGO investigation found that a delegate agency, the delegate agency's president, and its chief executive officer defrauded the City by falsely representing that the delegate agency was current with its payroll tax obligations, when, in actuality, the agency had an outstanding tax balance of up to \$1.35 million. The delegate agency also defrauded the City by using taxpayer grants for purposes unrelated to the mission of the organization, including payments made for school tuition, personal vehicle loans, and expenses related to a business owned by the president's husband. Lastly, the IGO determined that the delegate agency submitted reimbursement claims for expenses the agency did not pay, including approximately \$56,000 in false expense claims for audit, health insurance, and payroll expenditures.

The IGO recommended that the City permanently debar the delegate agency and its president from conducting business with or receiving funding from the City and seek recovery from the delegate agency and its president for the approximately \$56,000 in expenses the agency falsely claimed for reimbursement.

DPS has moved to debar the delegate agency and its president.

The IGO has not been advised by the City whether the City Prosecutor has initiated any action to recover the \$56,000.

IGO Case # 09-1133

An IGO investigation found that a Deputy Commissioner with the Chicago Department of Public Health falsified his/her time and attendance records by failing to swipe in and out on Mondays and Fridays and then falsifying edit sheets indicating that he/she was present at work even though he/she was actually out of town over 650 miles away, or on a flight to or from this location. This activity occurred intermittently over the course of one and a half years.

This Deputy Commissioner was terminated by the Department of Public Health prior to the completion of the investigation. The IGO would have recommended termination for the former Deputy Commissioner if he/she was still employed by the City. Since the former Deputy Commissioner is not, the IGO recommended that the Deputy Commissioner's name be placed on the do-not-rehire list. The administration has placed the Deputy Commissioner on the do-not-rehire list.

IGO Case # 09-1575

A prime contractor defrauded the City out of \$1.4 million dollars intended for legitimate M/WBE participation by having two certified firms execute fraudulent lien waivers falsely claiming that they had received payments from the vendor for work on City contracts. The fraud scheme occurred on three contracts with CDA.

The IGO determined that the certified contractors did little or no work, and received payment of 2% of the value of the falsified liens. The prime contractor submitted the falsified lien waivers to the City as proof that it had met its M/WBE participation requirements.

The IGO recommended permanent debarment of the principals of the vendor and the subcontractors who knowingly executed fraudulent lien waivers, debarment of the companies, and decertification of the certified contractors.

DPS moved to debar the companies and decertify the M/WBE contractors.

*(B) Cases Sustained in This Quarter*

The following 7 administrative cases, for which each of the subject's departments has taken action in response to the IGO summary report, were sustained this quarter.

IGO Case # 07-0078

An IGO investigation revealed that a Senior Automotive Equipment Analyst for the Department of Fleet Management (DFM) drove a Chicago Fire Department (CFD) vehicle without authorization. Though this act constitutes misconduct, on its own it would have resulted in a recommendation of discipline short of termination. However, the IGO also found a highly improper relationship between the Senior Automotive Equipment Analyst and a DFM vendor's partner and sales manager. The evidence showed that the vendor's partner and sales manager used the vendor's credit card to purchase over \$1,000 in food and beverages for the Senior Automotive Equipment Analyst. The provision of these gifts by the DFM vendor through its partner and sales manager, and the Senior Automotive Equipment Analyst's acceptance of the gifts, violated the City's Governmental Ethics Ordinance.

Further, the Senior Automotive Equipment Analyst lied to the IGO in an attempt to cover up the severity of his/her misconduct. The IGO recommended that (1) the Senior Automotive Equipment Analyst be terminated and classified as ineligible for rehire by the City; (2) vendor's current contracts with the City be voided; and (3) the vendor and its partner and sales manager be debarred from City business for a period of not less than two years.

The investigation also revealed that an Assistant Deputy Fire Commissioner (ADFC) with the CFD misused his/her City vehicle by chauffeuring his friend, the Senior Automotive Equipment Analyst, to court and attended two court hearings in support of his friend. The ADFC attended both hearings in uniform and on one occasion, on City time, even though he/she was not subpoenaed to court or in attendance in an official capacity. For this misconduct, the IGO recommended that the ADFC be suspended for two days.

DFM suspended the Senior Automotive Analyst for 29 days in lieu of termination basing its decision on counsel from the Law Department that it would be unable to defend the discharge before the City's Human Resources Board in light of a letter issued by the Board of Ethics. Based solely on a review of the IGO report provided by the Law Department, and without having sought or considered the extensive underlying evidentiary record in the Law Department's possession, the Board of Ethics opined that the facts as summarized in the report did not establish that the Senior Automotive Equipment Analyst violated the Ethics Ordinance.

DPS, however, agreed with the IGO's recommendations to void the vendor's current contracts and to debar the vendor and its partner and sales manager for two years.



CFD disagreed with the IGO's recommendation regarding the ADFC. In its response to the IGO, CFD compared the ADFC's actions and impulse to provide aid to members of his/her community to actions he/she performed across the country assisting others in natural and man-made disasters. CFD noted in light of the ADFC's professional responsibilities that "delineating one's personal life... is difficult" and rejected the IGO's disciplinary recommendation and instead orally reprimanded the ADFC.

IGO Case # 08-0460

An IGO investigation determined that the City of Chicago Treasurer's Office failed to properly and/or timely respond to a Treasurer's Office employee's "Requests for Reasonable Accommodation." It was also determined that the Treasurer's Office commingled personnel records and medical records in the employee's personnel file in violation of the Americans With Disabilities Act (ADA), the City of Chicago's Reasonable Accommodation Procedures, and the City of Chicago Personnel Rules. While this investigation revealed no intentional misconduct, the IGO believes that those in supervisory and human resources positions within the Treasurer's Office should be familiar with the applicable laws and policies relating to the ADA accommodation process.

The IGO recommended that the Treasurer's Office meet with the Mayor's Office for People with Disabilities (MOPD) to ensure that it is following the above-mentioned laws and procedures and is clear on how to handle such accommodation requests in the future.

A representative from the Treasurer's Office met with the Assistant Commissioner from MOPD and was trained on the applicable laws and policies relating to the ADA accommodation process.

IGO Case # 08-0898

An IGO investigation determined that a Department of Revenue (DOR) supervisor abused his position by requiring two of his supervisees to drive him to work in the mornings. The supervisee DOR employees – while on City time – would drive a City vehicle from a Department facility on the north side, pick up the supervisor at or near his home on the south side, and return to the north side facility.

When interviewed by the IGO, the supervisor and supervisees repeatedly lied, giving false and evasive responses to direct questions.

As such, the IGO recommended that the supervisor be suspended for 30 days and the supervisees be suspended for four days each.

DOR suspended the supervisor for 15 days and each of the supervisees for one day.

IGO Case # 09-0344

The IGO conducted an investigation into the award of a labor-intensive M/WBE contract for pest control services to a City-certified WBE company owned by a 97 year-old woman with no employees. The investigation revealed that the woman's son, who owned a separate, non-certified, pest control company, was actually performing the work under the contract although

his company was not eligible to bid on it. The IGO found that documents submitted by the mother's company during the bidding phase of the contract provided false information about the company's certification as a woman-owned business and suitability to perform pest control services at locations throughout the City of Chicago.

The investigation further revealed that DPS employees had conducted site visits of the mother's company and knew, or should have known, that it was unable to perform the work required under the contract. The investigation concluded that two DPS employees either ignored or were indifferent to the facts showing that the mother's company should not have been awarded the contract.

The IGO recommended pennant debarment of the mother, son, and their respective companies from doing business with the City. The IGO recommended that the DPS employee responsible for assembling the bid package (and who was familiar with the mother's company) be suspended for five days and that another DPS employee who had already left City employment be suspended for two days in the event the City re-hired the employee. Further, the IGO recommended that the Office of Compliance adjust the reported WBE participation amounts for the years of 2003 through 2008 to deduct the \$2.5 million paid to the mother's company.

DPS suspended the active City employee for five days and moved to debar the two companies and their principals. OCX responded that WBE participation for the years of 2003 through 2008 is maintained by DPS and referred the IGO recommendation to adjust the reported participation to DPS. DPS responded that it would attempt to adjust the reported WBE participation to subtract the \$2.5 million amount paid to the company.

#### IGO Case # 09-1404

An IGO investigation determined that a laborer with the Department of Transportation (CDOT) Division of Electrical Operations (DEO) regularly worked at his/her family-owned restaurant, picked up food for the restaurant, made personal shopping trips and visited his/her residence while he/she was on duty with the City.

The laborer resigned from the City shortly after he/she was interviewed by the IGO regarding this investigation.

In addition, the IGO investigation determined that the laborer's supervisor, an Assistant Superintendent of Laborers, failed to supervise the Laborer in any meaningful way. The Assistant Superintendent of Laborers' lack of supervision created an environment ripe for abuse, and was thereby a contributing cause to the laborer's fraudulent behavior.

The IGO recommended that the laborer be listed as ineligible for rehire by the City, and that the Assistant Superintendent of Laborers be suspended without pay for seven days, and that no paid leave or unpaid furlough days be included in this suspension.

The IGO further recommended that CDOT conduct an audit of the former laborer's position since the evidence preliminarily suggested that the position requires little (if any) actual work and should be discontinued.

CDOT eliminated the laborer's position and suspended the Assistant Superintendent of Laborers for seven days.

#### IGO Case # 09-1719

An IGO investigation determined that a now-retired Program Manager with the Chicago Police Department (CPD) failed to provide proper oversight of a computer software application project resulting in payments for work at rates that did not reflect the level of skill required for that work. Specifically, the IGO found that the Program Manager failed to question the vendor's invoice seeking payment at IT professional rates of pay for data-entry work largely performed by non-IT professionals over a holiday weekend. The Program Manager retired while under investigation, but the IGO recommended that he/she be required to serve a 14-day suspension in the event he/she is hired back by the City.

In addition, the IGO determined that the vendor was also responsible for overcharging for the work performed. The IGO found that the vendor contracted to implement the software application breached its contract with the City by charging the City rates for professional IT personnel for data-entry work performed by non-specialized student workers. Using a conservative calculation, which would have allowed the vendor a 100% mark up on its charges for data entry work performed by students, the IGO determined the amount over billed by the vendor to be almost \$33,000. The IGO recommended debarment of the vendor for one year, with the possibility of a two-year "deferred debarment" in the event the vendor voluntarily returned the overcharged payments.

DPS began debarment proceedings for the vendor and found that the firm had been bought by another company, and is thus unable to debar the offending firm.

#### IGO Case # 10-0925

An IGO investigation revealed that a Department of Fleet Management (DFM) supervisor was falsifying his attendance records. Surveillances of the employee showed that, early in the mornings, the employee would drive to a DFM facility near his/her residence and swipe-in for work only to return home, usually for periods of several hours. Later in the day, he/she would report to the DFM facility where his/her office was actually located, stay there for a portion of the day, and then swipe-out as though he/she had worked a full shift.

The employee resigned under inquiry approximately one week later.

#### *(C) Corrections from Previous Quarterly Reports*

In case # 08-0498, which was summarized in the 2010 third quarter report<sup>4</sup>, the IGO reported that one of the subjects in this case was permitted to serve part of his/her 5-day suspension over a weekend, effectively reducing the suspension below that recommended by the IGO and below which the department stated it would impose. While the subject did serve part of the suspension over a weekend, 5 days pay was deducted from the employee's paycheck. The result is that the

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<sup>4</sup> <http://www.chicagoinspectorgeneral.org/pdf/2010%20Q3%20Report%20Final3.pdf> pg. 9

full suspension recommended by the IGO and agreed to by the department was served. The IGO regrets the error.

## 2. Policy Recommendations arising from IGO Investigations

One of the functions of the IGO is to recommend “to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.”<sup>5</sup> If IGO investigations reveal misconduct that is not being addressed by a City policy or procedure, the IGO recommends policy changes to the Mayor and the relevant department either in the summary reports that detail the investigation or in separate policy-focused reports. In the 15 sustained cases that are summarized above, the IGO made three policy recommendations. Additionally, the administration’s response to a previous policy recommendation is discussed.

### (A) Gift Ban<sup>6</sup>

On December 21, 2010 in response to a series of investigations concerning violations of the City’s gift policy (Section 2-156-040 of the City of Chicago’s Ethics Ordinance), the IGO recommended that the Mayor institute a City-wide “no-gifts” policy.

While the City studies this recommendation, the IGO also recommended that the Chicago Department of Transportation (CDOT) institute its own no-gifts policy. Other City departments, including Buildings, DPS, CDA, CDPH, Compliance, and the IGO had already implemented or were in the process of implementing no-gifts policies.

Over the past year, the IGO sustained allegations of gift related misconduct in seven cases spanning six departments and numerous City employees, contractors, and vendors. These investigations illustrated the inherent difficulties in promulgating and administering rules and regulations permitting the receipt of gifts by City employees. Recent IGO investigations prompted at least three City departments to move to a no-gifts or zero-gifts policy. As a result, the City now operates under two different standards respecting the receipt of gifts by its employees.

First is the no-gifts approach, which certain City departments have already implemented. This is clear and simple, and also serves to remove doubt or uncertainty for employees, contractors, and vendors alike. It further promotes transparency and accountability, and enhances public confidence in the integrity of City operations.

The second, that directed by Section 2-156-040 of the Ethics Ordinance, is anachronistic and, based on IGO investigations, confusing to City employees, contractors, and vendors. Further, it is ill-defined and therefore difficult and time consuming to enforce. The IGO found that critical terms central to the jurisdictional scope and the enforcement of the Ordinance have never been meaningfully defined by the Board of Ethics. This has only served to further complicate the already difficult landscape regarding gifts for City employees.

<sup>5</sup> *Chicago Municipal Code*, sec. 2-56-030(c) (American Legal 2009).

<sup>6</sup> <http://www.chicagoinspectorgeneral.org/pdf/Gift%20Ban%20Rec%20Report.pdf>

As such, the IGO believes the simplest and most fair way to proceed to is to ban gifts for City employees.

An official response by the City to this reconunendation is pending.

*(B) Certification of M/WBEs*

In case #09-0344 described above, the IGO observed an instance in which an M/WBE was incapable of performing the service for which it had won a contract. One reason that this was not detected by DPS was that the certification letter describing the services the M/WBE was capable of providing was different in the “contract file” (the file that contains documents relevant to an individual contract) than in the M/WBE “certification file” (the file that contains documents relevant to a firm’s M/WBE certification). The certification letter maintained in the “contract file” showed, incorrectly, that the M/WBE was capable of performing the services related to the contract. However, the certification letter in the “certification file” showed an accurate picture of the M/WBE’s more limited capabilities.

The investigation also revealed that contract personnel in DPS were aware that the M/WBE was not capable of providing the service for which it had been contracted, but did not act on this information because they believed the monitoring of M/WBEs to be the responsibility of DPS’s certification unit alone.

As a result of the investigation the IGO recommended that DPS should adopt a policy that requires that Contract Administrators verify that an M/WBE's certification letter in the "contract file" is identical in all relevant specialty areas to the certification letter that is retained in the "certification file" before a contract is awarded or extended to an M/WBE. Additionally, the IGO recommended that DPS should adopt a policy that Contract Administrators are expressly required to promptly notify the certification unit of any information they learn or are informed of that contradicts, negates, or materially changes the legitimacy or accuracy of an M/WBE's certification or specialty area.

*(C) Delegate Agency Oversight*

In case #09-033 described above, the IGO found that a delegate agency defrauded the City by falsely representing that the delegate agency was current with its payroll tax obligations, when, in actuality, the agency had an outstanding tax balance of up to \$1.35 million. In order reduce the likelihood of this fraud occurring in the future, the IGO made the following policy recommendations:

- (1) Require all delegate agencies to submit sworn affidavits that they are current with their taxes before initiating any contracts;
- (2) Perform tax lien searches of public records to confirm that any proposed delegate agency has no unpaid taxes;

- (3) Require delegate agencies to submit tax information waivers, so that the City can check directly with taxing authorities to ensure that taxes are being paid;
- (4) Require delegate agencies that hold contracts with the City to develop detailed and substantive corrective action plans when unpaid taxes are disclosed; and
- (5) Develop consistent policies and procedures for addressing delegate agencies that continually fail to resolve their tax problems.

The City has not yet formally responded to these recommendations.

*(D) City's Response to IGO Recommendation Concerning 27(f)*

In the course of tracking the final disposition of our investigations, the IGO previously observed a pattern and an increasing incidence of continued payment of salary and benefits to City employees found guilty of felonies arising out of misconduct in the performance of official duties, including most notably fraud and bribery. This phenomenon emerged full blown in a succession of recent convictions arising from the continuing Operation Crooked Code, a joint law enforcement initiative anchored by this office working in conjunction with several federal agencies and prosecuted by the U.S. Attorney's Office.

On October 8, 2010, the IGO directed a letter to the City proposing immediate steps to mitigate this phenomenon and offered to work with the City to develop permanent procedural and or rule changes to appropriately limit these payments.

The City provided a written response to the IGO by letter dated November 9, 2010. The City noted that in all of the recent Crooked Code cases referenced by the IGO in which payment of salary and benefits continued subsequent to the filing of federal felony charges and then later after entries of felony verdicts against City employees, the Human Resources Board (HRB) had ordered the City to continue such disbursements so long as the City was unprepared to proceed to administrative hearings prompted by the employees' appeal of their discharges. The City sought stays of those hearings because the evidence needed to support its termination action was in the control of the U.S. Attorney's Office incident to its felony prosecution of the City employees and the Law Department properly wished to defer to the greater equities of criminal prosecution.

The HRB thus had placed the City in the untenable position of proceeding to an administrative hearing without all of the available evidence, which could have resulted in reinstatement of felonious corrupt employees, or agreeing to pay them pending conclusion of the criminal proceedings. The City further noted one case in which, upon entry of a federal jury's guilty verdict, the City stopped further disbursement of pay and benefits to the employee and, after having taken this action, appeared before the HRB with a copy of the federal court order and verdict form reflecting that a federal jury had found the employee guilty of felonies in connection with corrupt conduct – bribery -- undertaken in the context of his official City duties. The HRB responded to the City's unilateral action abrogating the HRB's prior order by directing that the City resume payments to the now-convicted City employee. The HRB also rejected the

City's offer of the federal district court's order entering the jury's guilty verdict, indicating that payments to the City employee must continue until after he was sentenced.

By its response, the Law Department fully acknowledges the absurdity of this situation. Indeed, it stated, with no small frustration, that it has been unable to rectify the situation, notwithstanding attempts to do so in the context of recent HRB proceedings. The City's response letter requested the opportunity to discuss with the IGO if the IGO would itself: (1) address the HRB in an attempt to adopt a different ruling regarding 27(f) pay; (2) work with the City Council to amend the ordinance requiring the payment of 27(f) pay; and (3) convince the agency prosecuting the criminal case against a City employee to cooperate in the discipline of the City employee and share the evidence against the employee prior to obtaining a verdict or plea in the case. That discussion took place on November 9, 2010.

While the administration has not acted on the IGO's recommendation, the IGO is communicating with the City Council to assist in crafting a legislative remedy to the problem. The IGO will provide an update as developments warrant.

#### 4. Disciplinary and Other Corrective Action Recommendations

In the 15 sustained cases summarized in this report, the IGO made 51 discipline or other corrective action recommendations. The number of recommendations can exceed the number of cases because cases can have more than one subject.

The table below details the discipline or corrective action the IGO recommended.

Table #4 – Discipline Recommendations

Type of IGO Recommended Discipline	Number of Recommendations
<b><i>Employee Discipline</i></b>	
Reprimand	0
Suspension less than or equal to 10 days	9
Suspension 11 to 29 days	1
Suspension equal to 30 days	3
Suspension over 30 days	0
Termination	4
<b><i>Other Corrective Action</i></b>	
Debar	21
Do not (re)hire	8
Other	3
Cost Recovery	2
<b>Total</b>	<b>51</b>

#### (A) Departmental Action<sup>7</sup>

Of the 51 recommendations contained in this quarter's 15 summary reports<sup>8</sup>:

<sup>7</sup> This data is as of January 11, 2011.

- In 27 instances, departments imposed the same discipline/corrective action recommended by the IGO.
- In 9 instances, a department imposed less discipline/corrective action than the IGO recommended.
- In no instance did a department impose more discipline/corrective action than the IGO recommended.
- In 5 instances, subjects of the investigation resigned during the inquiry.
- In no instance did, a department impose discipline/corrective action when the IGO did not recommend any discipline.

### *(B) Results of Appeals or Grievances*

Under the City's Personnel Rules and/or applicable collective bargaining agreements 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. The IGO monitors the results of administrative appeals before the Human Resources Board (HRB)<sup>9</sup> and grievance arbitrations concerning its disciplinary recommendations.

To date, the IGO has not received word of any HRB or arbitration hearing having been set in appeal of discipline imposed in any of the 15 investigations that were completed in the quarter.

In future quarterly reports we will provide updates as appropriate on appeals or grievances concerning IGO disciplinary recommendations.

## **D. CRIMINAL CASES**

As discussed above, in addition to administrative allegations, the IGO also investigates criminal allegations. In criminal cases, the IGO partners with a prosecuting agency, such as the U.S. Attorney's Office or State's Attorney's Office, which prosecutes the case. For the purposes of IGO quarterly reports, criminal cases are concluded when the subject of the case is indicted.

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<sup>8</sup> The number of recommendations does not equal the number of times a department agrees/disagrees with the IGO because in certain instances, such as when a subject has resigned under inquiry, the department is not required to respond to the IGO regarding what they would have done had the subject still worked for the City.

<sup>9</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)



# 1. Synopses of Cases

None of the IGO cases concluded this quarter was a criminal investigation.

## 2. Developments in Prior Criminal Cases

During the quarter, there were resolutions in two cases related to the IGO's prior criminal investigations.

### (A) *Aurora Venegas*

Aurora Venegas, the owner of a supply company that was certified as a minority and woman-owned business enterprise in a number of categories, including the supply of concrete pipe used on mnway work at O'Hare Intemafional Airport, pleaded guilty on December 3, 2010 to one count of mail fraud for falsely claiming to mn a minority-owned business.

An IGO investigation found that Venegas fraudulently operated Azteca Supply Company as a pass-through by steering contracts with MWBE requirements through Azteca, which is now out of business.

Venegas was charged with five counts of mail fraud and her husband, Thomas Masen, was charged with two counts of mail fraud and one count of making false statements to a federal agent. Masen, an alleged co-conspirator with Venegas, was the comptroller and secretary of a Franklin Park concrete pipe manufacturing company. Masen's trial is scheduled for Febmary 28, 2011. *Venegas' sentencing date has not been set.*

The IGO partnered with the Federal Bureau of Investigation and the U.S. Attorney's Office in the investigation.

### (B) *Crooked Code Update*

Three more former City employees were sentenced for their role in Operation Crooked Code. , a multi-agency undercover investigation and prosecution initiative involving extensive cooperation between the IGO, U.S. Postal fispection Service (USPIS), FBI, and the U.S. Attorney's Office. To date, twenty one individuals have been convicted under Operation Crooked Code, fifteen of whom were current or former City employees.

#### i. *City Employee Mario Olivella*

Mario Olivella was sentenced to 41 months in federal prison on November 5, 2010. Olivella had been a supervisory plumbing inspector for the Department of Buiidings since 1998. A federal jury found him guilty in January 2010 of two counts of bribery and conspiracy for taking bribes to overlook code violations at a building being converted to condominiums at 1637 W. Granville.

In addition to the prison sentence, the Court imposed a term of 2 years of supervised release to follow at the conclusion of Olivella's prison term, a \$2,000.00 fine, and a \$200.00 special assessment court cost.

The investigation revealed that Olivella took bribes on at least two occasions. At trial, Olivella was convicted of taking a \$7,000.00 bribe from a developer to approve plumbing work that was not in compliance with the City building code at the Granville property. At sentencing, Judge Joan Lefkow found that Olivella had accepted a total of more than \$50,000 in bribes to overlook plumbing code violations at Granville and other residential properties in the City.

*ii. General Contractor Pdraig Gravin*

Former general contractor Pdraig Gravin was sentenced to 5 years of probation in federal court on December 13, 2010. He pled guilty to bribery charges on March 2, 2010 for trying to pay a \$500 bribe to a City official. The bribe was meant to secure a favorable inspection related to the issuance of a Certificate of Occupancy for a building located at 2827 West Congress Parkway.

In addition, the Court imposed six months of house arrest and a \$5,000 fine.

Gravin's plea agreement detailed that in October 2007, he gave a \$500 payment to a permit expediter. This money was to be used to bribe a City inspector in order to receive a favorable inspection for a Certificate of Occupancy at the 2827 West Congress Parkway property. Gravin was unaware that the expediter was cooperating with law enforcement. After taking the money at a Chicago area gas station, the expediter gave Gravin the Certificate of Occupancy, which was estimated to be worth \$455,000.

The investigation revealed that Gravin attempted to bribe City inspectors on at least six other occasions. As part of his plea agreement, Gravin admitted that he had paid \$69,200 in bribes for City inspectors.

*iii. City Employee Jose Hernandez*

Jose Hernandez, a City building inspector since 1988, was sentenced on December 17, 2010 to three years in federal prison. He was also fined \$10,000 by U.S. District Judge David Coar, who ordered Hernandez to begin serving his sentence on January 31, 2011. He was convicted at trial in September on bribery charges for accepting two \$1,000 cash bribes from a cooperating contractor and demanding two \$2,000 cash bribes from developers to approve inspections at residential and commercial construction sites. Hernandez was sentenced for soliciting or obtaining cash bribes totaling approximately \$30,000 from contractors, developers and homeowners since at least 2005.

Evidence at Hernandez's trial in September showed that he had a corrupt relationship with a permit "expediter" since approximately late 2005, and with a contractor since 2007, both of whom had since cooperated in the investigation. Hernandez accepted a \$1,000 bribe from the cooperating contractor on August 21, 2008, when Hernandez performed what's known as a "rough inspection" — an inspection of the framing, electrical wiring, plumbing and ventilation

ducts before the interior walls are sealed — at a single-family residence in the 9900 block of South Throop in Chicago. At the time of the inspection, the interior walls were covered with drywall, rendering a legitimate inspection impossible, but Hernandez signed the building permit, noting “rough frame approved.” Hernandez also accepted \$1,000 from the same contractor on August 10, 2009, to approve a residential rough inspection in the 700 block of West Cornelia. He was also convicted of demanding \$2,000 bribes from two different developers to not issue stop work orders at commercial buildings at 650 North Dearborn in June 2007 and at 11250 South Michigan in April 2006.

*iv. Pending Crooked Code Matters*

In next few months, two additional trials related to Operation Crooked Code will occur. These trials are detailed below.

**Defendant: Dominick Owens ( City Zoning Investigator )**

**Trial Date:** March 28, 2011

**Charge:** One count of Bribery ( In 2006, he allegedly accepted a \$600 bribe from a cooperating witness in exchange for providing Certificates of Occupancy for properties on West 37th Place and North Wolcott).

**Defendant: Vasile Fofiu (Plumber—Non-City Employee)**

**Trial Date:** April 18, 2011

**Charge:** One count of Bribery ( In December of 2007, Fofiu, and two others allegedly paid a \$7000 bribe to Mario Olivella, a Supervising Plumbing Inspector for the City of Chicago).

**E. AUDITS/REVIEWS**

The IGO Audit Section and the IGO’s Special Assistants conduct independent and professional audits, reviews, and evaluations of the operations of City departments, programs, functions, and those doing business with the City. These engagements focus on the integrity, accountability, economy, efficiency and effectiveness of each audit/review subject. Six audits/reviews were released this quarter. The following are the quarterly statistics for the IGO’s audits and reviews.

**Table #5- Audit Statistics**

Status	Number
Audits/Reviews Initiated	2
Audits/Reviews Closed	6
Audits/Reviews Pending	11

## 1. Aviation Overtime Audit<sup>10</sup>

On October 8, 2010 the IGO released an audit of overtime performed at the Chicago Department of Aviation (CDA).

The audit, which examined CDA overtime from July 1, 2007 through June 30, 2008, was performed in order to determine whether the CDA had effective and efficient controls for overtime pay and distribution, and to determine whether the department was in compliance with relevant collective bargaining agreements (CBAs).

The IGO also analyzed the costs and benefits of hiring additional employees as opposed to distributing more overtime.

The audit found that the CDA was not in compliance with its CBAs. The department lacked appropriate internal controls for overtime distribution and overtime pay. Deficiencies were also specifically noted with Aviation Security Officers (ASOs) being paid based on their individual workweeks instead of the City's workweek, as required in the CBAs. Additionally, Airport Operations Supervisors (AOSs) were paid excess double time due to incorrect grouping of overtime hours. This resulted in overpayment of \$31,832.57. Laborer's International Union of North America Local 1001, the relevant AOS union, refused the City's request to recoup the unearned funds and no further action has been taken by the City.

In its analysis, the IGO found that the CDA spent \$11.4 million on overtime. This could have paid for 72 full-time positions (excluding Motor Truck Drivers). However, the IGO estimated that only 46 full-time employees working regular hours would have been necessary to cover the additional work.

Nearly \$2.21 million of the overtime pay was distributed for Aviation Security Officers' (ASO) overtime alone. The analysis showed that an additional 37 ASOs could have been hired based on the amount paid in overtime, but that only about 25 would have been needed to cover the actual work at straight time. This would have saved the City approximately \$735,000.

A similar cost/benefit analysis for Laborers and Motor Truck Drivers (MTDs) showed the City could have saved approximately \$712,000 by hiring additional employees in those categories. The audit also noted possible safety concerns with regard to ASOs and MTDs working 16-18 hour shifts several days in a row during the audit period.

During performance of IGO audit field work, CDA, which cooperated with the audit, began formulating and implementing policy and procedural changes responsive to the deficiencies revealed by the audit. Accordingly, CDA officials, in many respects, are to be credited with acknowledging the audit findings, and acting promptly to implement remedial measures responsive to them. A follow up review will be conducted in the future to determine the adequacy and effectiveness of the changes implemented by CDA.

<sup>10</sup><http://www.chicagoinspectorgeneral.org/pdf/IGO%20Audit%20of%20Department%20of%20Aviation%20Overtime-%20Final%202.pdf>

## 2. City Clerk's Audit<sup>11</sup>

The IGO released on audit of cash handling procedures and sticker inventory of the Clerk's Office on November 19, 2010.

The audit stemmed from an IGO investigation referred by the City Clerk's Office. Noting concerns of systemic irregularities at a satellite office under a previous City Clerk, the Clerk's Office invited independent IGO inquiry into those broader suspected irregularities. The resulting audit focused on whether the Clerk's Office had effective and efficient operations and internal controls, as well as adequate policies and procedures, in place.

The audit found that the Clerk's Office's application of internal controls was not adequate to ensure efficient and effective management of the cash handling procedures until late in 2008 when a new point of sale system was installed. The IGO also identified significant deficiencies in internal controls over cash handling and the sticker inventory process. Other internal control deficiencies included:

- Weak inventory procedures and lack of performance of inventory reconciliation; sticker inventory requested from the vault was not maintained by one set, standardized process, thus allowing for and resulting in inconsistencies. Inventory count sheets and the master inventory were inconsistent.
- Improper maintenance of financial records; City Treasurer records were not reconciled or balanced to the Clerk's Office documentation on a regular basis. The City Treasurer was unable to balance the credit card sales receipts to the credit card account.
- Near total absence of segregation of duties within the satellite office with regards to cash handling; multiple employees worked from the same cash drawer during business hours, removing individual accountability for overages and shortages.

The Clerk's Office fully cooperated with the IGO throughout the audit. While the Clerk's Office has instituted several corrective measures, the adequacy and effectiveness of these measures was beyond the scope of this audit and will be the subject of a follow up report from the IGO.

## 3. Friedman and Wexler Review

Friedman & Wexler, LLC. (F&W), previously Wexler & Wexler, LLC., was a contract-collection firm utilized by the City to collect debts owed for overdue water payments and fines/costs levied as a result of the administrative hearings (AH) process. In April 2010, the Law Department communicated concerns regarding F&W's performance to the Inspector General's Office. The City's concerns were prompted by the filing of lawsuits against F&W by other clients, including one publicly reported by local news media. The City severed its contract with F&W on April 22, 2010.

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<sup>11</sup> <http://www.chicagoinspectorgeneral.org/pdf/Clerks%20Audit%20Report%20Final%2011.19.10.pdf>

At the request of the Law Department, the IGO sampled and reviewed the details of payment remittances to the City of Chicago for the period January 2009 – April 2010, as well as all bank statements and F&W-prepared bank reconciliations that were available. More specifically, the IGO reviewed available documentation including bank statements, accounting records, account detail, debtor files, and reconciliations prepared by the F&W staff. While not all documentation was available, the IGO was able to conclude the following in a report issued to the Law Department on October 12, 2010:

F&W committed theft by not remitting timely or full payments due to the City. As of June 29, 2010, approximately \$161,741 in payments written from F&W's bank account to the City, remained outstanding. The records reflect that this was due to F&W's failure to remit the checks they wrote to the City for debtor payments received, rather than the City misplacing checks.. In addition to the unremitted checks, an IGO review of the F&W postings to debtor accounts showed \$60,586 in attorneys' fees collected that were posted against debtor accounts. Based on F&W's admitted practice of not remitting any attorney's fees to the City, the IGO can conclude that most, if not all, of this amount is also due to the City. However the net calculation of what F&W would be owed as a commission on the principal payments never remitted to the City would need to be included in any calculation of what F&W fully owes to the City. Additional details of issues noted and IGO recommendations were provided to the Law Department.

The Law Department has stated that it is currently pursuing complaints against principals of Friedman and Wexler, LLC for the amounts noted in the IGO report.

#### 4. Recommendation to Implement GPS Technology in Chicago Taxicabs<sup>12</sup>

The IGO issued a report on October 7, 2010 recommending that the City consider implementing an integrated, fleet-wide Global Positioning Satellite (GPS) system that tracks the movement of on-duty taxicabs.

The program review and report was prompted by a hit-and-mn incident allegedly involving a taxicab that resulted in the death of a City resident. Though GPS has been required in all cabs since 2007, there is no requirement that the GPS be connected to a single fleet-wide system, or that GPS data be collected, tracked, or analyzed.

Comparing similar programs in New York City and Boston, the report noted that such a mandate would provide a number of potential benefits in the areas of public safety, customer service, and transportation policy, while resulting in little additional cost to taxicab operators and the City.

The report specifically listed the following as likely benefits from a City-wide taxicab GPS system:

- Public Safety
  - o Police would be better able to identify taxicabs involved in hit-and-mn incidents;

<sup>12</sup><http://www.chicagoinspectorgeneral.org/pdf/Recommendation%20to%20Implement%20GPS%20Technology%20in%20Taxicabs-%20Final%20with%20Cover.PDF>

- Taxicab drivers would be able to easily alert dispatchers when they are in distress;
- Police would be better able to canvass taxicab drivers working in areas where a crime has occurred.
- Customer Service
  - Customers would be able to locate lost property more easily;
  - Customers would be more informed about where to hail a cab.
- Transportation policy
  - The City would obtain additional information by which to study traffic congestion patterns.

The report included comment from the Chicago Police Department (CPD), the Office of Emergency Management and Communications (OEMC), and the Department of Business Affairs and Consumer Protection (DBACP),

CPD agreed that Global Positioning System (GPS) technology should be implemented in Chicago taxicabs, because of the public safety benefits it will yield for pedestrians, bicyclists, taxicab drivers, and taxicab passengers. CPD stated, “GPS technology in Chicago taxicabs will enhance the safety of pedestrians [who] are the victims of hit and mn accidents.”

OEMC stated while it was aware of New York City's use of GPS in city cabs, and remained open to the use of GPS in a similar fashion, its current priority is to increase public safety, customer service, and transportation policies, at no additional cost to the City or City taxpayers during these difficult economic times.

DBACP stated that Chicago taxicabs have already been equipped with electronic dispatch equipment for many years and electronic credit card processing since June 2004. And because various forms of dispatch and credit card equipment already exist and the industry had made considerable investment in technology as part of their business model, DBACP does not believe it is in the best interest of the industry to mandate a technology that duplicates or is incompatible with existing technology.

In addition, DBACP stated additional funding would be necessary for storage capacity on a dedicated server for the City to store detailed trip information. Also, programming is necessary to collect the GPS information from various existing systems and make the data usable.

## 5. HRAIL Program Review<sup>13</sup>

On October 8, 2010 the IGO published a review of the efficiency of the City's Home Repairs for Accessible and Independent Living (HRAIL) program. The HRAIL program is a federally-fimded program that provides small grants to needy senior citizens for home repairs and upgrades. The City contracts with delegate agencies to provide HRAIL services. The IGO

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<sup>13</sup><http://www.chicagoinspectorgeneral.org/pdf/IGO%20Review%20of%20the%20Efficiency%20of%20the%20HRAIL%20Program.pdf>

reviewed the HRAIL program, focusing on how much of the program budget was spent on direct home repairs versus how much was spent on overhead and administrative costs in 2007.

The IGO determined that only 62% of the total HRAIL budget for the 23 City-finded delegate agencies was spent on direct home repair costs. The IGO found wide disparities among the delegate agencies in the amount of grant funds utilized on home repairs. Three agencies (so-called "Tier 1" agencies) spent almost nothing on home repairs, instead using the majority of their grant funding to process applications and refer applicants to "Tier II" delegate agencies for actual home repairs. Of the 20 "Tier II" delegate agencies in the program in 2007, the percentage of grant funds spent on home repairs ranged from a low of 26% to a high of 82%.

The IGO concluded (1) the City should set and enforce contractual goals for spending on direct home repairs; (2) Tier I agencies should be eliminated, which would allow more of the grant funds to go to direct home repairs; and (3) the City should determine and standardize repair costs. These modifications, and the others described below, will increase the efficiency of the HRAIL program and ensure that more of the grant funds directly benefit the low and moderate income seniors the program is intended to serve.

The IGO provided a draft version of this report to the Department of Community Development (DCD). There was general agreement on the need for closer monitoring of HRAIL performance, and DCD will look toward establishing a minimum percentage of HRAIL funding that should be spent on repair costs. The main disagreement was that DCD believes the analysis of how much is spent on direct repair costs should focus solely on the City-finded portion of the contracts and not on any additional finding. However, the IGO believes that DCD's position fails to recognize that limiting the focus to City funds leaves a substantial accountability gap due to the fact that the non-City funding would not be held to any standard of efficiency. DCD's position thus would leave the City at continued risk of providing funds to inefficient agencies and thus providing less service through the program.

The IGO will issue an update in the coming quarter in which it will report on any improvements in procedure or performance in the HRAIL program.

## 6. Budget Options<sup>14</sup>

With a renewed focus on the mandate in its founding ordinance to promote efficiency and effectiveness in the operations of City government, the IGO released its first report of Budget Options for the City on October 25, 2010.

Modeled after reports created by the Congressional Budget Office and the Independent Budget Office in New York City, this document detailed the City's more than \$1 billion annual structural deficit and listed 24 possible options to decrease City spending or increase City revenue. When taken together, the IGO estimated the total savings and increased revenues of these options to be approximately \$244 million. For each option, the report presented a brief overview and the estimated savings or increased revenue the option would generate. The report

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<sup>14</sup><http://www.chicagoinspectorgeneral.org/pdf/IGO%20Budget%20Options%20for%20the%20City%20of%20Chicago-%20October%202010.pdf>



also provided brief discussions of how proponents and opponents might argue each option. Some of the options have been publicly discussed for some time, while others are new.

The list of options was not meant to be an exhaustive one, and the inclusion of any option in this report was not, and should not be, construed as an endorsement by the IGO.

The cover letter to the City's response is below. Detailed responses to each of the IGO's options can be found on the Office of Budget and Management's website.<sup>15</sup>

#### Administration Response:

We strongly believe that we must continue to look at ways to reduce the size of government, decrease spending, and protect Chicago's taxpayers in every responsible way. This year, we solicited ideas to help balance the City budget from the City Council, departments, employees and the public during the many months of budget preparation. We began working on the 2011 budget shortly after the 2010 budget was approved last November.

We appreciate the options presented by the Inspector General (IG), and agree with some of them. We would invite him to offer suggestions earlier in the process next year, however, so that they can be given an appropriate amount of consideration.

Further, had he worked collaboratively with individuals who have more direct knowledge of city operations, the costs associated with those operations, and our attorneys who negotiate collective bargaining agreements, his report would have been more informed and valuable. Instead, the report casually dismisses the City's obligation under its various union contracts by stating that the implementation of some options "would require a modification to the current collective bargaining agreement." The collective bargaining process can be long and complex, and it is unrealistic to expect that the City could simply demand savings without the unions demanding something of equal value in return.

Many of the IG's options were already reflected in the Mayor's 2011 budget recommendations, including: moving sworn police from desk duty to the street; elimination of home buyers' assistance for police officers; reduction of janitorial services; elimination of the property tax grant program; and a pilot program to collect garbage on a grid in certain areas of the City.

The balance of the IG's options could put public safety at risk, disregard the needs of some of our most vulnerable residents and necessitate nearly \$90 million in new fees for Chicagoans. Mayor Daley has been clear: at a time when people are losing their jobs and their homes, city government should not be imposing more taxes, fines and fees on our residents. Balancing the City's budget is more than an exercise of shifting numbers. We must also consider the impact it has on the lives of Chicago residents.

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<sup>15</sup>[http://www.cityofchicago.org/city/en/depts/obm/provdrs/city\\_budg/news/2010/oct/statement\\_by\\_chicagobudgetdirector\\_eugenelmuninregardinginspector.html](http://www.cityofchicago.org/city/en/depts/obm/provdrs/city_budg/news/2010/oct/statement_by_chicagobudgetdirector_eugenelmuninregardinginspector.html)

This was the first report in what the IGO plans to be an ongoing series analyzing areas the City might consider confronting its fiscal challenges. The IGO will issue future reports earlier in the budget cycle. It will also issue periodic updates and corrections to this report.

## **F. HIRING COMPLIANCE**

In March 2010, the Inspector General's Office ("IGO") was assigned responsibility for monitoring the City's hiring and employment compliance with the law and protocols imposed under the *Shakman* Accord. Assumption of that responsibility was formalized by ordinance passed by the City Council on May 12, 2010. See *Chicago Municipal Code*, sec. 2-56-035.

To carry out this monitoring function, the IGO has created a Hiring Oversight Section ("IGO Hiring Oversight"), which reviews, monitors, and audits key processes in the City's hiring and related employment practices and receives complaints, including allegations of unlawful political discrimination and retaliation and other improper influence in connection with any aspect of City employment.

Under the City of Chicago's Hiring Plan, IGO Hiring Oversight is required to review and audit various components of the hiring process and report on them on a quarterly basis. This report will summarize the past quarter's reviews and audits in these areas, as well as provide additional information on IGO Hiring Oversight's recent work.

### **I. Quarterly Review and Audit of Hiring Data as required under Section XIII.F of the Hiring Plan:**

- a. *Review of all instances where hiring departments engaged in prohibited contact, as defined in Section II.8, with the Department of Human Resources ("DHR") for the purpose of discussing individual actual or potential applicants or bidders for any non-Exempt position.*
  - i. In the past quarter, we received six reports of direct departmental contact from DHR. One report did not constitute a prohibited departmental contact, as the nature of the inquiry was the general status of two referral lists.<sup>16</sup> Two reports involved inquiries from hiring departments asking why a particular applicant was not on a referral list.

According to Section II.8 of the City's Hiring Plan, "[h]iring departments shall not contact the DHR to lobby for or advocate on behalf of actual or potential applicants or bidders for non-Exempt positions, nor may any hiring departments request that specific individuals be added to any referral or eligibility list except as permitted under the Senior Manager Hiring Process."

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<sup>16</sup> A referral list is a list that is generated by DHR of applicants/bidders who meet the predetermined minimum qualifications for a position.

Although an inquiry as to why a particular applicant did not make it onto a referral list may not explicitly lobby or advocate for that individual, singling out a specific person carries that implication and will be perceived as such. In addition, such inquiries may result in unequal treatment of similarly situated individuals. For example, if a hiring department is aware of multiple applicants who did not make it onto a referral list and chooses to ask about only one, that one applicant will receive additional review that could result in his/her addition to a referral list due to a mistake in the initial review, while the others will not receive the same benefit.

Therefore, to fully comply with Section II.8, hiring departments should not directly contact DHR regarding specific applicants or candidates. Rather, the inquiries should come from the applicants and candidates themselves. There are some simple steps that can be taken to minimize these occurrences: (1) DHR staff should be trained as to the appropriate response to hiring departments when these inquiries happen; and (2) hiring departments should be trained not to directly contact DHR regarding specific applicants and candidates and be provided with contact information to provide any applicants and candidates who wish to contact DHR.

We note that DHR has been diligent in reporting all direct contacts from hiring departments, and in one of the reported instances this past quarter, the DHR Recmitter who received the contact did notify the hiring department of the impropriety of the inquiry and advised that the applicant should contact DHR. Thus, we expect that once some additional training is administered, DHR will be equipped to handle these situations. With respect to hiring departments, we expect that a revised Hiring Plan will be finalized and distributed soon and in conjunction with that event, additional training will be given, which will include education on this issue.

The remaining three reports of direct departmental contact involved inquiries from Chicago Police Department (“CPD”) staff asking why particular applicants were not invited to take the written exam for Chicago Police Officer that was administered on December 11, 2010. In two of those instances, CPD requested that exceptions be made, which DHR declined.

Although these incidents raise concerns similar to those discussed above, sworn and uniformed tides in CPD and the Chicago Fire Department (“CFD”) are excepted from the City’s Hiring Plan. We are currently in the process of facilitating the City’s development of specific hiring processes for CPD and CFD that should address this issue. Because it presently is difficult to determine when those processes will be finalized and

approved, we recommend that an interim protocol regarding applicant and candidate inquiries for sworn and uniform titles be developed and implemented for both departments.

b. *Monthly audit(s) of (a) any modifications of job descriptions, minimum qualifications, or screening/hiring criteria; (b) referral lists; (c) the test administration and scoring; and (d) overall hiring/promotion decisions, including all documents and notes maintained by individuals involved in selection process.*

i. Modifications of job descriptions, minimum qualifications, or screening/hiring criteria: We are currently reviewing all job descriptions, minimum qualifications, and screening/hiring criteria, thus allowing us to note and review these modifications. At the same time, we are continuing to work with DHR to develop a formal process of notification so that we have timely notice of modifications when we begin to audit referral lists and hiring packets.

ii. Referral lists: We are currently reviewing all candidate and bidder lists. In the past quarter, we reviewed 70 lists and provided commentary to DHR whenever potential issues arose. Of the 70 referral lists reviewed in the past quarter, 17 contained errors. All of these occurred in the area of candidate assessment. We recognize that aspects of candidate assessment can be subjective and that there can be a difference 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: (1) did not quantitatively meet the minimum qualifications and were referred; (2) failed to provide all of the required information and/or documents listed on the job posting and were referred; or (3) quantitatively did meet the minimum qualifications and were not referred. We have provided the details regarding these errors to DHR management so that they can address these mistakes with their staff, and we will be tracking DHR's progress.

iii. Test administration and scoring: We continue to review all tests before they are administered, and we receive notification whenever testing occurs. We did not observe any problems regarding test development and scheduling this past quarter. Most tests were attended by the Monitor's Office, with whom we attempt to coordinate oversight activities. Our resources were focused on attending interviews and consensus meetings that were not attended by the Monitor's Office. We intend to begin attending a sampling of test administrations in the next quarter and hope thereby to allow the Monitor's Office to scale back its direct observation oversight in this area.

Overall hiring/promotion decisions: We are reviewing most hiring packets, which are supposed to contain all of the documents in the hiring

process, including all documents and notes maintained by individuals involved in the selection process. In the past quarter, we reviewed 103 hire packets. Of the 103 hire packets reviewed, 14 contained at least one error. These errors included missing or invalid documentation (for example, an expired driver's license), missing Hire Certifications, and candidates ineligible for promotion (for example, the candidate did not meet the required attendance and disciplinary criteria). As with the referral list errors, we have provided detailed information to DHR management so that they may address them, and we will track DHR's progress in reducing these mistakes.

- c. *Review of any justification memos or written rationale memos as described in Section X.B.10 where no consensus selection was reached during the Consensus Meeting.*<sup>17</sup>
  - i. Consensus selections were reached during all Consensus Meetings that occurred during this quarter.
- d. *Quarterly review of in-process and/or completed hiring sequences*<sup>18</sup> *by selecting a random sample of hiring sequences opened and/or closed during that quarter within the City's infrastructure departments, along with a random sampling from six additional City departments.*
  - i. We are currently reviewing most hiring sequences and have provided detailed information to DHR management regarding errors. We expect to see a reduction in the number of errors as DHR uses the feedback provided and will report on its progress in our next report.

Our review of hiring sequences did not reveal any violations by hiring departments. However, we have identified areas that need improvement. Those areas include the development of interview questions and candidate assessments. We will be working with DHR to improve the process and develop corresponding training in the next quarter.

## **II. Quarterly Reviews Required under Section XIII.H of the Hiring Plan to Ensure the Following:**

- a. *Compliance with the Court-approved Exempt List.*<sup>19</sup>
  - i. The Exempt List was last updated in October 2010 and is on DHR's website.<sup>20</sup> DHR is currently in the process of updating the Exempt List

<sup>17</sup> A Consensus Meeting is a discussion led by DHR that takes place at the conclusion of the interview process during which the hiring department reviews all relevant information and arrives at a hiring recommendation.

<sup>18</sup> A hiring sequence refers to the steps in the hiring process that result in the selection of a candidate and filling of a position(s).

<sup>19</sup> The Exempt List documents those positions that are excepted from the requirements of the Hiring Plan.

and expects it to be completed and posted within a week of this Quarterly Report. We will follow up with DHR to ensure that this happens in a timely manner. Also, we will be conducting our annual audit of the Exempt List during the 2<sup>nd</sup> quarter of this year.

b. *Compliance with the Court-approved Acting-Up Policy.*<sup>21</sup>

- i. We continue to receive a monthly acting-up report from each department and process waiver requests. Our efforts to develop improvements to the acting-up process are detailed further in Section III below.

c. *Compliance with the Court-approved Senior Manager Hiring Process.*<sup>22</sup>

- i. Of the 103 hire packets we reviewed this past quarter, ten were for Senior Manager positions. Nine of those packets did not contain any errors. Concerns of possible Hiring Plan violations respecting the tenth packet prompted us to suspend that sequence to address the concerns with the hiring department. We will provide an update in our next report.

d. *That the City has obtained the required Certifications attesting that no political reasons or factors were considered in the applicable employment action as required in Section II.3.*

- i. Because we are currently reviewing most hire packets, we are able to check for required Certifications for almost all hiring sequences. This quarter, we discovered seven packets that were missing one or more (but in no instance all) required Certifications. Six of the packets were missing required Certifications from DHR. The seventh was missing required Certifications from the hiring department that should have been obtained by the hiring department's personnel liaison, but the omissions should have been caught by DHR.

Although we did not find an indication that any of these omissions were intentional, the quarterly increase in the number of packets missing a Certification from one to seven raises concerns regarding DHR's thoroughness in checking for required Certifications, especially since most

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<sup>20</sup> The link to the current Exempt List is:

[http://www.cityofchicago.org/content/dam/city/depts/dhr/supp\\_info/ShakmanSettlement/Shakman\\_Exempt\\_List\\_updated\\_October\\_2010.pdf](http://www.cityofchicago.org/content/dam/city/depts/dhr/supp_info/ShakmanSettlement/Shakman_Exempt_List_updated_October_2010.pdf)

<sup>21</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. The City has a policy detailing the process by which employees are permitted to act-up that is intended to prevent abuse, including preferential treatment, and to fairly provide all eligible employees the opportunity.

<sup>22</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.

of the instances involve DHR omissions. We have provided information regarding these packets to DHR management and expect to see a reduction in these occurrences over the next quarter.

### III. Additional Information Regarding Acting-Up

- a. Policy Revisions: As stated in the IGO's October 15, 2010 Quarterly Report, we have begun revising the City's Acting-Up Policy. We have met with the four City departments that have the largest amounts of acting-up, as well as the Department of Finance, and are in the process of incorporating their feedback into a revised Acting-Up Policy. We anticipate completing a draft policy by the end of the next quarter.
- b. Waivers: The Acting-Up Policy currently sets a limit of 520 hours of acting-up per employee per calendar year. However, it also allows for departments to request waivers to allow an employee to act up in excess of the 520 hour limit. The primary reason for waiver requests continues to be departments' inability to fill vacancies. We are continuing to encourage departments to assess their operational needs to minimize the need for acting-up and to be more proactive in filling necessary vacancies. The following chart provides information on the waiver requests that we processed in the last quarter:

Dept.	Date of Response	Position	Number of Employees	Response
Aviation	11/23/2010; 12-15-2010	Foreman/General Foreman of Painters	2	Denied; Approved <sup>23</sup>
CDOT	10/12/2010	Asphalt Foreman	3	Approved
		Foreman of Cement Finishers	1	Approved
	10/29/2010	Foreman of Electrical Mechanics	2	Approved
	12/12/2010	Asphalt Foreman	1	Approved
	12/15/2010	Asphalt Foreman	21	Approved
		Foreman of Cement Finishers	16	Approved
		Foreman of Electrical Mechanics	2	Approved
CFD	10/27/2010	Commander for EMS Training Unit	1	n/a <sup>24</sup>
Fleet	11/24/2010	Foreman of Hoisting Engineer Mechanics	1	Approved
	12/2/2010	Foreman of Electrical Mechanics	1	Approved
	12/28/2010	Equipment Dispatcher in Charge	1	Denied
Water	10/12/2010	Assistant Chief Operating Engineer	2	Approved
		Chief Operating Engineer	2	Approved
		Operating Engineer – Group A	2	Approved
	10/29/2010	Assistant Chief Operating Engineer	1	n/a <sup>25</sup>
	11/23/2010	Operating Engineer – Group A	1	n/a <sup>26</sup>
	12/15/2010	Assistant Chief Operating Engineer	5	Approved
		Chief Operating Engineer	2	Approved
		Operating Engineer – Group A	2	Approved
	12/28/2010	Chief Operating Engineer	1	Approved

<sup>23</sup> These waiver requests were initially denied due to absence of a union agreement extending the 90-day time limitation. The department then resubmitted its request with the applicable agreement, and we approved it.

<sup>24</sup> The waiver request was submitted prior to any employee acting-up. We notified the department to resubmit a request at a later date if one was actually needed.

<sup>25</sup> The waiver request was withdrawn by the department due to permanently filling a vacancy.

<sup>26</sup> The waiver request was withdrawn by the department after determining that another individual was eligible to act-up.



*Note: If the position is covered by a Collective Bargaining Unit that limits the time period for acting into a position, the department was required to obtain an agreement with the union prior to our approval of the waiver request.*

As noted in our October 15, 2010 Quarterly Report, one concern arising from waiver requests is that some departments fail to request the waiver before the 520-hour limitation is reached, which constitutes a violation of the Acting-Up Policy. We have seen some improvement in the timeliness of these requests and continue to work with departments to minimize such occurrences. Overall, departments have been cooperative, and we expect that improvements to the acting-up process through a revised policy will further reduce these violations.

The 520-hour limitation reset on January 1, 2011; therefore, we do not anticipate many waiver requests in the 1<sup>st</sup> quarter of 2011 and will be taking advantage of the time to focus on revising the Acting-Up Policy.

#### IV. The City's Use of Contractors and Contract Employees

- a. Development of Official Contractor Policy: As discussed in the IGO's October 15, 2010 Quarterly Report, IGO Hiring Oversight has worked with the Department of Law to draft a policy for the Use of Non-City Employees to Perform Services for the City. The policy outlines a formal approval process for the use of Personal Services Contractors and Temporary Agencies and provides guidance to City departments on the proper use of all other non-City employees providing services to the City.

The draft policy has since been reviewed by a number of City departments, and their feedback has been incorporated into the policy. The *Shakman* plaintiffs have also provided additional commentary, which has resulted in further modifications. The policy is currently in the final drafting stages, and we expect it to be finalized and ready for distribution before the end of the next quarter. IGO Hiring Oversight will then turn to facilitating the City's implementation of the policy, including conducting training for department heads and all City personnel involved in letting contracts.

- b. IGO Hiring Oversight Reviews of Contracting Activity: IGO Hiring Oversight continues to process requests for the approval to use Personal Service Contractors and Temporary Agencies to perform City services. The following chart provides information on requests we approved during the preceding quarter:

Contracting Department	Contractor	Type of Contract	Duration
Buildings	Professional Dynamic Network, Inc.	Temporary employee(s)	90 days
Chicago Department of Public Health	M3 Medical Management Services, Ltd.	Temporary employee(s)	11/6/2010 (One day)
Department of Law	Ruth Masters	Personal Services Contract	Conclusion of case
Department of Law	James Feldman	Personal Services Contract	Conclusion of case
License Appeal Commission	Professional Dynamic Network, Inc.	Temporary employee(s)	11/29-12/3/2010, 12/20-12/30/2010
Office of Compliance	Jean Krypton, Inc.	Temporary employee(s)	30 day extension

We also continue to provide guidance on the use of other non-City personnel, which has included reviewing Requests for Proposal and contract drafts and providing consultation for departments.

- c. IGO Hiring Oversight Audit: As discussed in our October 15, 2010 Quarterly Report, IGO Hiring Oversight identified six departments to be audited on their use of contract employees and requested information from those departments. The IGO's Audit Team has been providing assistance by obtaining vouchers for these departments. We expect to begin reviewing the information in the next quarter and will provide an update in our next report.
- d. Updates on Current Issues: The following updates address two issues initially raised by the *Shakman* Monitor and the *Shakman* plaintiffs and discussed in our October 15, 2010 Quarterly Report regarding the City's use of non-City personnel.
  - i. The Department of Water Management ("DWM") and Contractor Independent Mechanical Industries ("IMI"): We reported that the Office of Budget and Management had given DWM permission to fill positions for work previously performed by IMI employees, and that some of the vacancies had been filled. The remaining vacancies have been filled since our last report, so DWM should no longer need IMI employees to perform the work. We will follow up with DWM in the next quarter to confirm that this is the case.

- ii. The Department of Cultural Affairs (“DCA”) and Affiliated Not-for-Profit Chicago Tourism Fund (“CTF”): We reported that DCA had spent considerable time developing a corrective action plan to remedy its employer-like relationship with CTF. Since our last report, DCA has spent considerable time developing a new contract with CTF that reorganizes both entities and is intended to create a true independent contractor relationship. The agreement has been signed and is effective as of January 1, 2011. During the past quarter, DCA has met with the Law Department and IGO Hiring Oversight to ensure that it clearly understands the nature of a true independent contractor relationship and how it will maintain that relationship with CTF going forward. As this is a significant transition for DCA and CTF, we will be monitoring the arrangement closely and providing guidance. Thus far, DCA has demonstrated a full commitment to addressing the issues giving rise to this reorganization, and we are hopeful that progress will continue.

#### V. Processing of Complaints

Complaints made to IGO Hiring Oversight may be resolved in several different 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 the IGO. If there is an allegation of a breach of policy or procedure, IGO Hiring Oversight may conduct an inquiry into the matter to determine if such a breach occurred. If a breach of policy or procedure is found, IGO Hiring Oversight may resolve the matter by making corrective recommendations to the appropriate department or referring the matter to the Investigations Section of the IGO. If no breach of policy or procedure is found, IGO Hiring Oversight may refer the matter to DHR and/or the appropriate department for resolution or close the complaint.

IGO Hiring Oversight received 57 complaints in the past quarter. Of those complaints, 43 were referred from the *Shakman* Monitor’s Office. The chart below summarizes the disposition of these 57 complaints as well complaints from the previous quarter which were not closed when we issued our last report.

Status	Number of Complaints
Complaints Pending from the 3 <sup>rd</sup> Quarter	39
Complaints Received in the 4 <sup>th</sup> Quarter	57
Referred to IGO Investigations	6
Referred to DHR	2
Closed with Recommendations to the Hiring Department and/or DHR	0
Closed in the 4 <sup>th</sup> Quarter	31
Pending with IGO Hiring Oversight as of 12/31/10	57

Although there were 57 complaints pending as of December 31, 2010, 14 of those complaints were referred from the *Shakman* Monitor's Office on December 28. In addition, a significant number of pending complaints will be closed in January 2011. We also expect to process complaints more quickly now that IGO Hiring Oversight is fully staffed and trained, as part of the past quarter was dedicated to training two new Compliance Officers who were hired at the end of the 3<sup>rd</sup> Quarter of 2010.

As we noted in our previous report, many complaints are currently being directed to the *Shakman* Monitor's Office and/or EthicsPoint, the vendor that conducted complaint intake for the Office of Compliance, which previously was responsible for the City's Hiring Oversight function. We attribute this to the relative newness of the hiring oversight function of the IGO and a lack of awareness that IGO Hiring Oversight has been created.

We expect to have a website specific to IGO Hiring Oversight soon, which will contain key *Shakman* court documents, as well as relevant policies and procedures. This website will also include a phone number and an email address for submitting complaints to IGO Hiring Oversight and will provide a way for complaints to be submitted directly through the website. Once the website has been created, we will disseminate this information to all City employees.

## **VI. Revision of the City's Hiring Plan and Personnel Rules and Drafting of Hiring Plans for the Chicago Police and Fire Departments**

- a. Hiring Plan: The Hiring Plan is in its final drafting stages, and we expect that it will be finalized, filed with the *Shakman* court, and ready for implementation for the next Administration. At that point we will begin working with DHR and the Office of Compliance, which currently houses the City's training division, on implementation and training for hiring departments.
- b. Personnel Rules: We are reviewing the Personnel Rules to determine which sections need revision and have begun discussions with DHR. Both IGO Hiring Oversight and DHR agree that the section regarding reclassifications needs to be revised and updated, so we plan to first turn to that section in the next quarter.
- c. Hiring Plans for the Chicago Police and Fire Departments: Since our October 15, 2010 Quarterly Report, we have met with CPD and CFD, and we have completed draft hiring plans for both departments, which are currently being reviewed by their respective department. We will continue to facilitate the finalization of these drafts with CPD and CFD, distribute them to DHR and the Law Department for review, and prepare them for submission to the *Shakman* Monitor and the *Shakman* plaintiffs for comment.

## VII. Conclusion

In summary, IGO Hiring Oversight is continuing to work in many different areas. We have spent considerable time working to finalize the Hiring Plan and the Use of Non-City Employees to Perform Services for the City policy, and we are hopeful that we will be able to report in our next Quarterly Report that both documents have been filed with the *Shakman* court and that implementation has begun. We have also been working on moving the CPD and CFD hiring plans forward and expect to continue progressing towards finalization. The successful implementation of these four documents will be a significant step towards achieving substantial compliance with the *Shakman* Accord, and we will continue striving to complete them as quickly as possible.

We also believe that revisions to the Acting-Up Policy and key sections of the Personnel Rules will result in additional, significant improvements to the City's hiring and related employment processes. Since the Hiring Plan and the use of Non-City Employees to Perform Services for the City policy are close to completion, we expect to have more time to turn to these documents in the next quarter.

In addition to working on these key structural components, IGO Hiring Oversight continues to do the following: review referral lists and hiring packets, monitor acting-up, process acting-up waiver requests, process requests for use of Personal Services Contractors and Temporary Agencies, provide guidance on the use of other non-City personnel, and address complaints forwarded from the *Shakman* Monitor and EthicsPoint, as well as complaints received directly. We have also begun monitoring interviews and consensus meetings and expect to begin attending tests in the next quarter. Also in the next quarter, we expect to begin reviewing information in conjunction with our contractor audit and hope to have our website up and running.

Finally, we would like to acknowledge that we have found the City to be very responsive in the drafting process of hiring plans and other policies, and it has been willing to address issues needing resolution, some of which have made significant progress.