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OFFICE OF INSPECTOR GENERAL
City of Chicago



REPORT OF THE INSPECTOR GENERAL'S OFFICE:

***QUARTERLY REPORT OF THE INSPECTOR GENERAL'S OFFICE
THIRD QUARTER 2012***

OCTOBER 15, 2012

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OFFICE OF INSPECTOR GENERAL
City of Chicago

Joseph M. Ferguson
Inspector General

740 N Sedgwick, Suite 200
Chicago, Illinois 60654
Telephone: (773) 478-7799
Fax: (773) 478-3949

October 15, 2012

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 third quarter of 2012, filed with the City Council pursuant to Section 2-56-120 of the Municipal Code of Chicago.

These reports present summaries of sustained IGO investigations, audits, public reports, and hiring compliance efforts in order to keep you apprised of IGO activities and operations. They are also intended to foster public confidence in the integrity of City government by enhancing public awareness and understanding of the role and functions of the IGO as the City's oversight agency.

We continue to lower our inventory of cases older than 12 months. We now have 64 such cases as compared to 137 when we first started tracking this metric in the second quarter of 2010. This is in furtherance of our goal of ensuring that IGO investigations remain timely and relevant to City policymakers and residents.

In fact, our oldest case remains open solely because our office has been denied access to certain critical information, which is at the core of the IGO's lawsuit against the City's Corporation Counsel. In that lawsuit, the IGO's pro-bono attorney presented oral argument before the State Supreme Court on September 20th. Contrary to the administration's press statements indicating this case is not about the IGO's independence or ability to investigate and root out misconduct by City employees, the Corporation Counsel's argument rested on the premise that the Mayor, not the courts, is the final arbiter in determining whether the Inspector General has access to City documents and records.

Another item of note not included in the report is the IGO having sought, and being rebuffed in its attempt, to secure records of the City Council Committee on Finance's Duty Disability and Workers Compensation programs. We have, and will continue to explore other options to obtain these records, as we maintain our view this programs falls within the ambit of our ordinance, which empowers the Inspector General, "To investigate the performance of governmental officers, employees, functions and **programs...** (emphasis added).

As always, I encourage you to do your part in eliminating waste, fraud, abuse, and inefficiency in City government. Please continue to send your complaints to the IGO, and please continue to send in your ideas for audits and program reviews. Do not hesitate to alert our office if you have

suggestions for improvement in City or IGO operations, our reporting mechanisms, or if you have any questions or concerns about IGO inquiries.

Respectfully,

A handwritten signature in black ink, appearing to be 'J. Ferguson', written over a horizontal line.

Joseph M. Ferguson
Inspector General
City of Chicago

This quarterly report provides an overview of the operations of the Inspector General's Office (IGO) during the period from July 1, 2012 through September 30, 2012. The report includes statistics and narrative description of the IGO's activity that it 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 economy, efficiency, effectiveness and integrity in City government. The IGO is a watchdog for the residents of the City, and has jurisdiction to conduct inquiries into most aspects of City government.

The IGO accomplishes its mission through investigations, audits, inspections, program reviews, 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 Investigation Section conducts both criminal and administrative investigations into the performance of governmental officers, employees, departments, functions, and programs, either in response to complaints or on the office's own initiative.

1. Complaints

The IGO received 390 complaints over the preceding quarter. The following table provides detail on the actions the IGO has taken in response to these complaints.

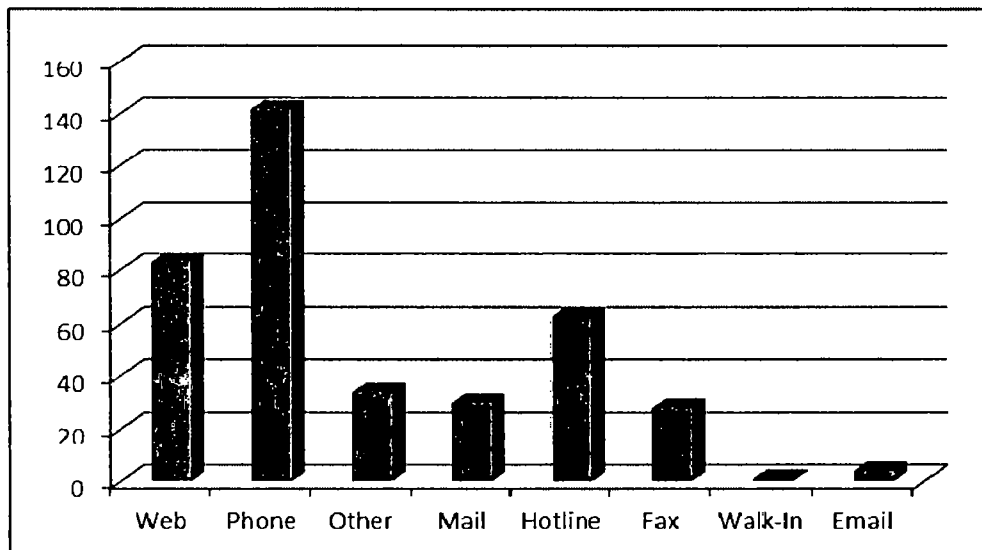
Table #1 – Complaint Actions

Status	Number of Complaints
Declined	310
Investigation	50
Referred	30
Other	0
Total	390

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 80 investigations. Of these, 79 were opened based on allegations of misconduct, one was based on allegations of waste or inefficiency and none were opened for other reasons. Of these opened matters, 30 were immediately referred to other departments or investigative agencies. Thus, of all the complaints received in the quarter, 50 (12.8%) proceeded to a full IGO investigation. Of the newly opened investigations, four were found to be not sustained before the end of the quarter, while 46 remain open. The table below categorizes the 80 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	68
Contractors, Subcontractors, and Persons Seeking City Contracts	9
Appointed Officials	0
Elected Officials	3
Investigations of Persons Seeking Certification of Eligibility	0
Other	0

3. Cases Concluded in Quarter

During the quarter, 85 investigative matters were concluded, 30 of which were the aforementioned referrals to City departments or other investigative agencies. Of the remaining concluded matters, 12 were closed as sustained and 43 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 50 investigations initiated this quarter, the IGO has a total of 190 pending investigations.

5. Investigations Not Concluded in Twelve Months

Under the Municipal Code, § 2-56-080 (2010), the IGO must provide quarterly statistical data on pending investigations opened for more than twelve months. Of the 190 pending investigations, 64 investigations have been open for at least twelve months. The table below shows the general reasons that these investigations are not yet concluded.

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.	5
Complex investigation. May involve difficult issues or multiple subjects.	30
Lack of sufficient investigative resources over the course of the investigation. Investigators' caseloads were too high to enable cases to be completed in a timely manner.	8
On hold, in order not to interfere with another ongoing investigation.	16
Under review by the Legal Section or the Director of Investigations prior to closing.	5
Total	64

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 of investigation¹ – 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 Cook County State's Attorney's Office, the U.S. Attorney's Office, or the Illinois Attorney General's Office, as appropriate. The IGO may issue summary reports of investigation 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.

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. 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 regarding current City employees 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.

The 7 cases listed below were closed prior to the 2nd Quarter 2012, but disciplinary action had not yet been finalized by the time that quarter's report was published.

IGO Case # 07-1621

The IGO's 2010 Q3 report included a narrative summary for IGO Case # 07-1621. However, the IGO did not receive notifications of final departmental action until late August 2012. The original summary follows below, with updated departmental action where appropriate.

The IGO found that a Request for Proposal procurement process for a large Chicago Department of Aviation (CDA) contract was manipulated by a CDA Assistant Commissioner who was a

¹ Per *Chicago Municipal Code*, sec. 2-56-060 (American Legal 2009), "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."

voting member of the selection committee. He/she had a close personal relationship with the ultimately successful bidder that was not disclosed during the bid review process. The IGO determined that this employee's participation unfairly influenced the process. The Assistant Commissioner, who resigned while the investigation was pending, vacationed and golfed with executives of the winning bidder and solicited donations from them for a political candidate of whose campaign fund he/she was treasurer. The Assistant Commissioner's son was also hired by the company to work on the O'Hare contract after a high-level executive of the company personally requested that the son be included in the group sent by the union for interviews.

One company executive minimized his/her involvement in securing a job for the son when questioned by the IGO; he/she later admitted to playing a much more significant role.

The City employee resigned during the course of this investigation, but the IGO would have recommended his/her discharge and has also recommended that he/she be considered ineligible for hire by the City. The IGO also recommended the company be debarred for one year, a second company that is a part of the joint venture that holds the contract be debarred for two years, one executive be debarred for two years, and a second executive be debarred for three years. The IGO recommended that the RFP process be re-done.

CDA agreed that the former employee should be placed on the ineligible for hire list, and DPS sent out debarment notices as a first step in the process to solicit a response from the contractors. CDA and the City's Department of Procurement Services (DPS) declined to re-bid the contract, noting that it would expire in 2011 and would be re-bid at that point.

However, DPS ultimately settled with all parties short of debarment. In August 2011, DPS required all of the parties the IGO had recommended for debarment to attend educational training workshops to be conducted by the City's Board of Ethics.

Additionally, DPS concluded that:

- a) The company's hiring of the Assistant Commissioner's son was not a violation of the City's Ethics Ordinance, but it did create the appearance of impropriety. In addition, DPS found that the company likely violated the City's Ethics Ordinance by providing the Assistant Commissioner with golf outing tickets valued at over \$50.
- b) The golf outing tickets violation could be imputed to the company's executive, but that debarment was not appropriate under the circumstances. DPS found that the executive demonstrated a lack of knowledge regarding the City's Ethics Ordinance.
- c) The company's executive's minimization of his/her involvement in securing a job for the son when questioned by the IGO did not rise to a level sufficient to justify debarment.
- d) There was a lack of evidence linking the second company and its executive to the improper golf outing gifts given to the Assistant Commissioner. DPS found that the second executive demonstrated a lack of knowledge regarding the City's Ethics Ordinance.

In late June 2012, pursuant to the IGO's request for an update, DPS informed the IGO that the management from the first company, which held the contract, completed ethics training in late 2011. Certain management employees from the second company, which partnered with the first on the City contract, completed ethics training.

Two officers of the second company were also ordered to complete ethics training; officer A claimed credit for training completed before DPS' decision and officer B never completed the training. The Executive Director of the Board of Ethics asked DPS if officer A's attendance at the June 25, 2010 ethics training would satisfy the DPS's final decision issued 14 months later. DPS apparently indicated it would satisfy its final decision despite this training having occurred prior to the issuance of the IGO's summary report on September 1, 2010.

According to DPS, officer B failed to attend the ethics training. Consequently, on August 8, 2012 DPS issued a letter declaring him/her to be a not responsible contractor prohibited from doing business with the City until he/she supplied confirmation of attending approved ethics training.

IGO Cases # 08-1527 and 09-1693

A Chicago Police Officer used his/her official assignment serving building violation court summonses for the City's Department of Law (DOL) to generate business for his/her friend's private company that happened to be in the business of remediating the very same type of violations. Holding an official City summons in one hand and his/her friend's business card in the other, the officer instructed property owners to contact his/her friend's company to remedy their violations. In one case, the officer told a property owner that she should call the friend's company because the City intended to seize her property.

Additionally, the police officer lied to IGO investigators by denying his/her practice of distributing the friend's business card while on duty serving summonses. The officer further discredited himself/herself and disrespected the police department when, in an attempt to deflect suspicion, he/she suggested that any one of the other Chicago Police Department (CPD) officers serving DOL summonses could have been the person handing out the friend's business card. After the Law Department made a second complaint about the police officer, the CPD abruptly removed him/her to a CPD district.

The IGO recommended that the police officer be terminated for abusing his/her position as a sworn officer acting in his/her official capacity and for making false statements to investigators.

In its response, the CPD stated that there was a "substantial probability" that the allegations against the officer were accurate. However, the department refused to seek any discipline against the officer citing purported procedural errors in the manner the IGO's administration of the officer's procedural guarantees provided under the policeman's collective bargaining agreement. The IGO requested the CPD to provide legal authority for its positions. CPD's response showed that multiple sets of procedures are applied to the same disciplinary investigation, that duplicative notifications are administered to accused CPD members, and that

the department is guided by what the IGO sees as an overbroad interpretation of already overbroad arbitration rulings. The IGO is currently reviewing its internal procedures for investigations of Chicago police officers and will be engaging CPD in dialogue to ensure sustained investigations are not negated by technicalities.

IGO Case # 09-0627

The IGO investigated two closely connected companies which participated in the City's Minority and Women-Owned Business Enterprise (M/WBE) program. One of the companies engaged in construction work and the other company specialized in electrical work. With respect to the construction company, the investigation established that two brothers, both Caucasian, used a Hispanic male as a minority "front" for the company in order to obtain MBE certification from the City. Although the company was ostensibly owned by the Hispanic male, the two brothers actually controlled the company during the approximately ten years the company was certified as a City MBE. The IGO also determined that the company's superintendent, who handled project estimates and contract bidding, knew about the MBE fraud for several years, but failed to take any corrective action and in fact facilitated its operation under false pretenses.

With respect to the electrical company, which was owned by the wives of the brothers who orchestrated the above-described MBE fraud, the IGO's investigation revealed that the company's owners submitted a false No Change Affidavit as part of the company's 2004 WBE recertification application. In addition, one of the owners of the electrical company made material misrepresentations to the City in a February 2005 letter responding to the City's proposed decertification of the business. The submissions falsely claimed that the female owners controlled the daily business operations of the company, when the owners did not actually have such control.

With respect to the construction company, the IGO recommended that the two brothers, the Hispanic male and the company's superintendent be permanently debarred for their involvement in the MBE fraud. The IGO also recommended that the two female owners of the electrical company be permanently debarred for making false material statements to the City in connection with the company's WBE certification. Finally, the IGO recommended that both the construction company and the electrical company be permanently debarred.

In August 2012, DPS permanently debarred both brothers, the two female owners of the electrical company, and the electrical company. Among other findings, DPS concluded that the brothers operated the construction company as a false MBE, submitted numerous false documents to the City which claimed that the construction company was a legitimate MBE when it was not, and thereby caused the construction company to receive millions of dollars in City work that should have been awarded to legitimate MBEs. DPS also determined that the two female owners operated the electrical company in a manner designed to evade the application of the City's WBE program and caused false material statements to be made and false documents to be submitted to the City in order to continue the electrical company's WBE certification.

With respect to the electric company, however, pursuant to a Department of Aviation (CDA) request, DPS permitted the company to continue performance on a CDA contract because the

company is “providing essential services to critical electrical infrastructure throughout the City.” As DPS found it in the best interests of the City to utilize the services provided by the electric company on that City contract, DPS allowed the electric company to continue performance on the contract until a new contract is awarded.

In addition, in May 2012, DPS permanently debarred the Hispanic male and sent a notice to the construction company’s superintendent proposing to debar him for three years. The superintendent has requested a hearing regarding that proposed debarment.

DPS previously reported that it did not initiate debarment proceedings against the construction company because the Illinois Secretary of State’s records indicated that the company dissolved in 2008.

IGO Case # 10-0700

The IGO concluded an investigation which revealed that a Sanitation Laborer in the Department of Streets and Sanitation (DSS) violated the City’s residency requirement by living in Flossmoor, Illinois. Based on these findings, the IGO recommended that the City terminate the DSS employee.

The DSS discharged the Sanitation Laborer, and he/she appealed his/her discharge to the City’s Human Resources Board (Board). While the appeal was pending before the Board, the Sanitation Laborer filed a motion to enforce a settlement agreement claiming that the City’s Law Department offered to settle the case by offering the Sanitation Laborer full reinstatement to his/her City position in exchange for the Sanitation Laborer agreeing to dismiss his/her appeal and waiving any claim for back pay. The Sanitation Laborer claimed that he/she accepted the offer, but that the DOL then rescinded the offer.

Before a hearing by the Board was held to resolve this issue, the DOL and the Sanitation Laborer entered into a settlement agreement in which the Sanitation Laborer was reinstated to his/her City employment with no back pay.

IGO Case # 10-1492

The IGO conducted an investigation that established that a former executive director of a City of Chicago delegate agency violated the City’s False Claims Act and caused the delegate agency to breach the Delegate Agency Agreements it executed with the City by submitting fraudulent reimbursement vouchers to the City and falsely representing to the City that the delegate agency fully paid its payroll taxes. The executive director also stole more than \$11,000 from the City by fraudulently obtaining personal health and dental insurance in excess of the amounts authorized by the Delegate Agency Agreements. The IGO’s investigation further revealed that the delegate agency’s former treasurer was complicit in executive director’s fraud in that he knew about certain of the executive director’s funding misappropriations, but made no effort to stop or curtail the deceptive practices.

Based on these findings, the IGO recommended that the executive director and treasurer both be permanently debarred. The IGO further recommended that the City seek cost recovery from the executive director pursuant to the False Claims Act.

In September 2012, DPS permanently debarred both the executive director and treasurer.

The IGO has not received a response from the DOL regarding the IGO's cost recovery recommendation.

IGO Case # 11-1528

The IGO conducted an investigation that established that a Chicago Fire Department (CFD) paramedic repeatedly and consistently violated City rules over a two-year period by driving his son to school in a CFD emergency vehicle on over eighty occasions. The IGO's investigation further revealed that CFD makes little effort to enforce the City's vehicle usage rules and restrictions. Specifically, the paramedic's former supervisor, a District Chief at the time told IGO investigators that it was not his job to pass judgment on the paramedic for allowing his son to ride in a CFD emergency vehicle. In addition, the paramedic's former and current District Chiefs were both unaware of the City's Vehicle and Equipment Policy (the "Vehicle Policy") and the regulations set forth therein. The paramedic's former District Chief also told CFD employees that they could use a CFD emergency vehicle to run personal errands—activity that is prohibited by the Vehicle Policy.

The IGO recommended that CFD suspend the paramedic without pay for a term commensurate with the seriousness of the long-term, serial nature of his misconduct. The IGO also recommended that CFD disseminate the Vehicle Policy to the appropriate CFD supervisory personnel and instruct those personnel that the Policy is to be strictly enforced.

In response, the CFD Commissioner informed the IGO that the CFD had initiated disciplinary procedures against the paramedic and denied him access to a take-home City vehicle. He also reported that as a result of the IGO's investigation he convened CFD and CPD representatives to consult with the Commissioner of Fleet and Facility Management, the City's Risk Manager and the Mayor's Office regarding revisions to the Vehicle Policy that would "address the unique operational needs of these departments to respond to emergencies, while still providing strict limitations and oversight on these departments' City vehicle usage." According to the Commissioner, the Vehicle Policy was updated accordingly.

In addition, the Commissioner said that he was revising CFD's internal policies and procedures to conform them to the updated Vehicle Policy. He also stated that he would provide copies of the updated Vehicle Policy to all the individuals that had CFD vehicles and that he would ensure that all exempt members closely monitor those in their command that had CFD vehicles.

The Commissioner subsequently reported that he directed CFD's discipline officer to notify the paramedic that he will receive a two day suspension. According to the Commissioner, the paramedic has a right to rebut the final discipline.

City Departments took disciplinary action on four administrative cases the IGO sustained this quarter. They are summarized below.

IGO Case # 10-0314

The IGO determined that an operating engineer with the City of Chicago Department of Water Management (DWM) violated the City's Residency Ordinance by residing in a neighboring suburb while employed by the City. The IGO recommended that the City terminate the employee and place him/her on the ineligible for hire list.

The DWM discharged the DWM employee. The DWM employee appealed his/her termination and that appeal is pending for 10/23.

IGO Case #10-1223

A Payment Services Representative in the Department of Finance (DOF) resided in a neighboring suburb. City ordinance requires that all City employees be actual residents of the City of Chicago. The employee admitted to residing in the suburb and said he/she moved there so that his/her two children would be eligible to attend the suburban public schools.

The IGO recommended the DOF terminate the employee. The employee resigned in lieu of being terminated.

I.G. #11-0971

A DWM Plumber engaged in a physical and verbal altercation with a City resident he/she had been dispatched to assist. The DWM employee's rude and discourteous behavior contributed to a tense encounter that resulted in the police being summoned to the resident's house. The two participants in the altercation each made cross-complaints of battery against the other but no arrests were made. Long after the police departed the scene, the DWM employee remained there just for the purpose of waiting for a Chicago Sun-Times reporter he/she called to arrive and interview him/her about his/her theory that the failure to arrest the resident was the work of a police conspiracy. In waiting to be interviewed, the DWM employee detained two purportedly sick or injured DWM employees under his/her supervision and a City truck outside of the resident's house. While the DWM employee waited for the media to arrive, he/she informed DWM supervisors that he/she was waiting for the police to finish writing incident reports.

The IGO recommended that the DWM employee be suspended without pay for a period of five to seven days for misconduct that constituted a restriction on production output, inattention to duty, and incompetency and inefficiency in the performance of duties. DWM issued the employee a 10-day suspension. The employee has appealed the suspension and a hearing before the Human Resources Board has been scheduled. The results of the appeal will be reported in a subsequent Quarterly Report.

IGO Case # 12-0080

An IGO investigation revealed that an employee with the Independent Police Review Authority (IPRA) routinely took a City vehicle home without authorization in violation of the City's Personnel Rules and the IPRA departmental vehicle policy. The employee further routinely violated the Municipal Code, Personnel Rules, and departmental policy by failing to park the City vehicle in the designated IPRA parking lot, failing to pay for parking in metered parking spots, misusing the Chicago Police Department logo to avoid paying for parking, and violating traffic laws while driving the City vehicle. Finally, the employee lied to IGO investigators while under oath, thereby tarnishing the employee's credibility, a key requirement for his position. Based on these findings, the IGO recommended that the employee be terminated and deemed ineligible for hire. In addition, the investigation also established that the employee's supervisor failed to adequately supervise him, allowing the misconduct to occur unchecked. The IGO therefore recommended that IPRA issue the supervisor a written reprimand.

IPRA discharged the employee. IPRA declined to issue the supervisor a reprimand, citing the deceptive nature of the employee's conduct and the supervisor's prompt assistance with the investigation.

2. Disciplinary and Other Corrective Action Recommendations

In the 11 sustained cases described above, the IGO made 26 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 subjects
<i>Employee Discipline</i>	
Reprimand	1
Suspension less than or equal to 10 days	1
Suspension 11 to 29 days	0
Suspension equal to 30 days	0
Suspension over 30 days	0
Termination	6
<i>Other Corrective Action</i>	
Debar	9
Do not (re)hire	6
Other	1
Cost Recovery	2
Total	26

(A) Departmental Action²

Of the 26 recommendations contained in this quarter's 11 summary reports:

- In 15 instances, departments imposed the same discipline/corrective action recommended by the IGO.
- In 11 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 one instance, the subject of the investigation resigned during the inquiry³.

In no instance did a department impose discipline/corrective action when the IGO did not recommend any discipline on investigations summarized in this report.

(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)⁴ and grievance arbitrations concerning our disciplinary recommendations.

To date, 4 of the subjects involved in the 11 investigations that were summarized in this report have appealed his/her discipline to the HRB.

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 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.

1. Synopses of Cases

None of the IGO cases concluded this quarter produced criminal charges.

² This data is as of October 15, 2012.

³ Instances of City employees resigning under inquiry are also included in the quarterly Departmental Actions statistics in addition to, when possible, noting whether the Department intended to follow our recommendation.

⁴ 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 (accessed April 13, 2010)

2. Developments in Prior Criminal Cases

During the quarter, there were resolutions in one of the IGO's prior criminal investigations.

(A) *United States v. Perino/United States v. Capello (IGO Case #06-0305)*

The IGO and Federal Bureau of Investigation (FBI) conducted an investigation that found that from approximately 1999 to 2006, Anthony Capello, the owner of Diamond Coring Company, Inc., participated in a scheme to defraud and obtain money, including contracts, and more than \$2.3 million in funds from the City and other governmental entities which were intended for women business enterprises (WBEs) or disadvantaged business enterprises (DBEs).

The Stealth Group, Inc. (SGI) was certified by the City as a WBE. Based on this certification, SGI was eligible to participate in various Target Market and set-aside projects intended for legitimate WBE/DBE companies.

Capello falsely represented to the City and other government entities that SGI was a legitimate WBE and DBE when, in reality, it was not a legitimate WBE or DBE. Instead, it was a company operated by Capello and another individual to fraudulently obtain contracts that required WBE and DBE participation and to disguise the fact that Diamond Coring actually performed the work required to be done by a WBE.

On July 6, 2012 Anthony Capello pleaded guilty to mail fraud in the United States District Court, Northern District of Illinois under case # 12CR0103. He is awaiting sentencing.

On February 14, 2012, DPS ruled Capello, Diamond Coring Company, Inc. and SGI ineligible to do business with City pursuant to Chapter 1-23 of Chicago Municipal Code.

E. AUDITS & PUBLIC REPORTS

In addition to confidential disciplinary investigations, the IGO produces a variety of public reports and audits. This work includes independent and professional audits, policy recommendations and 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 subject. We have summarized five audits/public reports that were released this quarter.

1. Audits

(A) *Downtown Affordable Density Bonus Audit Follow-Up*

On July 20, 2012, the IGO published a follow-up report to an October 2011 audit of processes related to the Downtown Affordable Housing Density Bonus (DAHDB) program.

The purpose of the program is to increase the availability of affordable housing in Chicago through the provision of density bonuses that give developers additional square footage for development projects. In return, the developer provides a specified number of on-site affordable housing units or contributes to a special fund that supports the construction or rehabilitation of, or rental subsidies for, affordable housing. This audit examined a sample of development projects initiated between June 2005 and July 2008.

The purpose of the audit was to review, test and evaluate the density bonus program processes to determine whether the Department of Housing and Economic Development (DHED) and its predecessors had effective controls as well as adequate policies and procedures in place for the program.

Based on the follow-up responses, the IGO concludes that the City has adequately addressed the findings of the original audit with respect to future projects. The holistic process review conducted by DHED and DOB allows for changes in procedures and the implementation of controls that may reasonably be expected to resolve the core issues noted in the original audit (lack of communication and a division of responsibility). It is important to note that the IGO did not observe or test implementation of new policies and procedures and thus makes no determination as to their effectiveness. Such a determination would require a new audit with full testing of the procedures.

(B) Audit of CPD Evidence & Recovered Property Section

On September 20, 2012, the IGO released an audit of the Chicago Police Department (CPD) Evidence and Recovered Property Section (ERPS).

The IGO audit found that CPD's internal controls for ERPS failed to ensure that evidence and property were adequately protected, properly documented, and readily available when required. IGO audit testing revealed that ERPS personnel could not locate a significant volume of evidence and property held in CPD custody. While conducting the audit, the IGO determined that CPD had weaknesses in several areas that may have contributed to the shortfalls found in the audit. These included:

- A lack of written policies and procedures for day-to-day operation of the ERPS;
- No documented response to recommendations made to remedy operational deficiencies in the ERPS found in a 2005 internal audit conducted by CPD's Auditing and Internal Control Division;
- Present operations address only one of the eight recommendations advanced in the 2005 report; and
- A CPD directive designed to promote accurate recording and timely transfer of inventory to ERPS facilities was not being followed.

Ways in which a weak ERPS section is detrimental to CPD operations and legal proceedings include:

- The potential for compromising of court proceedings—criminal and civil litigation—and administrative hearings due to inventoried evidence items that cannot be located;
- Possible challenges to the admission of and risk of suppression of even those evidence items that can be located as a result of the absence of formal written policies and procedures governing their handling and administration;
- Risk of potential litigation and damages awards against the City for property owners who are unable to recover lost or misplaced property held and maintained in CPD ERPS custody;
- Risk to the public safety and welfare posed by the loss (including the possible theft) of dangerous items in ERPS custody.

Additionally, the audit found that ventilation for the narcotics storage areas had not been tested for compliance with industry standards, despite employee complaints of respiratory problems.

CPD agreed with the audit findings, and has started to fulfill its commitment to address these problems by:

- Establishing a task force that will, in addition to other ERPS improvement duties, update the current “e Track” inventory system, which will ensure an accurate accounting of all inventoried property is maintained within the “e Track” system;
- Implementing recommendations from a CPD 2005 Internal Audit Report;
- Establishing new processes within the overall inventorying process to ensure proper categorization of evidence and recovered property;
- Placing stringent supervisory responsibilities on approving members and increasing training for those who handle evidence and recovered property;
- Partnering with the Chief Judge of the Circuit Court of Cook County and the Cook County State’s Attorney’s Office to ensure formal release of inventoried property;
- Reducing the number of steps required for property turn-over so that “e Track’s” functions better match the new role structure as it exists at police districts.

2. Public Reports

(A) IGO Case #10-1265, Certificate of Occupancy Acquisition Process

On September 11, 2012, the IGO published recommendations made to the Department of Buildings (DOB) regarding its certificate of occupancy (C of O) acquisition process. An IGO inquiry found that in recent years as many as 48% of the properties that received building permits failed to subsequently obtain a C of O. The IGO also determined that DOB did not know what percentage of the properties that received building permits but did not subsequently obtain a C of O were being illegally (and potentially unsafely) occupied in violation of the Municipal Code of Chicago (MCC).

The IGO subsequently sent a letter to DOB recommending that DOB remedy this potentially significant public safety hazard by: (1) running regular, periodic inactive building permit queries and disseminating the resultant reports to inspectors for property checks; (2) conducting an audit of the properties that received building permits in the last five years but never obtained C's of O, in order to determine how many of those properties are being occupied in violation of City ordinance; (3) advising building permit holders when their permit has been inactive for at least six months (such a notice would remind permit holders of their obligations under City ordinance and demonstrate to property owners that DOB closely monitors property developments, thus encouraging compliance with pertinent rules and regulations); and (4) consulting with the City's Department of Innovation and Technology (DoIT) to explore the creation of a searchable, public database for C's of O so that members of the public considering buying a property could confirm that the building had been certified as suitable for occupancy.

DOB was immediately responsive to the IGO recommendations and has already taken action on those recommendations. Specifically, DOB's response indicated that it: (1) had met with DoIT preliminarily to determine how to create a report that notifies all DOB bureaus when a building permit has not had an inspection after six months; and (2) will conduct an audit of properties issued permits from 2006-2011 to determine which of those have no permit inspection on record (this will allow DOB to determine whether work has been performed and if those buildings are occupied). In addition, although DOB does not currently have a Director of Information Systems, the DOB's response indicated that this position would be responsible for determining whether a searchable website for C's of O is feasible.

(B) IGO Case # 11-0005, Recommendations for Improving the Emergency Procurement Process

On July 26, 2012, the IGO published a report on the Department of Procurement Services' (DPS) emergency contracting process, detailing DPS's award of a series of ten separate emergency contracts to a single supplier from March 2010 through April 2011 without adequately documented justification. The emergency contracts were awarded after DPS terminated performance on an existing, competitively bid supply contract. DPS terminated the contract following the initiation of debarment proceedings against the supplier for MBE/WBE program fraud after the supplier's indictment. The IGO found that DPS's procedures in approving the

subsequent emergency contracts were lax, and some of the emergency contracts may have been avoided with sufficient due care and diligence by DPS in managing the procurement process for the new five-year supply contract. The IGO investigation concluded that this practice cost the City approximately \$467,000 more than the City's later competitively bid contract and \$201,000 more than if the City had kept the previous supply contract in place.

The IGO also concluded that DPS had a practice of automatically and immediately cancelling the contracts of indicted vendors, without consideration of the potential problems that might ensue. In fact, a significant number of emergency contracts in 2011 were the result of vendor debarment or contract cancellation. The Chief Procurement Officer has important discretion in determining whether to terminate an ongoing contract based on the contract's impact on the public health, safety, or welfare. But the investigation revealed that unless requested by the user department, DPS does not review whether interim restrictions or contract termination will necessitate an emergency procurement, which often results in higher costs to the City. DPS reported that, in this case, it did not undertake a cost-benefit analysis when determining whether to impose interim restrictions, explaining that "DPS believes that, except in extraordinary circumstances, engaging in a cost-benefit analysis with respect to the decision to place interim restrictions on a vendor indicted for defrauding the City would send a damaging message to the City's residents and business community regarding the City's expectations of honesty and fair dealing in its business partners."

The IGO recommended that DPS take a more pro-active role in evaluating the potential negative consequences of a contract cancellation in order to eliminate or minimize the use and costs of emergency contracts. The IGO also recommended that DPS improve its paperwork, ensure that it receives sufficient documentation when departments request emergency contracts, and improve communication with the Department of Law to ensure relevant attorneys are informed of the urgency of any contract review related to an ongoing emergency contract.

DPS responded that it welcomed the IGO's suggestions and reported that it has developed a new request form to improve documentation of its justification for authorizing emergency contracts. Additionally, DPS reported that it would take measures to improve its communication with the Department of Law and City departments requesting emergency procurements. The IGO views DPS's planned changes as a strong step toward improving the emergency procurement process. The IGO anticipates performing a follow-up evaluation of the design and operational effectiveness of these improvements during the fourth quarter of 2012.

(C) IGO Case # 11-0334, Review of Position Title Reclassification Process

On July 18, 2012, the IGO published a review of the position title reclassification process administered by the Department of Human Resources (DHR) detailed in the City of Chicago Personnel Rules 1 and 26 (Reclassification Rules). The City's reclassification system is meant to ensure that employment positions are allocated to class titles that adequately describe the duties and responsibilities that are actually performed, and that pay and benefits are commensurate with that work. When functioning properly, the reclassification system acts as a safeguard against abuses and excesses that develop within the City's employment and compensation systems.

However, there are deficiencies in the system inhibiting the City's realization of the full benefits of a successful and compliant reclassification process.

The IGO review identified the deficiencies in the Reclassification Rules that inhibit its effectiveness, transparency and accountability. Most notably, the IGO identified that the Reclassification Rules do not indicate whether departments are obligated to follow or even respond to reclassification recommendations, and that the Reclassification Rules are silent as to who is responsible for enforcing reclassification recommendations. Against the backdrop of those operational deficiencies, our review identified a pattern in which City departments, without explanation or consequence, tend to disregard or ignore the recommendations of DHR developed on the basis of neutral, objective criteria and analysis that positions be downgraded and pay commensurately reduced.

The lack of accountability and enforcement capacity currently present in the reclassification system impedes the IGO's ability to assess and ensure compliance with the Reclassification Rules, the City's General Hiring Plan, the *Shakman* Accord, and to assure taxpayer money expended on personnel costs is proportionate to services rendered.

To address these deficiencies, the IGO recommended DHR consider revising the Personnel Rules to require department heads to provide a documented explanation of reason(s) for requesting a position audit and to require department heads to report to DHR within a specified period their final action on reclassification recommendations and provide a written justification for deviating from the recommendation.

In response to the IGO's report, DHR Commissioner agreed with the IGO's recommendations and noted that DHR has started a review of current procedures used in the reclassification process. The Commissioner noted that while final revision to the Personnel Rules may take some time, she has "no doubt that we can quickly begin to implement either your specific recommendations or equivalent changes that fully achieve the spirit of your recommendations in the interim."

(D) Savings & Revenue Options

On September 27, 2012, the IGO released its third annual report of Savings and Revenue Options for the City.

The IGO's Savings and Revenue Options Report is comprised of 31 options to cut spending or increase revenue worth an estimated total of more than \$1.176 billion.

Each option includes a brief overview of how proponents and opponents might argue each option, and many options further highlight important questions for the public and decision makers to consider.

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

Some options included in the report are:

- Reducing the number of paid City holidays to the 10 holidays recognized federally for possible savings of \$5.4 million;
- Replacing the Police Officers in the Forensic Service Division of the Chicago Police Department with civilian employees at a potential savings of \$3.1 million;
- Replacing the Police Officers in Administrative Sections and positions in the Chicago Police Department with civilians, to save approximately \$3.6 million;
- Recovering the costs borne by the City in responding to false residential burglary alarms by assessing a fee, which could raise \$1.9 million annually;
- Replacing the Firefighters in the Fire Prevention Bureau with civilian employees to save \$1.5 million;
- Reducing Janitorial Contract Services in City facilities to save \$5 million;
- Eliminating “Personal Computer Operator” positions citywide to save up to \$3.7 million;
- Increasing the health insurance contribution for City employees earning over \$90,000 to save \$1.4 million;
- Setting the default on all printers and copiers to double-sided printing to save \$200,000;
- Broadening the Amusement Tax to raise an additional \$116 million in revenue;
- Eliminating the City’s requirement to staff fire apparatuses with at least five firefighters to save \$70.8 million;
- Eliminating the City’s subsidy to World Business Chicago to save \$1 million annually.

(E) Description of the Police Officer & Firefighter Collective Bargaining Agreements

On August 1, 2012, the IGO published a review of the collective bargaining agreements (CBAs) that govern the relationships between the City of Chicago and its police officers and firefighters. These CBAs affect nearly 17,000 current employees—over half the City’s workforce—and contain provisions that have a substantial financial impact on the City.

The CBAs expired on June 30, 2012.

The purpose of this review was to provide members of the City Council and City residents with reader friendly information on the contract provisions so that as new contracts are negotiated, these stakeholders may be better informed of the various provisions in the CBAs.

The report details major provisions of the CBAs including:

In 2011, 15 percent of the wages of police officers and firefighters came from payments they received in addition to their regular salaries. These payments were in a variety of categories including overtime, duty availability pay, uniform allowance, and physical fitness exam pay.

The report detailed major provisions of the CBAs, including:

- The agreement between the City and its firefighters effectively sets the minimum number of firefighters that the City must employ.
- Both police officers and firefighters receive up to 1 year of sick leave within any 2 year period for non-duty related illnesses or injuries.
- The agreement between the City and its police officers prohibits the City from eliminating the ranks of Detective, Evidence Technician, Police Laboratory Technician, Forensic Investigator and Field Training Officer.

F. HIRING COMPLIANCE

On June 24, 2011, the City of Chicago filed the 2011 City of Chicago Hiring Plan (“General Hiring Plan”). The General Hiring Plan, which was agreed to by the parties and approved by the Court on June 29, 2011, replaced the 2007 City of Chicago Hiring Plan which was previously in effect. The City of Chicago also filed the 2011 Chicago Police Department Hiring Plan (CPD Hiring Plan) on October 14, 2011, and the 2011 Chicago Fire Department Hiring plan (CFD Hiring Plan) on December 15, 2011.

Under Chapter XII of the new City of Chicago General Hiring Plan, Chapter XI of the CPD Hiring Plan, and Chapter IX of the CFD 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 quarter, IGO Hiring Oversight conducted the following reviews:

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

In the last quarter, IGO Hiring Oversight received two reports of direct departmental contacts from DHR. Both of these reports involved a department contacting DHR to inquire as to why certain applicant(s) were not included on a referral list.⁵ DHR

⁵ A referral list is a list that is generated by DHR of applicants/bidders who meet the predetermined minimum qualifications for a position.

instructed the department to have the applicant (and any future applicants) contact DHR directly to find out the status of their application.

2. *Exemptions. Review of adherence to exemption requirements and Exempt Lists and propriety of Exempt List⁶ modifications.*

The Exempt List was last updated in March 2012 and is on DHR's website. We receive notifications of each new individual hired into an Exempt position. In August, DHR notified us that an individual holding an Exempt position in DoIT would be transferring to another department where he had been working part-time. His position in the new department would be Covered by the *Shakman* Accord, but the individual would maintain his Exempt status, meaning he may be terminated for any reason or no reason, so long as it is not an illegal reason. Because of DoIT's unique position as a department providing services to other City departments, the evolution of the individual's position did not strike us as improper. We raised no objections to the transfer.

3. *Senior Manager Hires. Review of hires using Chapter VI, the Senior Manager Hiring Process.⁷*

Of the 117 hire packets we reviewed this past quarter, 24 were for Senior Manager positions. Of the 24 Senior Manager hire packets reviewed, one contained an error due to missing or invalid documentation. This error did not constitute a Hiring Plan violation. We also monitored the interviews for two Senior Manager hiring sequences. We did not find any violations of the Hiring Plan in our review of these Senior Manager interview sequences.

DHR also provided notification of the addition of two titles to the City's Senior Manager List, which can be found on DHR's website.

4. *Written rationale. Review of any written rationale when no consensus selection was reached during a Consensus Meeting.⁸*

In September 2012, DHR informed us that the interviewers for a hiring sequence in the Chicago Public Library (CPL) were unable to reach a consensus on which candidate to hire. In accordance with the General Hiring Plan, the Hiring Manager for the sequence submitted a memorandum detailing the rationale for hiring the selected candidate. After

⁶ The Exempt List is a list of all City positions that are exempted from the requirements governing Covered positions (*Shakman-Exempt*). *Shakman-Exempt* Positions are those where any factor may be considered in actions covered by the City's Hiring Plans and Other Employment Actions, unless otherwise prohibited by law.

⁷ 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.

⁸ A Consensus Meeting is a discussion that is led by the DHR Recruiter held at the conclusion of the interview process. During the Consensus Meeting, the interviewers and the Hiring Manager review their respective interview results and any other relevant information to arrive at a hiring recommendation.

reviewing the memorandum and all documentation in the hiring packet, we concluded that CPL had properly executed the hiring sequence.

5. Emergency Appointments. *Review of circumstances and written justifications for any emergency hires made pursuant to the Personnel Rules and Section 2-74-050(8) of the Chicago Municipal Code.*

The City made no emergency appointments during the 3rd Quarter of 2012.

This quarter, IGO Hiring Oversight conducted audits of the following matters to ensure compliance with the hiring process:

1. Modifications to Class Specifications, Minimum Qualifications, and Screening and Hiring Criteria.

We are currently reviewing most modifications to job descriptions, minimum qualifications, and screening/hiring criteria. In the last quarter, the City changed the minimum qualifications or included equivalencies for eight positions in the Chicago Public Library, the Department of Fleet and Facilities Management, Finance, the Department of Streets and Sanitation, the Office of the City Clerk, the Department of Family and Supportive Services, and DHR. IGO Hiring Oversight reviewed the changes and raised no objections to them.

2. Referral Lists. *The lists of Applicants/Bidders who meet the predetermined minimum qualifications for the Position that are generated by DHR.*

IGO Hiring Oversight currently reviews most candidate and bidder lists. In the past quarter, we reviewed 100 referral lists and provided commentary to DHR whenever potential issues arose. Of the 100 referral lists reviewed in the past quarter, eight contained errors. All errors occurred in the area of candidate assessment. We recognize that aspects of candidate assessment can be subjective and that there can be differences of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "errors" is limited to cases in which applicants who, based on the information they provided, (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 detailed information to DHR management so that they may address these errors, and we are tracking DHR's progress in reducing these mistakes.

3. Testing. *Test Administration and Scoring.*

IGO Hiring Oversight continues to receive prompt notification from DHR regarding approvals of new tests, proposed changes to existing tests, and the dates of testing administrations. While we did not observe any problems in our audits of tests developed in the past quarter, we did observe an increase in testing administration irregularities as

detailed in the “Escalations” Section of this quarterly report. These irregularities mainly involved either a misadministration or a failure to administer a test during a hiring sequence. We will continue to work with DHR to address these irregularities and will include details regarding any testing recommendations or process improvements in future quarterly reports.

4. *Selected Hiring Sequences.* *10% in the aggregate of in-process and completed (at least 5% of completed) hiring sequences from the following departments or their successors: Streets and Sanitation, Water Management, Aviation, Transportation, Buildings, Fleet, and six other City departments selected at the discretion of IGO Hiring Oversight.*

We are currently reviewing most hiring sequences and have worked directly with DHR staff and management to address errors as they arise. In reviewing these sequences, we examine hiring packets, which include all documents and notes maintained by individuals involved in the selection and hiring process. In the past quarter, we reviewed 117 hire packets. Of the 117 hire packets reviewed, 11 packets contained at least one error, including the Senior Manager hire packet described above. These errors included missing or invalid documentation (for example, an expired driver’s license) and missing Hire Certifications. None of these errors were considered violations of the Hiring Plan.

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

Of the 117 hire packets reviewed in the last quarter, seven contained missing or invalid Hiring Certifications from DHR and/or the Hiring Department. After reporting the omissions to DHR, the missing certifications were provided and included in the packets. The “Selected Hiring Sequences” section above included these errors in its tally.

6. *Acting Up.*⁹ *Review of the City’s compliance with Chapter XI and any implementing procedures.*

IGO Hiring Oversight reviews the City’s compliance with Chapter XI of the General Hiring Plan¹⁰, the Acting Up Policy, and all Acting-Up waivers processed by DHR. As mentioned in previous reports, DHR is currently drafting a new Acting Up Policy, and IGO Hiring Oversight continues to be involved in various meetings with DHR and other City Departments to assist in the drafting process.

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

⁹ 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.

¹⁰ Chapter VIII of the CFD Hiring Plan and Chapter X of the CPD Hiring Plan follow the same guidelines as Chapter XI of the General Hiring Plan.

Department	Position	Number of Employees	Date of Response	Duration of Waiver
Water	Assistant Chief Operating Engineer	1	07/23/2012	Through 09/30/2012
Water	Operating Engineer – Group A	1	07/23/2012	Through 09/30/2012
Water	Chief Mason Inspector	1	08/31/2012	Through 10/31/2012
Fleet & Facilities Management	Chief Operating Engineer	2	09/12/2012	Through 11/29/2012
Fleet & Facilities Management	Foreman of Machinists	1	09/12/2012	Through 09/26/2012

7. *Arbitrations and Potential Resolution of Grievances by Settlement. Review of all arbitration decisions arising out of Accord complaints, as well as any other arbitration decisions and potential grievance settlement agreements that may impact the procedures under this Hiring Plan.*

In the last quarter, IGO Hiring Oversight reviewed two settlement agreements. One settlement agreement, reached between DHR and the Laborers' Local 1092, provided that DHR would reopen various Foreman and General Foreman positions in the City's Recruiting Management System (RMS).¹¹ Several applicants had been rejected and deemed unqualified because they input incorrect and/or insufficient information during the online application process and were allowed to rebid on the positions. Laborers' Local 1092 agreed to waive grievance rights in any future unsuccessful bids when members provided incorrect or insufficient application information. The other settlement agreement, reached between the Chicago Fire Department (CFD) and the Chicago Firefighter's Union Local 2, provided that CFD would promote seven Paramedics to the position of Paramedic-in-Charge, because they were previously passed over on the promotional eligibility list.

IGO Hiring Oversight also reviewed an arbitration award involving the Department of Water Management (DWM) and the International Union of Operating Engineers Local 399 (IUOE). In December 2010, DWM conducted interviews for a promotional hire sequence in which four candidates were selected. In May 2011, an unsuccessful candidate filed a grievance which alleged one of the successful candidates were promoted based on a familial relationship with an interview panelists in the same sequence (which neither party disclosed). In response, DWM decided to redo the promotional hire sequence in October 2011. The month before the re-test was administered, two of the originally successful candidates filed a grievance alleging that DWM violated the IUOE

¹¹ The City's Recruiting Management System (RMS) is an electronic system that selects or sorts Applicant data according to designated criteria and otherwise processes and presents information for the hiring process.

collective bargaining agreement by requiring all the grievants to be re-evaluated for the promotional hire sequence. DWM proceeded with the re-test, which resulted in these two grievants not being selected for promotion. In September 2012, an arbitrator ultimately sustained the grievance and ordered DWM to immediately promote the two grievants who were not promoted due to the re-test to the higher rated position. Ultimately the two grievants and the four candidates selected for hire from the re-test were promoted to the higher rated position.

QUARTERLY REPORTING OF CONTRACTING ACTIVITY

IGO Hiring Oversight is required to review City departments' compliance with the City's "Contractor Policy" (Exhibit C to the City's Hiring Plan). In accordance with the Contractor Policy, IGO Hiring Oversight conducted its first Annual Contractor Review, which required all departments to provide information regarding contractors performing services for the City on City premises. We have begun evaluating these departmental reports for compliance with the *Shakman* Accord, the Contractor Policy, and federal regulations regarding common-law employment. Additionally, we initiated comprehensive reviews of several contracts identified in the reports.

While departments were responsive to our Annual Contractor Review requests, these reports revealed two troubling patterns in City contracting. First is the absence of the *Shakman* Boilerplate language in City contracts. The *Shakman* Boilerplate language contractually obligates the City and its contractors to follow the provisions of the City's Hiring Plan and the *Shakman* Accord and prohibits (1) any City involvement in the hiring decisions of contractors; (2) contractors from basing City contract related employment decisions, including hiring decisions, on Political Reasons or Factors, or other Improper considerations; and (3) non-City employees from holding themselves out as employees of the City. It also requires contractors to report any communications with City employees attempting to influence their employment decisions and cooperate with inquiries from IGO Hiring Oversight and the *Shakman* Monitor's Office related to a contract. It is imperative that all contracts and agreements contain the *Shakman* Boilerplate language to safeguard that services provided to the City are free from Political Reasons or Factors or other Improper considerations and to give the City recourse when violations occur.

Additionally, we were concerned about the City's failure to notify IGO Hiring Oversight of all draft contracts and other agreements. As required under Section II.B.2.b. of the City's Contractor Policy, "prior to offering any contract or other agreement terms to any Temporary Employment Agencies, not-for-profit agencies, for-profit contractors and other organizations and entities providing services to the City, the requesting Department shall give IGO Hiring Oversight advance notification of the draft contract or other agreement terms." Advance knowledge of contracting activities allows us to be proactive in identifying risk areas prior to the implementation of contracts and other agreements. In the last quarter, it was discovered we never received notification of several executed contracts that contained language in violation of the Contractor Policy and the *Shakman* Accord. While it is the responsibility of all City Departments to ensure that it is in continuing compliance with the Contractor Policy, we cannot provide adequate oversight

to City contracting without knowledge of the universe of outside services being provided to the City.

In response to these concerns, IGO Hiring Oversight met with various divisions in the Department of Law (Law) to discuss the purpose of the Contractor Policy, the importance of the *Shakman* Boilerplate language, as well as to provide guidance on identifying problematic language in contracts and agreements. We will continue discussions with Law to better implement the Contractor Policy and we plan to have similar discussions with the Department of Procurement Services in the next quarter.

Despite our concerns above we did receive notice of several draft contracts and agreements in the last quarter. Per the Contractor Policy, we may choose to review the drafts for the purpose of assessing whether the draft contract or agreement terms are in compliance with the Policy. The following chart details these contract notifications:

Name of the Contractor, Agency or other Organization	Name of Contracting Department	Duration of such Contract or Agreement	Approved by DHR?
I/O Solutions	DHR	2 months	Yes
Ceasefire	CPD/CDPH	1 year	n/a
I/O Solutions	DHR	09/2012 – 2/2012	Yes
SilverIP Communications	DCASE	1 year	n/a
WRD Environmental	CDOT	Through June 30, 2015	n/a
Knight E/A Inc.*	CDOT	Through December 31, 2016	n/a
Peggy Notebaert Nature Museum*	CDOT	Through June 30, 2015	n/a
Professional Dynamic Network	CDOT	6 Months	Yes
M3 Medical Management	DFSS	6 Months	Yes
M3 Medical Management	DFSS	6 Months	Yes
Professional Dynamic Network	CDOT	3 Months	Yes
M3 Medical Management	CDPH	10/2012 – 12/2012	Yes
Professional Dynamic Network	DFSS	6 Months	Yes
Professional Dynamic Network	DPS	3 Months	Yes

* IGO Hiring Oversight did not conduct a review of the contract during this quarter.

REPORTING OF OTHER IGO HIRING OVERSIGHT ACTIVITY

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

IGO Hiring Oversight received six escalations in the last quarter, four of which are detailed below. The remaining two escalations are still under review in addition to two escalations received in the 1st Quarter. Once complete, we will report our findings in a future quarterly report.

Chicago Department of Aviation Escalation

On July 2, 2012, a DHR Recruiter contacted IGO Hiring Oversight, to report the Chicago Department of Aviation (CDA) failed to administer a written exercise during the hiring sequence that had originally been requested at the Intake Meeting¹². Upon inquiry, we found CDA's failure to administer the written exam was the result of confusion between DHR and CDA and we found no evidence that CDA attempted to manipulate the hiring sequence or that political reasons or improper factors affected the process. DHR, in consultation with IGO Hiring Oversight, instructed CDA to administer the written exercise to all of the candidates and hold a new consensus meeting for the hiring sequence.

Chicago Fire Department Escalation

On July 2, 2012, a DHR Recruiter contacted IGO Hiring Oversight, to report the Chicago Fire Department (CFD) passed over a candidate on a promotional eligibility list. CFD's justification was they did not see the candidate's name in their personnel records and were unaware that the candidate's last name had changed. During our discussions with DHR regarding this candidate, it was discovered that six additional candidates had also been passed over on the same promotional eligibility list.¹³ The seven candidates passed over for promotion filed a joint grievance, detailed in the "Arbitrations and Potential Resolution of Grievances by Settlement" section above, which resulted in the seven candidates being promoted into the position. In the future, DHR will post this position and maintain the eligibility list in the City's RMS.

¹² An Intake Meeting is a meeting where DHR shall work with the hiring department to establish Screening and Hiring Criteria for the Position and create a Notice of Job Opportunity or Bid Announcement (for those Positions covered by a CBA).

¹³ The six candidates were passed over because their names were not originally included on the promotional eligibility list, which was compiled outside of the City's RMS and manually maintained by DHR; however, each of the candidates had receipts showing that they had in fact applied for the position.

Department of Innovation and Technology Escalation

On July 12, 2012, a DHR Recruiter contacted IGO Hiring Oversight, to report various irregularities with the administration and scoring of a skills assessment test during a recent hire sequence in the Department of Innovation and Technology (DoIT). These irregularities included missing or incomplete skills assessment test scoring sheets, incomplete interview assessment forms, and candidates receiving additional time to complete the skills assessment test. IGO Hiring Oversight recommended that DHR and DoIT redo the selection process with a new interview panel and work with DHR Testing to ensure accurate administration of the skills assessment test. DHR agreed to our recommendations. DoIT, however, opted to have DHR conduct a job audit of the position and repost the position based on the results of the audit. DoIT also agreed to continue to work with DHR Testing to develop and administer an appropriate skills assessment test for the position.

Commission on Animal Care and Control Escalation

On September 25, 2012, a DHR Recruiter contacted IGO Hiring Oversight, to report the Commission on Animal Care and Control (ACC) failed to administer a required written exercise. ACC explained the failure to administer the written exercise was because the written exercise is not taken into consideration when making final hiring recommendations. Following our recommendation, DHR instructed ACC to administer the written exercise to all the interviewed candidates, reschedule the consensus meeting, and to take the written exercise into account when making final hiring recommendations. DHR also informed ACC that the predetermined selection process outlined in the job posting should be adhered to and, in the future, any deviations from that process should be vetted through the DHR Recruiter during the Intake Meeting.

2. *Processing of Complaints. IGO Hiring Oversight receives complaints regarding the hiring process, including allegations of unlawful political discrimination and retaliation and other Improper influence in connection with any aspect of City employment.*

Complaints 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 36 complaints in the past quarter. Of those complaints, 21 were referred from the *Shakman* Monitor's Office. The chart below summarizes the

disposition of these 36 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 2 nd Quarter of 2012	23*
Complaints Received in the 3 rd Quarter of 2012	36
Total closed in the 3 rd Quarter	15
-Closed by Referral to IGO Investigations	2
-Closed by Referral to DHR	0
-Closed with Recommendations to the Hiring Department and/or DHR	0
Pending with IGO Hiring Oversight as of 10/1/2012	44

* This figure reflects an adjustment of the figure provided in the previous quarter's report.

3. *Private Secretaries*

Under the City's Hiring Plan, each Department/Agency head and *Shakman* Exempt Schedule G employee (typically deputy commissioners and other senior administrators) may hire one individual as a Private Secretary provided that individuals involved in the action certify that no Political Reasons or Factors or other Improper considerations affected their hiring decisions. As discussed in previous quarterly reports, these positions have less protection than other positions covered by *Shakman* and are particularly vulnerable to manipulation by City officials who wish to hire an individual without going through the general hiring process.

In the last quarter we received notifications of six private secretary appointments. Upon review, we noticed several deficiencies in the administration of this process that make this already vulnerable process even more susceptible to manipulation. We detailed several of these deficiencies in a memorandum to DHR and made recommendations to correct them. We await their response and will report on this issue in greater detail in the coming quarter.

4. *Reclassifications*

The classification system is used to ensure that positions are properly classified and compensated based on the duties performed by the position's incumbent(s). When the incumbent's duties appear to be outside of those required by their position, the incumbent may need to be reclassified to a new position. A reclassification is an employment action that could result in an incumbent's position being recommended for an upgrade, downgrade, a lateral change, or no change. Upgrade and downgrade recommendations ultimately can result in a promotion and/or pay increase or a demotion and/or pay decrease, respectively.

In July 2012, IGO Hiring Oversight received a notification from DHR to the commissioner of the Department of Fleet and Facilities Management (2FM) recommending that an individual be reclassified from a title in the general administrative title series to a title in the purchasing and supply title series.¹⁴ Several factors complicated the reclassification. We first noticed that the candidate did not meet the minimum qualifications for the new position. Upon reviewing the candidate's job history, however, we discovered that the City originally hired the individual into a position that was *Shakman* Exempt due to the confidential assistance it provided to policymakers. As part of departmental restructuring and perhaps errors made in her original hiring, the individual no longer performed the duties of her original title.¹⁵

In August 2012, IGO Hiring Oversight issued a memorandum which objected to the reclassification since the individual did not meet the minimum qualifications for the new position and offered recommendations to eliminate the vulnerability that Exempt employees could “burrow” into Covered positions through the reclassification process. DHR agreed with our objection and rescinded the reclassification recommendation. It also agreed with our recommendation that Exempt employees and individuals hired under the Hiring Plan's Private Secretary process should not be subject to the reclassification process. DHR objected to our recommendation that it amend the Personnel Rules to clarify that DHR and IGO receive notice when a department assigns Exempt employees the duties of a Covered position. They reasoned that such duties are not always distinguishable within a department. DHR also objected to a recommendation to publicly post and fill positions through the City's competitive hiring process once it determines that an individual has been performing duties outside of its title series. DHR countered that the decision whether to post or reclassify individuals would be best determined on a case-by-case basis.

¹⁴ All positions in the City are grouped into different title series based on the nature of their job duties. Positions operating in the same professional sphere generally are generally classified in the same title series.

¹⁵ Several years ago in restructuring the Exempt List, the City removed the individual's title from the *Shakman* Exempt List, meaning that all current and future hires into that title will go through the City's competitive hiring process, prohibiting the use of Political Reasons or Factors or other Improper considerations in the selection process. Nevertheless, all individuals hired into these positions when they were on the Exempt List retain their Exempt status, meaning they can be terminated for any reason, including political reasons, or without reason, so long as it is not an illegal reason.