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Office of Inspector General

City of Chicago

Report of the Office of Inspector General:

Board of Ethics Lobbyist Registration Follow-Up Inquiry

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May 2017

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May 8,2017

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

The City of Chicago Office of Inspector General (OIG) has completed a follow-up to its March 2016 audit of the lobbyist

registration process. Based on the Board of Ethics's (BOE) responses, OIG concludes that BOE has partially implemented corrective actions related to two of the audit findings and fully implemented corrective actions related to a third audit finding.

The purpose of the March 2016 audit was to review BOE's efforts to identify active lobbyists and to provide reasonable assurance as to the veracity of information in lobbyist disclosures. The audit also evaluated BOE's process for levying fines against late-registering lobbyists. Our audit found that,

1. BOE did not provide reasonable assurance as to its identification of all active lobbyists or the veracity of information in lobbyist disclosures;
2. process gaps and clerical errors related to hardcopy disclosures impeded BOE's ability to identify and levy fines against late filers; and
3. while BOE properly identified late, electronically-filed registrations in 2014, it declined to levy the full fine allowable under the Ethics Ordinance.

Based upon the results of our audit, we recommended that BOE,

1. exercise its authority to "recommend policies, procedures and practices designed to ensure compliance with any federal, state or local law or regulation or any of the city's compliance-related policies and internal controls"¹ to implement more robust quality assurance best practices. In addition, we recommended that BOE include, under the lobbyist registration signature line, a reference to the penalty for providing false statements;
2. stop accepting lobbyist disclosures via hardcopy submission, address recordkeeping issues, document criteria used to assess the completeness of a registration, formalize reliance on postmarks as evidence of filing dates, and treat hardcopy submission envelopes as public records; and •

¹ MCC§ 5-156-380(o).

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3. levy the full amount of fines allowable by the Ethics Ordinance beginning with the first day after the annual registration deadline and formalize in its Rules and Regulations its guidelines for what constitutes a "suitable explanation" for late filing.

In its response to the audit, BOE described a number of corrective actions it would take.

In February 2017, OIG inquired with BOE regarding the status of the corrective actions the Board committed to in response to OIG's audit and any other actions it may have taken. On the following pages we have summarized the three original audit findings and recommendations, as well as BOE's response to our follow-up inquiry.

Based on BOE's follow-up response, OIG concludes that BOE has partially implemented corrective actions related to the audit's first finding. BOE researched the practices of other jurisdictions but chose not to implement any changes to address the concerns conveyed in our recommendation. BOE's recent spate of probable cause findings related to potential unregistered lobbying activity illustrates the need for more robust quality assurance practices governing lobbyist registration. We encourage the Board to identify and, if necessary, recommend amendments to the Ethics Ordinance that would boost the likelihood of identifying lobbyists who have failed to file or have provided inaccurate disclosures.

OIG concluded that BOE fully implemented corrective action on the audit's second finding by transitioning to an

electronic-only filing system in 2017. BOE partially implemented corrective actions on the third finding. The Board disagreed with our finding regarding the date when fines should be levied and thus took no action to address it. However, the Board did amend its guidelines with regard to what constitutes a suitable justification for late filing by providing examples of circumstances in which the Executive Director may exercise his discretion to accept a late filing.

We thank the staff and leadership of the Board for their cooperation during the original audit and responsiveness to our follow-up inquiries.

Respectfully,

Joseph M. Ferguson Inspector General City
of Chicago

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OIG File #17-0067

BOE Lobbyist Registration Follow-Up Inquiry

Follow-Up Results

In February 2017, OIG followed up on a March 2016 audit of the Board of Ethics's (BOE) lobbyist registration process.* BOE responded by describing the corrective actions it has taken since receiving the original audit. We summarize the three original findings, the associated recommendations, and the status of the Board's corrective actions below. OIG's follow-up inquiry did not observe or test implementation of the new procedures, and thus makes no determination as to their effectiveness, which would require a new audit with full testing of the procedures.

OIG uses four categories for Status of Corrective Action:

- **Implemented** - The department has implemented actions that may reasonably be expected to resolve the core findings/concerns noted in the original audit.
- **Partially Implemented** - The department has implemented actions in response to the audit, but the actions do not fully address the findings/concerns raised in the original report.
- **Pending Implementation** - The department has initiated action plans that, if fully implemented, may reasonably be expected to resolve the core findings of the original audit. However, the department has not completed implementation.
- **Not Implemented** - The department has not initiated or implemented any actions responsive to OIG's findings.

Finding 1: **BOE did not provide reasonable assurance as to its identification of all active lobbyists or the veracity of information in lobbyist disclosures**

OIG Recommendation: OIG recommended that BOE exercise its authority "to recommend policies, procedures and practices designed to ensure compliance with any federal, state or local law or regulation or any of the city's compliance-related policies and internal controls" to implement more robust quality assurance best practices. This may include the quality assurance best practices observed in other jurisdictions such as requiring both lobbyists and their employers to register with the City, requiring public officials to report having been lobbied, conducting routine audits of lobbyist disclosures, and/or comparing lobbyist disclosures to disclosures made to the government entities of neighboring jurisdictions. If BOE could not unilaterally implement these quality assurance practices, OIG recommended that the Board collaborate with the City Council to do so.

² The 2016 audit report is available on the OIG website: <<http://chicatioinspectorgeneral.org/piublications-and->press/audit-of-boaid-of-ethics-lobbyist-registration/>>.

Page 1 of 3

OIG File #17-0067
BOE Lobbyist Registration Follow-Up Inquiry

In addition, we recommended that BOE include, under the lobbyist registration signature line, a reference to the penalty for providing false statements.

Status of Corrective Action: Partially Implemented. In its response to the audit, BOE disagreed with the OIG's recommendations. The Board stated that empirical research was necessary to determine whether the recommendations in the report would, in fact, provide significant added value. The Board agreed to undertake further research into OIG's recommendations and then determine whether to propose amendments to City Council to alter the Ethics Ordinance. In addition, the Board stated that it will seek the counsel of the Law Department in determining whether to add, under the signature line, a reference to the false statements provision in the Municipal Code (§1-21-010 etseq.).

In BOE's response to OIG's follow-up inquiry, the Board stated that it had conducted research into best practices by searching for the terms "officials" and "principals" in other jurisdictions' ethics requirements compiled by the Council on Governmental Ethics Laws and the National Conference of State Legislatures. The Board concluded that it is not a best practice among state regulators to require officials or principals to report to the public. Therefore, BOE did not propose a legislative amendment. The Board also stated that it has deferred seeking the Law Department's advice in relation to including a reference to the false statements provision until it had successfully transitioned to the electronic lobbyist filing system.

Finding 2: Process gaps and clerical errors related to hardcopy disclosures impeded BOE's ability to identify and levy fines against late filers.

OIG Recommendation: OIG recommended that BOE stop accepting lobbyist disclosures via hardcopy submission. If BOE continued to accept hardcopy disclosures, OIG recommended that BOE address the recordkeeping issues identified to better fulfill its obligations under MCC § 2-156, Article IV. In particular, BOE should document criteria

used to assess the completeness of a registration, formalize the reliance on postmarks as evidence of filing dates in its Rules and Regulations, and treat hardcopy submission envelopes as public records and maintain them in accordance with its records retention schedule.

Page 2 of 3

OIG File #17-0067

BOE Lobbyist Registration Follow-Up Inquiry

Status of Corrective Action: Implemented. In BOE's response to OIG's follow-up inquiry, the Board stated that, beginning in 2017, it required lobbyists to utilize the Electronic Lobbyist Filing system in order to register.

Finding 3: While BOE properly identified late, electronically-filed registrations in 2014, it declined to levy the full fine allowable under the Ethics Ordinance.

OIG Recommendation: OIG recommended that BOE levy the full amount of fines allowable by the Ethics Ordinance against late filers beginning with the first day after the annual registration deadline. If BOE chose to impose fines in a way that differs from the current language of the Ethics Ordinance, OIG recommended that BOE work with City Council to ensure that its calculation of fines aligns with the City ordinance and its own rules. OIG also recommended that BOE formalize in its Rules and Regulations guidelines for what constitutes a "suitable explanation" for late filing.

Status of Corrective Action: Partially Implemented. In BOE's response to OIG's follow-up inquiry, the Board stated that it disagreed with OIG's legislative interpretation in the original audit identifying the date when fines should be levied. Moreover, BOE chose not to work with City Council to amend the Ethics Ordinance to initiate fines at 12:00:00 on January 20th. However, the Board did amend its guidelines with regard to what constitutes a suitable justification for late filing and provided examples. These include, but are not limited to: a computer or server failure; health issues on the part of the lobbyist or a family member; active duty military service; and the loss of original documentation due to an act of nature.

Page 3 of 3

City of Chicago Office of Inspector General

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Mission

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

administrative and criminal investigations; audits of City programs and operations; and reviews of City programs, operations, and policies.

From these activities, OIG issues reports of findings and disciplinary and other recommendations to assure that City officials, employees, and vendors are held accountable for the provision of efficient, cost-effective government operations and further to prevent, detect, identify, expose, and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

Authority

The authority to produce reports and recommendations on ways to improve City operations is established in the City of Chicago Municipal Code § 2-56-030(c), which confers upon the Inspector General the following power and duty:

To promote economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the city government by reviewing programs, identifying any inefficiencies, waste and potential for misconduct therein, and recommending to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.