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Office of Inspector General

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Report of the Office of Inspector General: \*\*\*\*\*

Quarterly Report of the Office of Inspector General third Quarter 2017

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*Joseph M. Ferguson Inspector General*

**OFFICE OF INSPECTOR GENERAL**

*City of Chicago*

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October 15, 2017

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

Enclosed for your review is the public report on the operations of the City of Chicago Office of Inspector General (OIG) during the third quarter of 2017, filed with the City Council pursuant to Section 2-56-120 of the Municipal Code of Chicago.

This quarter resulted in the disposition of significant administrative investigations, among other matters. Most notably, an OIG investigation found four Chicago Department of Aviation (CDA) employees mishandled a non-threatening situation that resulted in the physically violent forcible removal of a passenger aboard United Airline Express Flight 3411 on April 9, 2017. Acting on OIG's findings and recommendations, CDA terminated the Aviation Security Officer (ASO) who improperly escalated the incident and an Aviation Security Sergeant found to have been involved in the deliberate removal of material facts from an employee report. CDA, in accordance with OIG findings and recommendations, suspended two other ASOs involved in the incident and its aftermath. CDA also acted on OIG program recommendations with, among other things, a statement of intent "to make completely clear through markings, procedures, and training, that the Aviation Security Division provides security services for airport staff and passenger safety, not police services." CDA confirmed that a review of its policies and procedures was underway and stated it would be complete by the first quarter of 2018.

Additionally, OIG continued the investigation into the exchange of racist and sexually explicit emails among employees, including supervisory personnel, of the Department of Water Management (DWM). As a result of OIG's findings and recommendations, one offending supervisor who OIG recommended be discharged retired under inquiry. A second supervisory employee was recommended for discharge for failing to take appropriate action in response to the receipt of numerous racist and offensive emails. DWM only suspended the supervisor for 14 days, citing the fact that the employee's entire chain of command (including three top-level DWM managers that included the Commissioner at the time) was included on the emails and personally received harassing and/or sexually explicit communications which created a hostile or offensive work environment. To date, four supervisory employees have been discharged, resigned, or retired as a result of the investigation, which is continuing.

The third quarter also included four published reports from the Audit and Program Review Section addressing program issues related to the City's Language Access for limited English proficient residents; continuing unaddressed challenges to the timeliness of hiring in City Departments; measures undertaken to address previous OIG findings and recommendations regarding the City's inspection program for food establishments; and unrealized opportunities to

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civilianize largely administrative positions in the Chicago Fire Department. In all four areas, the Departments have taken or otherwise committed to some corrective actions. However, numerous opportunities OIG identified for program improvements and efficiencies remain unexploited. The reasons proffered for this void range from perceived constraints

imposed by collective bargaining agreements, to shortcomings in program legislation resulting in unclear program responsibility or insufficient enforcement authority, to tightening of budgetary resources below the level required to meet regulatory requirements and program missions. As the City continues to work beyond the fiscal hole wrought by budgetary and financing practices of prior administrations, seizing on every opportunity for operational efficiency and effectiveness, and engaging reform internally, as well with our labor partners in the ongoing bargaining rounds, will remain critical to meeting our responsibility to taxpayers, residents and those who use the City for its business and cultural opportunities.

OIG's continuing efforts at improving City government rely critically upon tips, advice, suggestions, and feedback from the community. In the next quarter, we will begin to directly engage with residents at community events with the help of community leaders already engaged in civic-minded work. We welcome invites to come and listen to constituent and stakeholder thoughts, concerns, and suggestions regarding possible improvements. We also strongly encourage feedback on OIG's 2018 Draft APR Audit Plan which you can view on our website and comment via email at [OIGNoticeandComment@chicagoinspectorgeneral.org](mailto:OIGNoticeandComment@chicagoinspectorgeneral.org) <<mailto:OIGNoticeandComment@chicagoinspectorgeneral.org>>. True government work and accountability is rooted in genuine community engagement.

Respectfully,

Joseph M. Ferguson Inspector General City  
of Chicago

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*OIG Quarterly Report -*

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*OIG Quarterly Report - Third Quarter 2017*

This quarterly report provides an overview of the operations of the Office of Inspector General (OIG) during the period from June 1, 2017, through September 30, 2017. The report includes statistics and narrative descriptions of OIG's activity as required by the Municipal Code of Chicago (MCC).

A. Mission of the Office of Inspector General

The mission of OIG is to promote economy, effectiveness, efficiency, and integrity in the administration of programs and operation of City government.<sup>1</sup> OIG accomplishes its mission through investigations, audits, and other reviews. OIG issues summary reports of investigations to the appropriate authority or the Mayor and appropriate management officials, with investigative findings and recommendations for corrective action and discipline. Summaries of sustained investigations and the resulting department or agency actions are released in quarterly reports. OIG's audit reports and advisories are directed to the appropriate agency authority or management officials for comment and then are released to the public through publication on the OIG website. OIG's department notifications are sent to the appropriate agency authority or management officials for attention and comment, and are summarized, along with any management response, in the ensuing quarterly report. Finally, OIG issues reports as required by the Hiring Plan and as otherwise necessary to carry out its hiring oversight functions.

B. INVESTIGATIONS

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

1. Complaints

OIG received 535 complaints during the quarter. The chart below breaks down the complaints OIG received during the past quarter by the method in which the complaint was reported.

<sup>1</sup> "City government" includes the City of Chicago and any sister agency which enters into an Intergovernmental Agreement (IGA) with the City for the provision of oversight services by OIG.

**Chart #1 - Complaints by Reporting Method**

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Complaints Origin

Among other factors, OIG evaluates complaints to gauge the investigative viability and potential magnitude or significance of the allegations -- both individually and programmatically.<sup>2</sup>

Table #1 - Complaint Actions

Status	Number of Complaints
Declined	377
Opened Investigation	19
Referred	98
Pending	41
Total	535

2. Prior Quarter Matters

OIG also took action on complaints received in the prior quarter by declining 33 complaints, opening 5 OIG administrative or criminal investigations, and referring 14 complaints to sister agencies. Additionally 1 complaint was referred to OIG's Public Safety section and 2 complaints remained pending. The following table categorizes the matters opened by OIG in the previous quarter and their status.

<sup>2</sup> OIG's complaint intake process allows it to assess the substance of a complaint prior to processing and, after thorough review, to filter out complaints that lack sufficient information or clarity on which to base additional research or action, or are incoherent, incomprehensible, or factually impossible.

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October 15, 2017

Table #2 - Prior Quarter Matters

Status	Number of Complaints
Declined	33
Opened Investigation	5
Referred to Public Safety and City Department (IPRA)	1
Pending	2-
Referred to Department/Sister Agency	13
Total	54

### 3. Newly Opened Matters

During the quarter, OIG opened 152 matters. Of the 152 opened matters, 113 were referred to other departments or investigative agencies. A total of 39 proceeded to an OIG investigation. Of those cases, 36 remained open at the end of the quarter and 3 investigations were closed administratively.

The following table categorizes the matters opened by OIG this quarter based on the subject of the matter.

Table #3 - Subject of Investigations and Referrals

Subject of Investigations and Referrals	Number of Investigations and Referrals
Employees	124
Contractors, Subcontractors, and Persons Seeking Contracts	4
Elected Officials	14
Other	10
Total	152

### 4. Cases Concluded in Quarter

During the quarter, OIG concluded 150 opened matters, 117 of which were referred to the following: 99 to a City department and 18 to a sister agency. Of the remaining concluded matters, 17 were closed as "sustained." A case is sustained when the evidence sufficiently establishes that either an administrative or criminal violation has occurred or the case identifies a particular problem or risk that warrants a public report or notification to a department. A total of 18 matters were closed as "not sustained." A case is not sustained when OIG concludes that the available evidence is insufficient to prove a violation under applicable burdens of proof. A total of 13 matters were closed "administratively." A case is closed administratively when, in OIG's assessment, it has been or is being appropriately treated by another agency or department, the matter was consolidated with another investigation or, in rare circumstances, OIG determined that further action was unwarranted.

*OIG Quarterly Report - Third Quarter 2017***5. Pending Matters**

At the close of the quarter, OIG had a total of 176 pending mailers, including investigations opened during the quarter.

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

Under MCC § 2-56-080, OIG must provide quarterly statistical data on pending investigations open for more than 12 months. Of the 176 pending matters, 72 investigations have been open for at least 12 months.

The following table shows the general reasons that these investigations remain active.

**Table #4 - Reasons Investigations Were Not Concluded in Twelve Months**

<b>Reason</b>	<b>Number of Investigations</b>
Additional complaints added during the course of the investigation.	2
Complex or resource-intensive investigation. May involve difficult issues, multiple subjects, or be the subject of formal criminal investigation in partnership with outside investigative and prosecutorial partners.	47
On hold, in order not to interfere with another ongoing investigation.	3
Extended due to higher-risk, time-sensitive investigations.	20
<b>Total</b>	<b>72</b>

**7. Ethics Ordinance Complaints**

OIG received three ethics ordinance complaints this quarter. Three investigations were opened based on these complaints and nine additional investigations were opened based on a complaint received in the previous quarter.

**8. Public Building Commission Complaints and Investigations**

OIG received one complaint related to the Public Buildings Commission (PBC) that was declined.

**C. Administrative Cases**

OIG investigations may result in administrative sanctions, criminal charges, or both. Investigations leading to administrative sanctions involve violations of City rules, policies or procedures, and/or waste or inefficiency. For "sustained" administrative cases, OIG produces summary reports of investigation<sup>3</sup> - a summary and analysis of the evidence and recommendations for disciplinary or other corrective action. OIG sends these reports to the

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



appropriate authority or the Office of the Mayor, the Corporation Counsel, and the City departments affected by or involved in the investigation to act upon its recommendations.

## **1. Campaign Finance Investigations**

The MCC bans City vendors, lobbyists, and those seeking to do business with the City from contributing over \$1,500 annually to any City official's or candidate's political campaign. Potential violations of the cap are identified through complaints and OIG analysis. Other rules and regulations such as Executive Order 2011-4 place further restrictions on donations. Once a potential violation is identified, OIG notifies the donor and the donation recipient of the violation and, as required by the MCC, provides the individual or entity 10 days to challenge the determination or cure the violation by returning the excess donation. If the excess donation is returned in a timely manner, or it is determined that a violation did not occur, OIG closes the matter administratively. In the event the matter is not cured or sufficiently addressed, OIG will sustain an investigation and deliver the case to the Board of Ethics (BOE)<sup>4</sup> for adjudication.

This quarter OIG resolved three campaign finance violation matters that involved \$2,750 in disallowed contributions. Details of the cases are provided in the chart below.

**Table #5 - Campaign Finance Activity**

Casc#	Donation Amount (Year) <sup>4</sup>	Donation Source	Amount of Returned Funds; Other Resolution
17-0474	\$1,750(2016)	Lobbyist	\$250
17-0300	\$3,000 (2015)	Lobbyist	\$1,500
17-0299	\$2,500 (2016)	Lobbyist	\$1,000

## **2. Sustained Administrative Investigations**

The following are brief synopses of administrative investigations completed and reported as sustained investigative matters. These synopses are intended to illustrate the general nature and outcome of the cases for public reporting purposes and thus may not contain all allegations and/or findings for each case.

In addition to OIG's findings, each synopsis includes the action taken by the department in response to OIG's recommendations. City departments have 30 days to respond to OIG recommendations.<sup>5</sup> This response informs OIG of what action the department intends to take. Departments must follow strict protocols, set forth in the City's Personnel Rules, Procurement

<sup>4</sup> This column includes the total of all donations to a candidate from the relevant source over the course of a calendar year, which may consist of multiple separate donations.

<sup>5</sup> PBC has 60 days to respond to a summary report of investigation by stating a description of any disciplinary or administrative action taken by the Commission. If PBC chooses not to take action or takes an action different from that recommended by OIG, PBC must describe that action and explain the reasons for that action. If OIG issues a report to the Chairman of the City Council Committee on Committees, Rules and Ethics, the Chairman must forward the report to the appropriate City Council authority within 14 days. After receiving the report, that individual has 30 days to provide a written response to the Inspector General (or 60 days if a full extension has been granted or if action by the Chairman of the Committee on Committees, Rules and Ethics is required).

Rules, and/or applicable collective bargaining agreements, prior to imposing disciplinary or corrective action.

In deference to the deliberative processes of City departments and the contractual rights of employees relating to discipline, OIG does not report on cases regarding current City employees until the subject's department has acted on and/or responded to OIG's report. For cases in which a department has failed to respond in full within 30 days (or 60 days if a full extension has been granted), the response will be listed as late. As of the end of the quarter, there were nine concluded matters that were pending department action and/or response. The following chart lists concluded matters for which OIG has received a department response.

**Table #6 - Overview of Cases Completed and Reported as Sustained Matters**

Case Number	Department or Agency	OIG Recommendation	Department or Agency Action
17-0220 ■	Water Management (1)	Designate as resigned under inquiry	Designated as retired under inquiry
17-0219	Water Management (1)	Discharge	14-day suspension
17-0187	Aviation (4)	Aviation Security Officer Appropriate discipline up to and including Discharge Aviation Security Sergeant Appropriate discipline up to and including Discharge Aviation Security Officer Discipline commensurate with gravity of violations Aviation Security Officer Discipline commensurate with gravity of violations	Aviation Security Officer Discharged Aviation Security Sergeant Discharged Aviation Security Officer 5-day suspension Aviation Security Officer 5-day suspension
17-0085	IPRA(I)	Discharge	Discharged
16-0497	IPRA(I)	Designate as resigned under inquiry	Designated as resigned under inquiry
16-0461	Aviation (1)	Discharge	Designated as resigned in lieu of discharge
16-0413	Water Management (1)	Discharge	Designated as resigned under inquiry
16-0144	City Council (1)	Discharge	Designated as resigned under inquiry
16-0027	DPS(I)	Debarment	Initiated Debarment
16-0021	Buildings (1)	Designate as resigned under inquiry	Designated as resigned under inquiry
15-0458	Aviation (1)	Appropriate Discipline up to and including Discharge	Written warning
15-0156	<b>Water Management (1)</b>	Appropriate Discipline up	Designated as resigned in lieu of

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Case Number	Department or Agency	OIG Recommendation	Department or Agency Action
		to and including Discharge	discharge

14-0526	Streets and Sanitation (2)	Driver Discharge Driver Appropriate discipline up to and including Discharge	Driver Discharged Driver Discharged
14-0339	Streets and Sanitation (1)	Discharge	Designated as resigned in lieu of discharge
14-0339	Streets and Sanitation (1)	Discharge	Discharged
14-0345	Fire Department (1)	Find Probable Cause and impose sanctions	Preliminary Finding of Probably Cause
14-0335	Transportation (3)	Foreman Appropriate discipline up to and including Discharge Mid-level Supervisor Discipline commensurate with gravity of violations Senior- level Supervisor Discipline commensurate with gravity of violations	Foreman ] 0-day suspension Mid- level Supervisor Written warning Senior-level Supervisor No Discipline

*(A) Hateful and Sexually Explicit Emails, Misuse of City Resources (OIG Record #17-0220)*

An OIG investigation established that a Department of Water Management (DWM) supervisory employee sent or received at least five racist and hateful emails and received at least one sexually explicit photo, using the employee's City email account and computer. For example:

- The employee received an email in which the sender mockingly imitated Ebonics.
- The employee received an email containing a purported joke with racial and homophobic slurs, to which the employee responded: "I'm crying."
- The employee received an email containing a purported quote from an NHL broadcaster, suggesting that a topless bar, gay nightclub, liquor shop, Victoria's Secret store, and a butcher shop specializing in pork be opened next to a proposed mosque. The email concludes: "And if you are not laughing or smiling at this point...It is either past your bedtime, or it's midnight at the oasis and time to put your camel to bed!" The employee, using a City email account, then forwarded the email to three other City employees, who were under the employee's supervision, at their City email accounts.

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OIG would have recommended that DWM discharge the employee, but the employee retired after being interviewed. OIG therefore recommended that DWM issue a formal determination, designate the employee as having resigned under inquiry, and place OIG's report in the employee's personnel file.

In response, DWM agreed with OIG's findings and recommendations, and the employee was designated as retired under inquiry.

*B) Failure to Report Hateful Emails (OIG Record #17-0219)*

An OIG investigation established that a DWM supervisory employee received numerous racist and offensive emails on the employee's City email account over the course of several years and failed to report those emails and, in at least one instance, provided an affirming and acquiescing email response. For example, the employee received several emails in which the senders referenced or mockingly imitated Ebonics; received multiple racist jokes via email; and received several emails disparaging or belittling an African-American DWM employee.

OIG recommended that DWM discharge and refer the employee for placement on the ineligible for rehire list maintained by the Department of Human Resources (DHR).

In response, DWM suspended the employee for 14 days. DWM acknowledged that the employee failed to report receiving numerous racist and offensive emails, but noted that the majority of the emails in question were also sent to three top-level DWM managers, including the Commissioner at the time. DWM stated that when "one's entire chain of command is on emails and/or engaged in a certain type of behavior, confronting the situation may seem untenable for a less senior employee." DWM further noted that the employee was the recipient of one or more "harassing and/or sexually explicit communications," which created a hostile or offensive work environment<sup>6</sup>.

*C) Excessive Force, False or Inaccurate Reporting (OIG Record #17-0187)*

An OIG investigation established that three CDA Aviation Security Officers (ASOs) and one Aviation Security Sergeant violated City of Chicago Personnel Rules in response to a passenger disturbance aboard United Airlines Express Flight 3411 on April 9, 2017. Specifically, the first ASO violated the CDA Use of Force Policy when that ASO escalated a non-threatening situation into a physically violent one by forcefully removing a passenger from the aircraft. The ASO's use of excessive force caused the passenger to hit his face on an armrest, resulting in the passenger sustaining a concussion, a broken nose, and the loss of two teeth.

OIG's investigation also established that the second ASO made misleading statements in two reports and the third ASO made material omissions in a report, regarding the first ASO's forceful removal of the passenger from the aircraft. The investigation further established that the Sergeant

<sup>6</sup> With full appreciation of the challenging workplace and hierarchical dynamics, OIG notes that an employee's general duty to report wrongdoing, and the availability of confidential and/or anonymous reporting channels for such misconduct, to both OIG and the City's EEO Office.

deliberately removed material facts from the third ASO's "To/From Report" and approved reports without all essential information.

Finally, OIG's investigation identified significant confusion within CDA's Public Safety and Security, Security Operations Division regarding the roles and expectations of ASOs, which highlighted CDA's fundamental failure to implement practical policies and procedures. OIG noted that CDA was conducting a review and update of its policies and recommended that CDA fully consider the serious issues identified in OIG's report in the course of its review, to ensure ASOs and their supervisors have a clear and consistent understanding of their roles and responsibilities - individually and in relation to CPD and other airport personnel - and to ensure policies are adequately communicated and documented.

OIG recommended CDA impose discipline up to and including discharge against the first ASO and Sergeant; for the second and third ASOs, OIG recommended discipline commensurate with the gravity of the employees' violations, past disciplinary record, and any other relevant considerations.

In response, CDA stated it would proceed with disciplinary action against all four CDA employees, which would include discharging the first ASO and the Sergeant. Both employees grieved their discharge and arbitration dates have yet to be scheduled. CDA issued five-day suspensions to the second and third ASOs and both employees grieved their suspensions.

The City agreed to reduce the second ASO's suspension to two days. The third ASO withdrew the grievance and resigned.

CDA also stated in its response that it "intends to make completely clear through markings, procedures, and training, that the Aviation Security Division provides security services for airport staff and passenger safety, not police services." CDA confirmed that a review of its policies and procedures was underway and stated it would be complete by the first quarter of 2018.

*(D) Confidential Information Leak (OIG Case #17-0085)*

An OIG investigation established that an Independent Police Review Authority (IPRA) investigator accessed and disclosed personal information about a Chicago Police Department (CPD) officer to an individual with whom the investigator was romantically involved. The individual did not work for the City, but had previously dated and filed several unfounded complaints with IPRA against the CPD officer, and was previously accused by the CPD officer of domestic violence, child custody violations, and stalking. OIG determined that, within approximately one week of meeting the individual on Match.com <<http://Match.com>> and throughout their six-week romance, the IPRA investigator provided the individual with sensitive information about the CPD officer, whom the investigator referred to as a "miserable witch." The investigator accessed City databases to gain information about the CPD officer, providing the individual with information about the CPD officer's assignment, start time, and whereabouts; accessed and discussed details via email regarding an IPRA complaint the individual filed against the CPD officer; and failed to report the conflict of interest to IPRA in violation of the department's policy. The individual then abruptly ended the relationship.

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OIG recommended that IPRA discharge the employee and refer the employee for placement on the ineligible for rehire list maintained by DHR.

In response, IPRA agreed with OIG's recommendation and discharged the employee. The employee is currently appealing the discharge.

*(E) Unbecoming Conduct/Abuse of Position (OIG Record #16-0497)*

An OIG investigation established that an IPRA Personal Computer Operator II engaged in conduct unbecoming of a City employee in off-duty interactions with CPD officers investigating the shooting of the employee's partner. When CPD officers responded to a call of shots fired, the employee's partner denied being shot despite an obvious gunshot wound to the partner's left leg. The employee was present when the partner first refused to acknowledge the gunshot wound and subsequently provided CPD officers with false accounts, knowing the officers would put the statements into an official police report. The employee made repeated, unsolicited declarations to the officers about being employed by IPRA, which created the perception that the employee was using the position at IPRA as a shield for the employee's partner. The employee's conduct undermined and aided and abetted the obstruction of CPD's investigation of the incident, in violation of IPRA's Code of Conduct and the City's Personnel Rules.

OIG recommended that IPRA issue a formal determination, as the employee resigned immediately following the OIG interview. Therefore, OIG further recommended that IPRA forward the determination to DHR with a request that the employee is designated as having resigned under inquiry, and that OIG's report and IPRA's findings be placed in the employee's personnel file for consideration in the event the employee reapplies for employment with the City.

In response, IPRA adopted OIG's findings and placed the report and associated material in the employee's personnel file

and requested that DHR designated the employee as resigned under inquiry.

*(F) Residency Violation (OIG Record #16-0461)*

An OIG investigation established that a CDA Steamfitter lives in Sugar Grove, Illinois, in violation of the City's Municipal Code MCC § 2-152-050, requiring its employees to reside in the City. In an interview with OIG, the employee admitted to living in Sugar Grove but claimed that another CDA employee had instructed that employees need only provide a driver's license, voter registration, and a false lease showing a City address. (The other CDA employee denied any such instruction, and the Steamfitter's explanations exhibited clear knowledge of wrongdoing.)

OIG recommended that CDA discharge and refer the employee for placement on the ineligible for rehire list maintained by DHR.

In response, CDA initiated discharge proceedings. The employee resigned in lieu of discharge, and was placed on the ineligible for rehire list.

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*G) Abusive Conduct (OIG Record #16-0413)*

An OIG investigation established that a DWM employee, while conducting a plumbing inspection, threatened to beat to death one of the on-site private plumbing contractors, repeatedly used profanity, and used a racial slur when interacting with the plumbing contractors. The employee also made false statements to OIG investigators regarding the language the employee used during the inspection.

OIG recommended that DWM discharge the employee and refer the employee for placement on the ineligible for rehire list maintained by DHR.

In response, DWM informed OIG that the employee resigned after the department initiated the discharge process. DWM referred the employee for placement on the ineligible for rehire list.

*H) Residency Violation (OIG Record # 16-0144)*

An OIG investigation established that a City Council Staff Assistant lived in Park Forest, Illinois, in violation of the City's Municipal Code MCC § 2-152-050, requiring its employees to reside in the City. In addition to surveillance and extensive documentary evidence of the employee's residency in Park Forest (e.g., mortgage, vehicle registration, and utility bills), during an interview, the employee admitted to living at the Park Forest home with the employee's spouse and children since 2014.

OIG recommended that the employee be discharged and referred to DHR for placement on the ineligible for rehire list.

In response, OIG was informed that the employee had resigned just days before OIG delivered its report. The employee was therefore designated as having resigned under inquiry by DHR.

*(I) Fraudulent MBE Certification Documents (OIG Record #16-0027)*

An OIG investigation established that an engineering firm (the Firm), previously certified by the City of Chicago as a Minority-Owned Business Enterprise (MBE), submitted four fraudulent documents, falsely representing to a prime

contractor bidding on a Cook County construction project that the Firm was still a City-certified MBE. In reliance on those false documents, the prime contractor included the Firm as an MBE-certified subcontractor in its bid. After the prime contractor was awarded the contract, it independently discovered the Firm was not, in fact, certified and removed the Firm from the contract. The Firm's Owner (the Owner), who was also its president, failed to cooperate with OIG's investigation into the false documents.

OIG recommended that the Department of Procurement Services (DPS) initiate permanent debarment proceedings against the Firm and the Owner.

In response, DPS sent a letter to the Firm's Owner informing the Owner and the Firm that OIG had recommended both their debarments. The letter also informed them that they had thirty days to submit written answers to DPS concerning OIG's recommendations, after which DPS would make a decision.

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*(J) Residency Violation (OIG Record if J6-0021)*

An OIG investigation established that a Department of Buildings (DOB) Plumbing Inspector lived in Country Club Hills, Illinois, in violation of the City's Municipal Code MCC § 2-152-050, requiring its employees to reside in the City.

OIG would have recommended that DOB discharge the employee, but the employee resigned prior to the scheduled OIG interview. OIG therefore recommended that DOB issue a formal determination on the violation, refer the employee as having resigned under inquiry, and place OIG's report in the employee's personnel file, in the event the employee reapplies for employment with the City.

In response, DOB agreed to refer the employee to DHR for designation as having resigned under inquiry and place OIG's report in the employee's personnel file.

*(K) Unauthorized Secondary Employment (OIG Record #15-0458)*

An OIG investigation established that a CDA Electrical Mechanic performed unauthorized secondary employment, failed to disclose secondary employment, falsely reported no secondary employment on four Dual Employment forms and a Statement of Financial Interest form, and failed to file annual Dual Employment forms during 8 of the last 11 years. The employee owns and operates a business from which the employee claimed to gross approximately \$100,000 a year. However, even in years that the employee filed Dual Employment forms, the employee checked a box indicating no outside employment and went so far as to write "N/A" over the portion of the form asking about outside employment hours. The employee claimed to have reported the employment to CDA at least once, but a thorough review of the employee's personnel file did not reveal any evidence supporting this statement. These violations were aggravated by the fact that the employee did not fully cooperate with OIG's investigation.

OIG recommended CDA, at its discretion, impose discipline up to and including discharge against the employee.

In response, CDA determined the employee's actions warranted a written warning. CDA reached this determination after the employee informed the Department that the work was performed on rental properties the employee owned, that the forms were confusing, and that CDA did not annually remind its employees to file the forms. OIG notes that at no point during its investigation did the employee claim the outside work performed was on personally owned rental properties. Instead, the employee acknowledged having received significant income from outside employment.

Furthermore, CDA noted that it does not currently follow its own policy requiring that dual employment forms be completed by all employees annually. In order to resolve this issue, CDA stated it will update its policy and send out semi-annual reminders that dual employment forms must be completed and submitted annually.

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*(L) Solicitation of Private Work/Unauthorized Secondary Employment (OIG Record #15-0156)*

An OIG investigation established that a DWM laborer, while on a DWM service call, solicited private plumbing work from a City resident and referred the resident to an unlicensed, private plumbing contractor for whom the employee worked. The employee also arranged for other DWM employees to assist with the private plumbing work at the resident's home, thereby interfering with those employees' performance of their City duties. The employee failed to obtain permission to engage in secondary employment, and made false or deliberately incomplete statements during an interview with OIG. The homeowner from whom the employee solicited private work, and in whose home the employee performed unlicensed plumbing work, was an elderly woman who was, at one point, left without water service for several days.

OIG recommended that DWM impose discipline up to and including discharge against the employee, commensurate with the gravity of the violations, past disciplinary and work history, department standards, and any other relevant considerations.

In response, DWM served the employee with disciplinary charges seeking discharge as soon as the employee returned to work (following several months of duty disability leave). The employee resigned and has been designated as having resigned in lieu of termination and placed on the ineligible for rehire list maintained by DHR.

*(M) Time Falsification (OIG Case #14-0526)*

An OIG investigation established that two Department of Streets and Sanitation (DSS) Motor Truck Pool Drivers falsified attendance records, failed to return to work on time after breaks, and used City tow truck vehicles for unauthorized purposes. A thorough review of GPS records and daily activity sheets revealed that from September 30, 2014, to September 29, 2015, the drivers spent a combined 66 hours and 29 minutes at home, at a relative's house, and running personal errands while on City time, without taking authorized breaks. Furthermore, one of the drivers frequently drove a City tow truck while on City time to shop at an auto parts store for parts to use in unauthorized secondary employment (an auto repair shop run out of the driver's home garage). OIG observed the other driver use a City tow truck to help tow a vehicle to the same home repair garage. On several occasions while the driver was conducting personal business on City time, the driver ignored and failed to complete dispatch assignments. Neither driver reported their activities on daily time sheets; rather, they falsified their time and location on at least 26, and up to 93, days between September 30, 2014, and September 29, 2015, in an attempt to conceal their activities and whereabouts. Overall, the drivers received a combined \$2,304.72 in compensation from the City for the time spent on unauthorized breaks and running personal errands.

OIG recommended that DSS discharge the first driver and refer the driver for placement on the ineligible for rehire list maintained by DHR, and impose discipline commensurate with the gravity of the violations against the second driver.



In response, DSS discharged both employees. Appeals for both discharges are set for hearing before the Human Resources Board (HRB) in October 2017.

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*(N) Improper Referrals/Acceptance of Money (OIG Record ill 4-0339)*

An OIG investigation established that a DSS employee working in the City's Vehicle Impoundment Program accepted money in exchange for referring at least one customer to an individual purporting to help customers retrieve vehicles impounded by the City by filing fraudulent bankruptcy petitions. Filing for bankruptcy protection enabled these individuals to retrieve their vehicles from the City's auto pound lots without paying the fines and fees normally required for release of the vehicle. The employee, later employed by the CDA as a pool motor truck driver, claimed not to know how the individual helped customers retrieve vehicles.

OIG recommended CDA discharge the employee and refer the employee for placement on the ineligible for rehire list maintained by DHR.

In response, CDA agreed with OIG's recommendation. The employee resigned in lieu of discharge and was placed on the ineligible for rehire list.

*(O) Improper Solicitation of Money/False Statements (OIG Record #14-0339)*

An OIG investigation established that a DSS Property Custodian solicited money from a member of the public who was seeking to retrieve an impounded vehicle. The employee also made false statements to OIG regarding the incident, claiming that the interaction was an attempt to flirt with the vehicle owner and get the owner's phone number. However, the vehicle owner - whose partner was present at times during the retrieval process - flatly denied that the employee was flirting and consistently characterized the interaction as a bribe solicitation. In addition, video evidence of the encounter was not suggestive of flirtation.

OIG recommended DSS discharge the employee and refer the employee for placement on the ineligible for rehire list maintained by DHR.

In response, DSS discharged the employee and was placed on the ineligible for rehire list. The employee is appealing the discharge.

*(P) Financial Interest in City Contracts (OIG Record #14-0345)*

An OIG investigation established that a Chicago Fire Department (CFD) Battalion Chief - EMT had a financial interest in an entity doing business with the City, in violation of the City of Chicago Governmental Ethics Ordinance. Specifically, the employee held a financial interest under the name of a spouse who, along with the employee's mother and brothers, was listed in City records as an owner of the entity. The employee claimed not to have an ownership interest in the entity, but had signed mortgage documents and other legal paperwork as an owner of the entity both before and after the entity entered into its contract with the City. In order for a City employee's spouse to have an ownership interest in a City contract, the interest must be the spouse's "independent occupation, business or profession" as required by the City's Municipal Code MCC § 2-156-110(a)(ii). The employee admitted to occasionally helping manage and performing work for the entity, which established that the entity was not the spouse's independent business. The employee also failed to

report the financial interest on four Statements of Financial Interest.

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In addition, OIG determined the employee was not truthful during the OIG interview. The employee claimed not to remember many aspects regarding involvement with the entity, including signing some of the legal documents associated with the entity.

OIG recommended that, pursuant to its authority under MCC § 2-156-465, BOE find there is probable cause to believe that the employee violated the Ethics Ordinance and impose appropriate sanctions.

In response, BOE issued a preliminary finding of probable cause and will set a meeting with the individual as provided under MCC § 2-156-385.

*(Q) Improper Timekeeping, False Statements (OIG Record #14-0335)*

An OIG investigation established that a Chicago Department of Transportation (CDOT) General Foreman failed to consistently swipe out at the end of the work day for over a year and a half and lied about the reason for not swiping out on several edits sheets, as well as in an interview with OIG. OIG's investigation also established that two supervisors, one mid-level and one senior, were aware of the employee's chronic failure to swipe out, but neglected to take any corrective or disciplinary actions.

OIG recommended that CDOT impose discipline up to and including discharge against the employee. OIG also recommended that CDOT discipline both supervisors, commensurate with the gravity of their violations, past disciplinary record, and any other relevant considerations.

In response, CDOT suspended the employee for 10 days, issued the mid-level supervisor a written warning, and declined to discipline the senior-level supervisor. CDOT noted that the senior-level supervisor maintained that he was not aware of the employee's failure to swipe out and also made efforts to address timekeeping problems and violations during his tenure at CDOT. Additionally, CDOT highlighted newly instituted improvements to its timekeeping system and operational adjustments to ensure greater efficiency among its employees.

D. Criminal Cases, Administrative Appeals, Grievances, and Recoveries

Criminal investigations may uncover violations of local, state, or federal criminal laws, and may be prosecuted by the U.S. Attorney's Office, the Illinois Attorney General's Office, or the Cook County State's Attorney's Office, as appropriate. For the purposes of OIG quarterly summaries, criminal cases are considered concluded when the subject(s) of the case is publicly charged by complaint, information, or indictment.<sup>7</sup>

In administrative cases, a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee's classification under the City's Personnel Rules and/or applicable collective bargaining

<sup>7</sup> OIG may issue summary reports of investigation recommending administrative action based on criminal conduct prior to, during, or after criminal prosecution.

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agreements. OIG monitors the results of administrative appeals before the HRB and grievance arbitrations concerning OIG's disciplinary recommendations.

1. Synopses of Criminal Cases

During this quarter, no new criminal charges issued as a result or related to OIG cases.

2. Developments in Prior Charged Criminal Cases

During this quarter, there was significant development in two previously reported criminal cases.

*A) United States v. Timothy Mason and Mariana Gerzanych, 15 CR 102 (USDC ND IL)*

On September 22, 2017, Timothy Mason, owner of green tech startup 350Green LLC, was sentenced to two years in prison and one year supervised release for his role in fraudulently obtaining over \$1.7 million in federal grants. Restitution will be determined on October 12, 2017. Mason pleaded guilty on May 2, 2017, to one count of mail fraud, 18 U.S.C. § 1343. The charge stemmed from an investigation initiated by OIG and conducted jointly with the Federal Bureau of Investigations and the U.S. Attorney for the Northern District of Illinois. In exchange for 350Green co-owner Mariana Gerzanych's cooperation, the U.S. Attorney's Office deferred prosecution of Gerzanych, Mason's co-defendant. As part of her agreement, Gerzanych is required to pay a \$10,000 fine and serve 200 hours of community service.

350Green installed and maintained charging stations for plug-in electric vehicles in Chicago. As part of a 2010 contract with the City, 350Green applied for and received a contract worth \$1.9 million, funded by grants from the Department of Energy. The company made similar arrangements with the Pennsylvania Department of Environmental Protection, the Association of Bay Area Governments, and the Bay Area Air Quality Management District, all totaling \$1 million. In order to obtain the grant funds, Mason falsely claimed that a company called Actium Power had supplied level 3 DC fast chargers to 350Green and that 350Green had paid Actium Power for those chargers. However, Actium Power did not supply the chargers and the actual manufacturer of the chargers was never paid. 350Green also submitted claims to the City of Chicago that falsely represented subcontractors and vendors had been paid.

*B) State of Illinois v. Leon Brown 16-CR-3741 (Cir. Ct. of Cook County, IL)*

On September 6, 2017, following a one-day bench trial in the Circuit Court of Cook County, Leon Brown, a former employee of the City of Chicago, was found guilty on two counts of bribery (720 ILCS 5/33-1 (d)(e)) and four counts of official misconduct (720 ILCS 5/33-3(b)(d)) for soliciting and obtaining a \$100 bribe from a driver while on duty as a Booter for the Department of Finance (DOF). As a result of this incident, DOF discharged Brown in 2016 and placed him on the ineligible for rehire list. Brown is awaiting sentencing.

3. Synopses and Results of Administrative Appeals, Grievances, or Other Actions

To date, OIG has been notified of two updates regarding appeals to HRB or an arbitrator or other actions in the quarter regarding discipline imposed as a result of OIG investigations.

*A) Update of OIG Record #15-0532 (Conflict of Interest/Prohibited Employment Negotiations)*

As reported in the second quarter of 2017, an OIG investigation established that a former high-ranking official with the Department of Family and Support Services (DFSS) violated the City's Ethics Ordinance, MCC § 2-156-111(c), by negotiating future employment with an entity at the same time the entity and its subsidiaries had multiple contracts for grant services and contract modifications pending for approval with the official. The official self-reported the violation to OIG after consulting with the BOE. At the conclusion of the investigation, OIG recommended that BOE, pursuant to its authority under MCC § 2-156-465, establish there was probable cause to conclude the official violated the Ethics Ordinance and impose appropriate sanctions.

On June 13, 2017, BOE issued a preliminary finding of probable cause and on September 8, 2017, entered into a settlement agreement in which the former official agreed to pay a fine of \$1500 to BOE.

*B) Update of OIG Record #11-0214 (Special Service Area Provider Financial Improprieties)*

As reported in the first quarter of 2016, an OIG investigation established that a community organization that manages multiple City of Chicago special service areas (SSAs) repeatedly violated the terms of its service provider agreements by using SSA tax levies as collateral and commingling SSA tax funds with funds from other sources in its SSA deposit accounts. In addition, the organization made several hundred thousand dollars of unauthorized payments from its SSA deposit accounts to its lines of credit. These payments were not reflected in the budgets the organization submitted to the City. Accordingly, OIG recommended that the DPS initiate debarment proceedings against the organization and its president.

In August 2017, DPS entered into a settlement agreement with the organization, in which the organization agreed to submit to independent third-party integrity monitoring at the organization's expense, to, among other tasks, ensure that the organization is complying with its service provider agreements and conducting debt management, budgeting, and accounting in accordance with generally accepted accounting practices and principles. The monitor is also responsible for ensuring that the documents the organization submits to the City are accurate and complete. The monitoring period is to last 24 months after the monitor's first report. The organization also agreed, among other terms, to submit an ethics and compliance plan to the City's Chief Procurement Officer within 21 days of the signing of the agreement.

4. Recoveries

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

E. Audits and Reviews

In addition to confidential disciplinary investigations, OIG produces a variety of public reports including independent and objective analyses and evaluations of City programs and operations with recommendations to strengthen and improve the delivery of City services. These

engagements focus on the integrity, accountability, economy, efficiency, and effectiveness of each subject.

The following summarizes an audit and three follow-up inquiries released this quarter.

A) Chicago Department of Public Health Food Establishment Inspection Follow-up Inquiry (#17-0304/)  
OIG completed a follow-up to its November 2016 audit of the frequency of food establishment inspections conducted by the Chicago Department of Public Health (CDPH). The original audit found that CDPH performed the required number of routine food inspections of only 43.9% of High-Risk, 80.1% of Medium-Risk, and 24.8% of Low-Risk establishments.

Based on CDPH's follow-up response, OIG concluded that the Department has begun implementing corrective actions within its control which, once fully implemented, may be expected to resolve a substantial portion of the core findings noted in the audit. Full implementation will require the cooperation and collaboration of Illinois Department of Public Health (IDPH), a state agency beyond CDPH's control. IDPH has signaled an intention to consider and review regulatory issues raised by OIG's audit findings and recommendations.

In addition, CDPH stated that it was working with the Chicago Office of Budget (OBM) to hire 20 additional sanitarians and 3 supervisors. According to CDPH, this personnel increase will allow the Department to comply with the state's required inspection frequency.

B) *Department of Human Resources and Office of Budget and Management Hiring Timeliness Audit Follow-Up Inquiry (#17-0224/)*

OIG completed a follow-up to its December 2015 audit of the City's hiring process. The purpose of the 2015 audit was to determine if the City filled vacant positions in a timely manner. The original audit found that the City took an average of nearly six months to fill vacant positions.

In response to the audit, OBM and DHR described a number of corrective actions they would take regarding the development, tracking, and analysis of performance goals. They disagreed with the other findings and recommendations, however, and declined to take corrective actions.

Based on DHR's and OBM's follow-up response, OIG concluded that the City has begun implementation of corrective actions related specifically to performance measures. Once fully implemented, OIG believes these actions may reasonably be expected to provide the tracking tools necessary to identify and address hiring delays. As a substantive matter and in light of the turnover in leadership in OBM, we strongly urge OBM and DHR to re-examine OIG's remaining recommendations and consider corrective action to fully address the findings in our original

<sup>8</sup> Published August 9, 2017. See <<http://chicagoinspectorgeneral.org/publications-and-press/follow-up-of-cdph-food-establishment-inspection-audit/>>.

<sup>9</sup> Published July 6, 2017. See <<http://chicagoinspectorgeneral.org/publications-and-press/follow-up-of-city-hiring-timeliness-audit/>>.

audit which highlight practices that in many situations may impair the capacity of departments and functions across the City to operate and meet legal and program responsibilities effectively.

C) *City of Chicago Language Access Ordinance Compliance Audit (#17-0058)<sup>10</sup>*

OIG conducted an audit to determine whether the City is in compliance with the Language Access Ordinance, Municipal Code of Chicago Chapter 2-40 (Ordinance), which requires City departments to create and implement plans to provide persons with limited English proficiency meaningful access to vital documents and services. The Mayor's Office of New Americans (ONA) assists departments in their efforts to comply with the Ordinance. OIG determined that the City was not in compliance with the requirements of the Ordinance, in part because ONA had focused its compliance efforts on only seven departments, and also because the compliance efforts of these departments were lacking essential features stipulated by the Ordinance.

OIG recommended that the City take steps to clarify the applicability of the Ordinance to City departments and inform and provide guidance to them, define the enforcement role of ONA or another designated agency, and evaluate and publicly report on departmental performance per the Ordinance. The City agreed with OIG's findings and resolved to begin holding quarterly meetings with the departments that have begun implementation, as well as expand the requirements of the Ordinance to a second tier of departments.

*D) Opportunities for Civilianization in the Chicago Fire Department Follow-Up Inquiry (#17-0042)"*

OIG completed a follow-up to its January 2016 audit of opportunities for civilianization in CFD. The original audit found that 35 positions being held by uniformed CFD members did not require firefighter or paramedic training and experience, and could instead be staffed by civilians or eliminated. The audit also found that CFD had provided 13 accommodations under the Americans with Disabilities Act (ADA) informally or without proper approval.

Based on CFD's follow-up response, OIG concluded that the Department has partially implemented the recommended corrective actions to address the original audit's first finding regarding civilianization, and has fully implemented the recommended corrective action to address the second finding with regards to required approvals of ADA accommodations. The follow-up revealed that OIG had recognized two members overlapping in the same position for several weeks as two distinct positions, while CFD had considered this only one position. CFD did not note the discrepancy at the time of the original audit; OIG therefore had to reissue the original audit with the revised figure of 34 positions identified for civilianization, rather than 35.

As of July 13, 2017, seven positions have been civilianized, three more have been approved as civilian positions once they are vacated by their incumbent members, and six more are awaiting approval to be civilianized by the OBM. A further 15 positions had been considered for

<sup>10</sup> Published September 20, 2017. See <<http://chicoinspectoiteneral.org/publications-and-press/lanmiat;e-access->ordinancc-compliance-audit/>>.

<sup>11</sup> Published July 13, 2017. See <<http://chicanoinsectorueneral.org/publications-and-press/follow-iip-of-the->opportunitics-f'oi-civiliaiii?.atioti-at-the-chicago-fire-department-audit/>>.

civilianization, but CFD has relinquished this idea after anticipating legal challenges from Chicago Fire Fighters Union Local No. 2. CFD has ceased the practice of making informal ADA accommodations, and has made all accommodations since January 2016 through the DHR in accordance with City policy.

F. Advisories and Department Notification Letters

Advisories and department notification letters describe management problems observed by OIG in the course of other

activities including audits and investigations. These are problems that OIG believes it should apprise the City of in an official manner. OIG issued two notifications this quarter.

*(A) Notification Regarding Abuse of FMLA Leave by OEMC Employees (OIG Record HI6-0451)*

An OIG investigation identified patterns suggestive of potential abuse of intermittent leave under the Family Medical Leave Act (FMLA) by employees at the Office of Emergency Management and Communications (OEMC). OIG found that 49% of all OEMC Police Communication Operators (PCOs) have been designated as eligible to take intermittent FMLA leave, with that number increasing steadily over the last several years. In studying a sample of designated PCOs, OIG found that several employees had patterns of FMLA leave which raised the specter of abuse, including the frequent use of FMLA leave on Fridays and Saturdays, and the use of FMLA leave at or around a major holiday or sporting event.

OIG's review of OEMC's employee medical files revealed that a number of the files were incomplete and did not contain all appropriate FMLA documentation. OIG also learned that OEMC does not request second medical opinions, as permitted under certain circumstances by FMLA. Further, OIG's investigation suggested that the nature of OEMC's vacation scheduling procedures, under which PCOs must schedule vacation for an entire calendar year in advance, may contribute to intermittent FMLA abuse. As a consequence, employees may not be able to schedule time off when an unexpected need arises and may be tempted to use FMLA time as a stop-gap measure.

OIG recommended that OEMC take steps to curb the possible abuse of FMLA time by PCOs. Specifically, OIG recommended that OEMC encourage front line supervisors, as appropriate and permissible, to elevate concerns about potential abuse through their chain of command and document any concerns raised this way. OIG further recommended that the DHR provide training to front line supervisors on what they are obligated and permitted to do under FMLA. OIG also recommended that OEMC work with DHR and the DOL consider the following:

- Reviewing the files- of employees designated for intermittent FMLA use for the completeness and timeliness of documentation. Seeking recertification where legally appropriate.
- Requiring second medical opinions as allowed by law.
- Reviewing the system by which PCOs schedule vacation time, working in collaboration with union representatives.

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In response, OEMC established a more rigorous review process for FMLA leave requests, planned to require second opinions as necessary and lawful, and committed to continuing to review its vacation scheduling system to determine whether adjustments can be made, in accordance with applicable collective bargaining agreements, to allow employees more flexibility. OEMC stated it will also task supervisors with additional duties in the monitoring and management of problematic absenteeism or tardiness. DHR responded that it will continue to train department liaisons on FMLA policies, and plans to hire an administrator who will audit FMLA leave requests and serve as a resource to all departments.

*(B) Notification Regarding Inclusion of Products Subject to Exclusive Distributorships in Competitive Procurements (OIG Record #16-0262)*

An OIG investigation identified a concern regarding the inclusion of materials subject to an exclusive distributor agreement as one of many line items in a competitive bid specification. A bid specification issued by the DPS included, among other line items for parts and labor, a line item seeking unspecified replacement mechanical parts from a named

manufacturer's catalog. The sole bidder and ultimate recipient of the City contract was a company with a prior agreement to serve as the manufacturer's exclusive distributor in the city of Chicago. The inclusion of items subject to an exclusive distributorship on a bid specification limits the ability of other vendors to bid on the contract as a whole and suppresses competitive bidding on the other non-exclusive items and labor.

OIG recommended DPS review its procedures and requirements to better identify those items subject to exclusive distributorships before the bidding process; determine whether the items from a named manufacturer are in fact necessary; and if so, determine whether the items should be procured as a sole or single source contract through the City's Non-Competitive Review Board (NCRB).

In response, DPS agreed that specifications should not be unnecessarily restrictive and reported that it had developed a policy regarding products subject to exclusive distributorships. The policy, distributed to all DPS staff and user department contract liaisons, instructs user departments to avoid unnecessarily restrictive specifications. The policy further instructs user departments to carefully assess their needs for particular materials that are subject to an exclusive distributor agreement and/or goods available only from the manufacturer and consider possible alternative procurement approaches, including a request for a sole source procurement to the NCRB. Should a department determine such materials are necessary, the department head is required to provide a memo stating the need for the materials and detailing its consideration of alternative source selection methods.

## **G. Other Reports and Activities**

As an expert in government oversight and as part of its mission to promote economy, effectiveness, efficiency, and integrity, OIG may periodically participate in additional activities and inquiries in the service of improving accountability in City government. This section is reserved in order to describe such activities as they occur.

### *(A) 2018 Draft APR Audit Plan*

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This quarter, OIG published a draft of the 2018 Annual Plan for its Audit and Program Review Section. The Audit Plan includes information on audits that OIG is currently considering for 2018, follow-up audits that are likely to occur in 2018, ongoing projects, and audits completed year to date. OIG is soliciting comments from City Council, City Hall, and the public for a period of 45 days from the date of publication, or until November 13th. OIG will consider all comments in finalizing its 2018 Audit Plan. The 2018 Audit Plan will set forth intended subjects for audit but will not provide an order of priority. Work contemplated by the Audit Plan will remain fluid with audits added and adjusted according to a variety of factors such as new events and information as well as resources available. The 2018 Draft Audit Plan is available at <http://bit.ly/2018AuditPlan>. We encourage you to review and comment on the Plan by emailing us at [OIGNoticeandComment@ChicagoInspectorGeneral.org](mailto:OIGNoticeandComment@ChicagoInspectorGeneral.org) <<mailto:OIGNoticeandComment@ChicagoInspectorGeneral.org>>.

## **H. Hiring Oversight**

Under Chapter XII of the City of Chicago General Hiring Plan, Chapter XI of CPD Hiring Plan, and Chapter IX of the CFD Hiring Plan, OIG is required to review and audit various components of the hiring process and report on them quarterly. The City's Hiring Plans require both reviews and compliance audits. The Hiring Plans define reviews as a "check of all relevant documentation and data concerning a matter," and audits as a "check of a random sample or risk-



based sample of the documentation and data concerning a hiring element."

## 1. Hiring Process Reviews

### A) *Contacts by Hiring Departments*

OIG tracks all reported or discovered instances where hiring departments contacted DHR or CPD Human Resources (CPD-HR) 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. During the third quarter of 2017, OIG did not receive any reports of direct contacts.

### B) *Political Contacts*

OIG tracks all reported or discovered instances where elected or appointed officials of any political party or any agent acting on behalf of an elected or appointed official, political party, or political organization contact the City attempting to affect any hiring for any Covered Position or Other Employment Actions.

<sup>12</sup> On June 24, 2011, the City of Chicago filed the 2011 City of Chicago Hiring Plan (General Hiring Plan). The General Hiring Plan, which was agreed to by the parties and approved by the Court on June 29, 2011, replaced the 2007 City of Chicago Hiring Plan, which was previously in effect. This Hiring Plan was refiled, though not amended, on May 15, 2014. The City of Chicago also filed an amended Chicago Police Department Hiring Plan for Sworn Titles (CPD Hiring Plan) and an amended Chicago Fire Department Hiring Plan for Uniformed Positions (CKD Hiring Plan) on May 15, 2014, which were approved by the Court on June 16, 2014. Collectively, the General Hiring Plan, the CPD Hiring Plan, and the CKD Hiring Plan will be referred to as the "City's Hiring Plans."

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Additionally, City employees often report contacts by elected or appointed officials that may be categorized as inquiries on behalf of their constituents but not an attempt to affect any hiring decisions for any Covered Position or Other Employment Actions.

During the third quarter of 2017, OIG received notice of one political contact:

- A Cook County Circuit Court judge contacted the Department of Law to provide a letter of recommendation on behalf of a candidate for the position of Deputy Corporation Counsel.

### C) *Exemptions*

OIG tracks all reported or discovered Shakman Exempt appointments and modifications to the Exempt List on an ongoing basis from DHR. OIG received notification of 56 exempt appointments in the third quarter.

### D) *Senior Manager Hires*

OIG reviews hires pursuant to Chapter VI covering the Senior Manager Hiring Process. Of the 56 hire packets OIG reviewed in the third quarter, 17 pertained to Senior Manager positions, 1 of which contained an error. The error involved missing or incomplete documentation, which DHR ensured was completed after being informed of the error by OIG.

Due to the nature of the error and the corrective action taken, OIG had no further recommendations.

### *E) Written Rationale*

When no consensus selection is reached during a Consensus Meeting, a Written Rationale must be provided to OIG for review.

During the third quarter of 2017, OIG did not receive any Written Rationales for review.

### *F) Emergency Appointments*

OIG reviews circumstances and written justifications for emergency hires made pursuant to the Personnel Rules and the City's Municipal Code MCC § 2-74-050(8).

The City reported no emergency appointments during the third quarter of 2017.

### *G) Review of Contracting Activity*

OIG is required to review City departments' compliance with the City's "Contractor Policy" (Exhibit C to the City's Hiring Plan). Per the Contractor Policy, OIG may choose to review any solicitation documents, draft agreements or final contract or agreement terms to assess whether they are in compliance with the Policy. This review includes analyzing the contract for common

<sup>13</sup> A "Consensus Meeting" is a discussion that is led by the DHR Recruiter 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.

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law employee risks and ensuring the inclusion of the Shakman boilerplate language. In addition to contracts, pursuant to Chapter X of the Hiring Plan, OIG must receive notification of the procedures for using volunteer workers at least 30 days prior to implementation.

Under the revised Contractor Policy<sup>14</sup>, departments are no longer required to notify OIG of all contracts or solicitation agreements or task orders. However, all contract and solicitation agreements that OIG receives notice of will be reviewed. In addition, OIG will request and review a risk based sample of contract documents from departments. During the third quarter, OIG reviewed 37 Task Order Requests. OIG reviewed eight contracts or agreements. Additionally, OIG received three notifications for the use of volunteer workers and one notice for the use of a student intern. The chart below details contracts OIG received notice of in the third quarter of 2017.

**Table #7 - Contract and Volunteer Opportunity Notifications**

<b>Contracting Department</b>	<b>Contractor, Agency, Program, or Other Organization</b>	<b>Duration of Contract/ Agreement</b>
Family and Support Services	M3 Medical Management Services	6 months
Mayor's Office	Personal Service Contractor	12 months
Public Health	M3 Medical Management Services	3 months
Public Health	M3 Medical Management Services	3 months

Public Health	Professional Dynamic Network, Inc.	4 weeks
Public Health	Professional Dynamic Network, Inc.	10 months
Public Health	Locum Tenens	8 months
Transportation	Professional Dynamic Network, Inc.	6 months

## 2. Hiring Process Audits

### *(A) Modifications to Class Specifications,<sup>15</sup> Minimum Qualifications, and Screening and Hiring Criteria*

OIG reviews modifications to Class Specifications, minimum qualifications, and screening/hiring criteria. In the third quarter, OIG received notifications that DHR changed the minimum qualifications for nine titles within the following departments: Water Management, Public Health, Aviation, and Planning and Development. OIG reviewed all notices of a change to minimum qualifications and had no objections to the proposed changes. In one instance, OIG had a questions about the generic language used to describe the scale of previous required work experience. In response, the department modified the generic language to a more specific, measurable standard. OIG had no further objections to the change.

<sup>1,1</sup> Revised June 7,2017.

<sup>15</sup> "Class Specifications" are descriptions of the duties and responsibilities of a Class of Positions that distinguish one Class from another. They are, in effect, the general descriptions utilized to determine the proper level to which a Position should be assigned, and they include the general job duties and minimum qualifications of the Position. Class Specifications shall include sufficient detail so as to accurately reflect the job duties.

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#### *B) Referral Lists*

OIG audits lists of Applicants/Bidders who meet the predetermined minimum qualifications generated by DHR for City positions. Each quarter, OIG examines a sample of referral lists and notifies DHR when potential issues are identified. OIG recognizes that aspects of candidate assessment are subjective and that there can be differences of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "error" is limited to cases where, based on the information provided, OIG found that,

- a candidate who did not quantitatively meet the minimum qualifications was referred for hiring;
- a candidate who failed to provide all of the required information and/or documents listed on the job posting was referred for hiring; or
- a candidate who quantitatively met the minimum qualifications was not referred for hiring.

In the third quarter, OIG audited three referral lists, none of which contained errors.

#### *C) Testing*

The Hiring Plan requires OIG conduct an audit of DHR test administrations and scoring each quarter. In the third quarter, OIG audited testing administration materials<sup>16</sup> for 21 completed test administrations<sup>17</sup> covering 12 City departments completed during the second quarter of 2017.

OIG found one scoring error which effected the selection of a candidate. OIG also identified an irregularity in the

administration of vendor-created, computer-based exams. Finally, prior to the audit, DHR self-reported an error that effected the administration of a test. The individual issues and DHR's response to each are detailed below.

i. Streets and Sanitation - Property Custodian

OIG's audit revealed one instance in which a candidate was given credit for an incorrect answer. This finding was confirmed by DHR staff, who acknowledged that this candidate's answer should have been marked as incorrect. DHR further informed OIG that as a result of this error and the resulting change to the test score, the candidate should have failed the test. Due to this

' "Testing administration materials" include (1) the test booklet (or booklets, if multiple versions of the test were administered); (2) the sign in/sign out sheets; (3) the answer key; (4) the final cut score(s)-the threshold score for passing the exam-and any documentation regarding the change of a cut score(s); (5) the individual test scores for each candidate for each test that was administered; (6) the finalized test results sent to the DHR Recruiter; (7) the answer sheets completed by the candidates; (8) the rating sheets completed by the interviewers as part of the Foreman Promotional Process; (9) any additional emails or notes identifying issues surrounding the test administration or scoring (e.g., documentation identifying the individual test score changes for tests that are rescored, memos to file regarding non-scheduled candidates being allowed to test, etc.); and (10) the Referral List. 17

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

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error, however, the candidate was marked as receiving a passing score and was subsequently offered and accepted this position.

DHR discussed the matter with the Labor Relations Division of the Department of Law to determine the appropriate next steps regarding the candidate's continued employment with the City. In their response to the audit, DHR confirmed the error, and stated, "That the candidate impacted by the scoring error was hired by DSS as a Property Custodian. No further action has been deemed necessary." DHR Senior Management indicated that DHR did not believe that informing the candidate of the testing issue, or removing the candidate from the position was an appropriate remedy. As a result, the candidate with a failing test score remains employed.

In response to this incident, DHR began implementing a new policy designed to improve the test-score verification process. Under the new policy a second member from the testing team will review the file to ensure tests were accurately scored before reporting the score to the Department. DHR also met with DSS to discuss the appropriateness of the erroneously scored question as well as problems with the test identified by past OIG audits. DHR worked with the department to make the test questions clearer for future test candidates and to eliminate confusion around the scoring key.

ii. Finance - Field Supervisor

During its review of two vendor-created, computer-based exams, OIG noticed a recurring issue where the candidate's identification code (which consists of a candidate's first initial and last name, e.g. JDoc), did not match the name printed on the candidate's answer sheet. This issue was especially prevalent in the test for the Department of Finance's Field Supervisor position. Due to this irregularity, OIG was not able to verify that candidates were receiving the correct score on the test.

In response, DHR informed OIG that the issue was due to a "sorting error." Apparently, names and identification codes are manually entered into an Excel sheet by DHR staff and the sheet is then uploaded into the computer-based testing platform. In this case, when the Excel spreadsheet was uploaded into the testing platform, there was a misalignment between the rows containing candidate names and the rows containing the corresponding identification codes. This issue was noticed by the candidates during the administration of the test.

In order to reduce the chance of this issue occurring again, a second DHR testing staff member will now review the Excel sheet for accuracy prior to uploading it into the testing platform. In addition, during test administrations, candidates will no longer select their own names on the testing platform, instead a DHR Testing Administrator will check candidate identification, and log them into the testing platform. Finally, OIG will focus on monitoring upcoming computer-based tests in order to confirm that DHR is following these new procedures and will include these exams in upcoming audits to determine if the protocol is effective.

### iii. Transportation - Field Service Specialist II

On June 29, 2017, OIG received an email from DHR's Testing Manager self-reporting an error in the administration of the CDOT test for Field Service Specialist II (FSS II). DHR was tasked with creating a test for the position of FSS II. Unbeknownst to DHR, CDOT has two categories

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of FSS II - Sign Shop and Infrastructure. The core duties of these positions are the same, but the distinctions between the two are significant enough that different subject matter must be tested to determine a candidate's qualifications.

In April 2017, DHR had developed and administered a test for FSS II - Sign Shop. In May 2017 this test was then administered to candidates for FSS II - Infrastructure. At that time DHR was still unaware that the two positions required different tests in order for the candidates' competency to be accurately measured.

Apparently, the distinction between Sign Shop and Infrastructure positions was not indicated on any of the materials provided to DHR and was never mentioned during discussions with the designated subject matter experts. Once the issue was discovered, DHR halted the scoring of the incorrectly administered tests and worked with CDOT to contact and arrange for the Infrastructure candidates to be re-tested on June 30, 2017.

While DHR discovered, remedied, and self-reported this error prior to OIG's audit, OIG recommended that DHR Testing take the additional step of conferring with a department subject matter expert before administering any test to confirm that the test answers are still accurate and that the questions are relevant to the specific position. OIG is awaiting DHR's response to this recommendation.

### *(D) Selected Hiring Sequences*

Each quarter, the Hiring Plan requires OIG to audit at least 10% of in-process hiring sequences and at least 5% of completed hiring sequences conducted by the following departments or their successors: DSS, DWM, CDA, CDOT, DOB, Fleet and Facility Management, and six other City departments selected at the discretion of OIG.

Auditing the hiring sequence requires an examination of the hire packets, which include all documents and notes maintained by City employees involved in the selection and hiring process for a particular position. As required by the Hiring Plan, OIG examines some hire packets during the hiring process and examines other packets after the hires are completed.

In the third quarter of 2017, OIG completed an audit of hire packets for 39 hiring sequences completed during the second quarter. OIG selected these hiring sequences based on risk factors such as past errors, complaints, and historical issues with particular positions. These hiring sequences involved 17 departments. Of the 39 hire packets audited, four errors were identified affecting four hiring sequences. These errors involved missing hiring documentation. In each sequence, OIG provided the findings to DHR. DHR took steps to correct three of errors by obtaining completed forms. The documents were submitted by the hiring departments and placed with the corresponding hire packet. DHR did not provide the required documentation for one of the errors. Additionally, OIG was unable to review two requested packets, because the files were unavailable.

In response to the audit, DHR communicated the errors to the appropriate Recruiters. DHR also agreed to modify the audit process to ensure each of the packets OIG requests is provided at the time of the audit.

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E) *Hiring Certifications*

OIG audits the City's compliance with Chapter XII.C.5 of the General Hiring Plan. A Hiring Certification is a form completed by the selected candidate(s) and all City employees involved in the hiring process to attest that no political reasons or factors or other improper considerations were taken into account during the applicable process.

OIG reviewed 56 hire packets in the third quarter. In those packets, there were three errors related to Hiring Certifications. All three errors involved participants in the hiring sequence failing to initial or sign the Master Hiring Certification. OIG provided these findings to DHR, which took steps to correct the Hire Certifications and complete the hire packets. No further action was required.

F) *Selected CPD Assignment Sequences*

Pursuant to Chapter XII of the CPD Hiring Plan for Sworn Titles, OIG has the authority to audit Other Employment Actions, including district or unit assignments, as it deems necessary to ensure compliance with this Hiring Plan. Generally, OIG audits assignments not covered by a collective bargaining unit and located within a District or Unit.

Assignment packets include all documents and notes maintained by employees involved in the selection processes outlined in Appendix D & E of the CPD Hiring Plan. Quarterly OIG selects a risk-based sample of assignment packets for completed process review after selections have been made and the candidate has begun their assignment.

In the third quarter of 2017, OIG completed an audit of seven assignment sequences from the second quarter. OIG did not find any errors, however, OIG provided recommendations regarding providing the specific reason(s) for applicant disqualification during the screening process. Specifically, OIG recommended that CPD-HR ensure that all units/districts provide the reason(s) for disqualifying an applicant on the applicant spreadsheet in the assignment packet when screening candidates for further consideration. CPD-HR agreed with our recommendation.

G) *Selected CFD Assignment Sequences*

Pursuant to Chapter X of the CFD Hiring Plan for Uniformed Positions, OIG has the authority to audit Other Employment Actions, including assignments, "as it deems necessary to ensure compliance with [the] CFD Hiring Plan." Assignment packets include all documents utilized in a specialized unit assignment sequence, including, but not limited to, all forms, certifications, licenses, and notes maintained by individuals involved in the selection process. OIG selects a

risk-based sample of assignment packets for completed process review after CFD issues unit transfer orders and candidates have begun their new assignments.

CFD did not process any specialized unit assignments in the third quarter of 2017.

*(H) Monitoring Hiring Sequences*

In addition to auditing hire packets, OIG monitors hiring sequences as they progress by attending and observing intake meetings, interviews, tests, and consensus meetings. The primary goal of

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monitoring hiring sequences is to identify any gaps in internal controls. However, real-time monitoring also allows OIG to detect and seek to address compliance anomalies as they occur.

OIG identifies the hiring sequences to be monitored based on risk factors such as past errors, complaints, and historical issues with particular positions. During the third quarter, OIG monitored five intake meetings, two tests, eleven sets of interviews, and six consensus meetings. The table below shows the breakdown of monitoring activity by department.<sup>18</sup>

**Table #8 - Third Quarter 2017 OIG Monitoring Activities**

Department	Intake Meetings Monitored	Tests Monitored	Interview Sets Monitored	Consensus Meeting Monitored
Fleet and Facilities Management		1		
Aviation			2	2
City Clerk		1		
Civilian Office of Police Accountability			1	
Police Department			3	1
Public Library	3		1	
Cultural Affairs and Special Events			1	
Finance			1	
Human Resources	2			1
Streets and Sanitation			1	1
Water Management			1	1
<b>Totals</b>	<b>5</b>	<b>2</b>	<b>11</b>	<b>6</b>

*(H) Acting Up<sup>18</sup>*

OIG audits the City's compliance with Chapter XI of the General Hiring Plan and the Acting Up Policy. In the third quarter of 2017, OIG completed follow up audits of Acting Up activity of the following departments: Buildings, Public Health, and Public Libraries. OIG had previously reviewed Acting Up by salaried employees at these departments. Those reviews raised concerns with the method used to report and track Acting Up activity. OIG met with representatives from Finance who explained that the City's payroll systems were designed to track Acting Up activity by hourly employees and that tracking Acting Up by salaried employees involved additional steps by

department timekeepers. OIG's follow up audits confirmed that Buildings, Public Health, and Public Libraries were properly coding all Acting Up activity by salaried employees and were in full compliance with the Acting Up policy.

<sup>18</sup> If a department is not included in this table, OIG did not monitor any elements of that department's hiring sequence(s).

<sup>19</sup> "Acting Up" means an employee is directed or is held accountable to perform, and does perform, substantially all of the responsibilities of a higher position.

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OTG received notice of 15 DHR-approved waiver requests to the City's 90-Day Acting Up limit in the third quarter of 2017. The following chart details these waivers.

Table #9 - Acting Up Waivers

Department	Acting Position	Number of Employees	Date of Response	Expiration of Waiver
Public Health	Administrative Assistant III	1	7/5/2017	5/24/2017
Public Health	Supervising CDC1 Investigator	1	7/15/2017	5/15/2017
Public Libraries	Librarian IV	1	7/21/2017	9/30/2017
Fleet and Facilities Management	Garage Attendant in Charge		7/17/2017	12/31/2017
Fleet and Facilities Management	Garage Attendant in Charge	!	9/21/2017	12/31/2017
Water Management	Chief Operating Engineer	1	7/5/2017	8/31/2017
Water Management	Assistant Chief Operating Engineer	!	7/5/2017	8/31/2017
Water Management	Foreman of Machinists	1	7/7/2017	7/31/2017
Water Management	Chief Mason Inspector	1	7/7/2017	8/31/2017
Transportation	Foreman of Construction Laborers	!	7/6/2017	8/31/2017
Transportation	General Foreman of B/S Ironworkers	!	7/7/2017	8/31/2017
Transportation	Foreman of B/S Ironworkers	1	7/11/2017	8/31/2017
Transportation	Foreman of Architectural Ironworkers	!	7/21/2017	9/15/2017
Transportation	Asphalt Foreman	1	7/21/2017	9/30/2017
Transportation	Foreman of Cement Finishers	12	8/4/2017	End of 2017 construction season

*(I) Arbitrations and Potential Resolution of Grievances by Settlement*

Chapter XII.C.7 of the City's Hiring Plan requires the Hiring Oversight section of OIG to audit grievance settlement decisions that may impact procedures governed by the Hiring Plan.

OIG did not receive any notices of settlement agreements from DHR during the third quarter of 2017. On September 7, 2017, OIG attended a selection meeting for AFSCME represented



Pursuant to the Acting Up Policy, no employee may serve in an Acting Up assignment in excess of 90 days in any calendar year unless the department receives prior written approval from DHR. The department must submit a Waiver Request in writing signed by the Department Head at least 10 days prior to the employee reaching the 90-day limitation. If the department exceeds 90 days of Acting Up without receiving a granted Waiver Request from DHR, the department is in violation of the Policy.

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employees in IPRA and DFSS impacted by a Reduction in Force, effective September 15, 2017.<sup>21</sup>

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

#### **A) Escalations**

Recruiters and Analysts in DHR and CPD-HR must escalate concerns regarding improper hiring by notifying OIG. In response to these notifications, OIG may take one or more of the following actions: investigate the matter, conduct a review of the hiring sequence, refer the matter to the DHR Commissioner or appropriate department head for resolution, or refer the matter to the OIG Investigations Section.

OIG received notice of one escalation from DHR in the third quarter of 2017. This escalation is still pending and the details will be included in the fourth quarter report.

#### **B) Case Summary**

On August 14, 2017, OIG provided DHR with the findings of an investigation related to the application of a hiring preference. The candidate for a position as a firefighter/EMT alleged that DHR did not properly apply a referral list preference for graduates of the Chicago Police and Fire Training Academy (CPFTA) to his application. He further alleged that DHR's process for administering the CPFTA preference was causing other CPFTA graduates to be improperly denied placement on the referral list.

OIG confirmed that candidate was improperly denied the benefit of the CPFTA preference. Fortunately, DHR had taken proactive steps to correct this error and ensure that the candidate was processed for hire. In order to prevent this error from occurring again, OIG recommended that DHR make certain adjustments to its administration of the preference to ensure greater accuracy. DHR agreed that the process used to grant CPFTA preferences needed to be updated. Moving forward, DHR will require that candidates indicate their participation in and completion of the CPFTA program by answering a screening question as part of the on-line application for any CFD entry-level position. Further, candidates who stated they completed the program will be required to include proof of graduation from the CPFTA program at the time of application and prior to DHR's creation of the referral list - just as DHR does for other hiring preferences. OIG had no further concerns.

#### **C) Processing of Complaints**

OIG receives complaints regarding the hiring process, including allegations of unlawful political discrimination and retaliation and other improper considerations in connection with City employment. All complaints received by OIG are reviewed as part of OIG's complaint-intake process. Hiring-related complaints may be resolved in several ways depending upon the nature of the complaint. If there is an allegation of a Hiring Plan violation or breach of a policy or procedure related to hiring, OIG may open a case into the matter to determine if such a violation or breach occurred. If a violation or breach is sustained, OIG may make corrective

A selection meeting involves department representatives responding to questions regarding available bid vacancies from the employees who are being impacted by an impending layoff.

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recommendations to the appropriate department or may undertake further investigation. If, after sufficient inquiry, no violation or breach is found, OIG will close the case as not sustained. If, in the course of inquiry, OIG identifies a non-hiring-related process or program that could benefit from a more comprehensive audit, OIG may consider a formal audit or program review.

OIG received three complaints related to the City's hiring practices in the third quarter. The chart below summarizes the disposition of these complaints as well as the complaints and cases from the previous quarter that were not closed when OIG issued its last report.

**Table #10 - Disposition of Hiring Oversight Complaints Received in the Third Quarter of 2017**

<b>Status</b>	<b>Number of Complaints and/or Cases</b>
Cases Pending at the End of Quarter 2, 2017	13
Complaints Received in Quarter 3, 2017	3
Complaints Declined without Inquiry in Quarter 3, 2017	0
Complaints Pending at the End of Quarter 3, 2017	0
Cases Referred by OIG Investigations in Quarter 3, 2017	0
Total Cases Closed in Quarter 3, 2017	2
Closed by Referral to OIG Investigations	0
Closed by Referral to DHR/Department	0
Closed with Recommendations to the Hiring Department and/or DHR	1
Cases Pending with OIG Hiring Oversight as of September 30, 2017	14

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