

OFFICE OF THE INSPECTOR GENERAL
City of Chicago



REPORT OF THE INSPECTOR GENERAL'S OFFICE:

QUARTERLY REPORT OF THE INSPECTOR GENERAL'S OFFICE

THIRD QUARTER

OCTOBER 2010

866-IG-TIPLINE (866-448-4754)

www.chicagoinspectorgeneral.org



Joseph M. Ferguson
Inspector General

OFFICE OF THE INSPECTOR GENERAL *City of Chicago*

180 N. Michigan Avenue, Suite 2000
Chicago, Illinois 60601
Telephone: (773) 478-7799
Fax: (773) 478-3949

October 15, 2010

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

Enclosed for your review is the public report on the operations of the Office of Inspector General (IGO) during the third quarter of 2010, filed with the City Council pursuant to Section 2-156-120 of the Municipal Code of Chicago.

In order to keep you apprised of IGO activities and operations, the enclosed report once again includes summaries of sustained IGO investigations, policy recommendations, and hiring compliance efforts.

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

The IGO continues to expand the scope of its quarterly reports in the hopes of increasing public understanding of the work we do, as well as transparency into the IGO's internal operations. This quarter's report includes a detailed summary of third quarter activities of the newly transferred Hiring Oversight Section, which is charged with monitoring the City's progress in achieving *Shakman* compliance. It also specifies a number of policy and program recommendations advanced during the quarter, including those implemented by the City as well as those for which response or action remains pending. We encourage City officials and the broader community to contact the IGO with feedback in order to help us continue to improve this report.

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

Uncovering waste, fraud, abuse, and inefficiency of City resources remain paramount. This document is meant to promote the shared goal of providing the public with a clearer, more informed understanding of City government.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Ferguson', is positioned above the printed name.

Joseph M. Ferguson
Inspector General
City of Chicago

TABLE OF CONTENTS

A. MISSION OF THE INSPECTOR GENERAL’S OFFICE.....	2
B. INVESTIGATIONS	2
1. COMPLAINTS	2
2. NEWLY OPENED INVESTIGATIONS	3
3. CASES CONCLUDED IN QUARTER	4
4. PENDING INVESTIGATIONS	4
5. INVESTIGATIONS NOT CONCLUDED IN TWELVE MONTHS	4
C. SUSTAINED ADMINISTRATIVE CASES.....	5
1. SYNOPSES OF CASES	5
(A) <i>Second Quarter Cases</i>	6
(B) <i>Third Quarter Cases</i>	11
2. POLICY RECOMMENDATIONS ARISING FROM IGO INVESTIGATIONS.....	17
(A) <i>Salary for Employees Convicted of Criminal Activity</i>	17
(B) <i>DPS Debarment Authority</i>	18
(C) <i>IGO Recommendations to Improve the Sole Source Contracting Process</i>	18
(D) <i>Delegate Agency Oversight</i>	19
3. DISCIPLINARY AND OTHER CORRECTIVE ACTION RECOMMENDATIONS	19
(A) <i>Departmental Action</i>	20
(B) <i>Results of Appeals or Grievances</i>	20
D. CRIMINAL CASES	21
1. SYNOPSES OF CASES	21
(A) <i>IGO Case #08-1019</i>	21
(B) <i>IGO Case # 08-1694</i>	22
2. DEVELOPMENTS IN PREVIOUSLY CHARGED CRIMINAL CASES	22
(A) <i>Former City of Chicago Employee Sentenced For Bribery</i>	22
(B) <i>Crooked Code Update</i>	23
(C) <i>Former Refuse Container Repair Company VP Found Guilty in Scheme to Defraud City of Chicago</i> ...	23
(D) <i>Former City of Chicago Employee Sentenced in Vote Fraud Investigation</i>	24
E. HIRING COMPLIANCE.....	24
F. AUDITS/REVIEWS	32

This quarterly report provides an overview of the operations of the Inspector General's Office (IGO) during the period from July 1, 2010 through September 30, 2010. The report includes statistics that the IGO is required to report per the City's Municipal Code, as well as a narrative description of the IGO's activity.

A. MISSION OF THE INSPECTOR GENERAL'S OFFICE

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

The IGO accomplishes its mission through investigations, audits, inspections, program and policy evaluations and reviews, research, and data collection. IGO summary reports are sent to the Mayor and the responsible City management officials with findings and recommendations for corrective action and discipline. Narrative summaries of sustained investigations are released in quarterly reports. Audits, inspections, and evaluations are sent to the responsible management officials for comment and then are released to the public through publication on the [IGO website](#).

B. INVESTIGATIONS

The IGO Investigations Section conducts both criminal and administrative investigations into the performance of governmental officers, employees, departments, functions, programs, City vendors, and those who do business with the City, either in response to complaints or on the office's own initiative.

1. Complaints

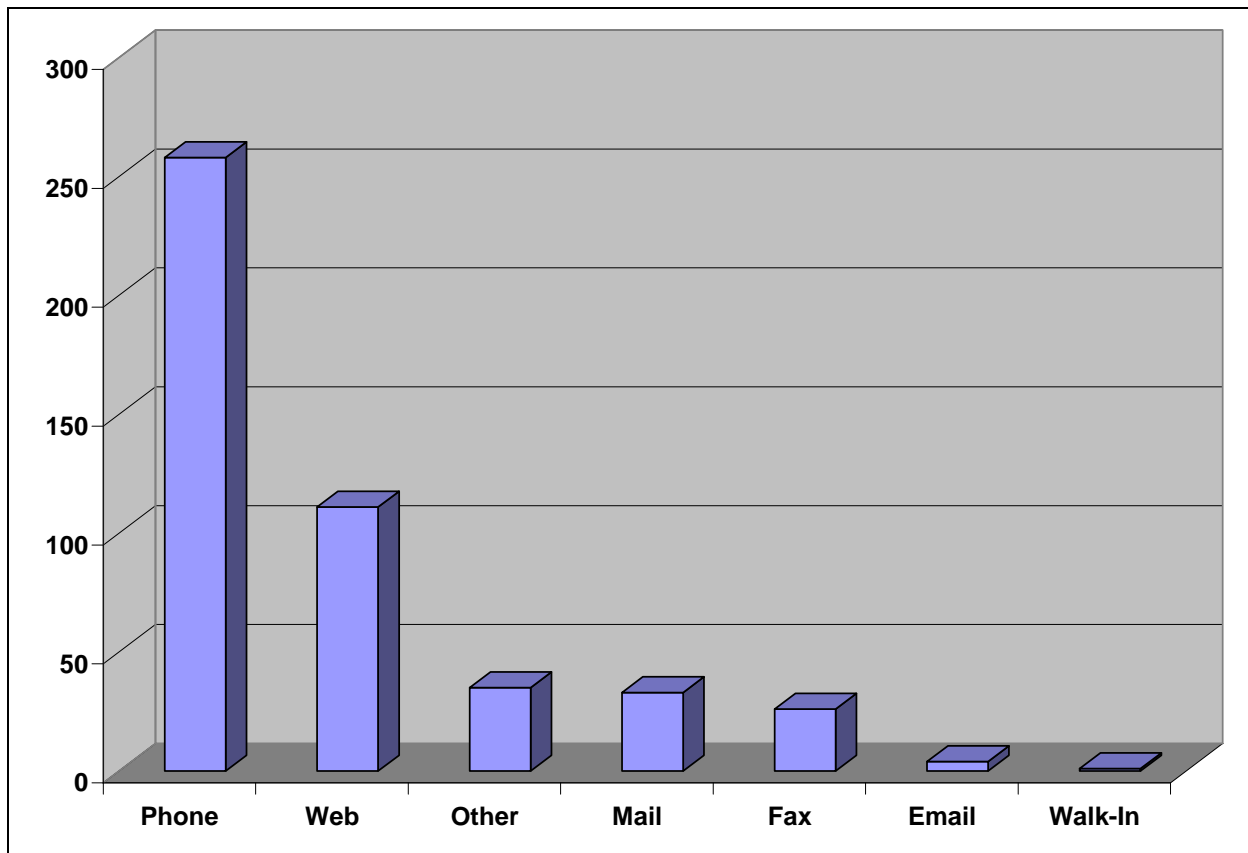
The IGO received 468 complaints over the preceding quarter. The following table provides detail on the actions the IGO has taken in response to these complaints.

Table #1 – Complaint Actions

Status	Number of Complaints
Declined	370
Investigation	64
Referred	34
Total	468

As the table shows, for the vast majority of complaints, the IGO declined to investigate the allegation. The primary reason that the IGO declines a complaint is due to a lack of resources. The chart below breaks down the complaints the IGO has received during the past quarter by the method in which the complaint was reported.

Chart #1 - Complaints by Method



2. Newly Opened Investigations

Over the quarter, the IGO opened 98 investigations, involving 97 allegations of misconduct and 1 allegation of waste or inefficiency. Of these opened matters, 34 were immediately referred to other departments or investigative agencies. Thus, of all complaints received in the quarter, 64 (14%) proceeded to a full IGO investigation. Of the 64 newly opened investigations, 9 were found to be not sustained before the end of the quarter, while 55 remain open. The table below categorizes the 98 matters logged by the IGO based on the subject of the investigation.

Table #2 – Subject of Investigations

Subject of Investigations	Number of Investigations
City Employees	90
Contractors, Subcontractors, and Persons Seeking City Contracts	3
Appointed Officials	4
Elected Officials	0
Investigations of Persons Seeking Certification of Eligibility	1

3. Cases Concluded in Quarter

During the quarter, 118 matters were concluded. 34 of these were the aforementioned referrals to City departments or other investigative agencies. Of the remaining concluded matters, 26 were closed as sustained and 58 were closed not sustained. A case is sustained when there is sufficient evidence to establish a criminal or administrative violation. A case is not sustained when the IGO concludes that the available evidence is insufficient to prove wrongdoing under applicable burdens of proof.

4. Pending Investigations

Including the 98 investigations initiated this quarter, the IGO has a total of 285 pending investigations.

5. Investigations Not Concluded in Twelve Months

Under the Municipal Code, the IGO must report on any investigations that are not concluded within twelve months of being opened. Of the 285 pending investigations, 109 investigations have been open for at least twelve months. Due to increased efforts in clearing older cases, there are 28 fewer cases older than one year than was reported at the conclusion of the last quarter.

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

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

Reason	Number of Investigations
Additional complaints were added during the course of the investigation.	4
Complex investigation. May involve difficult issues or multiple subjects.	68
Lack of sufficient investigative resources over the course of the investigation. Investigators' caseloads were too high to enable cases to be completed in a timely manner.	13
On hold, in order not to interfere with another ongoing investigation.	3
Under review by the Legal Section or the Director of Investigations prior to closing.	21
Total	109

C. SUSTAINED ADMINISTRATIVE CASES

IGO sustained cases can either be administrative, criminal, or both. Administrative cases generally involve violations of City rules, policies or procedures and/or waste or inefficiency. For sustained administrative cases, the IGO produces summary reports¹ – a thorough summary and analysis of the evidence and a recommendation for disciplinary or other corrective action. These reports are sent to the Office of the Mayor, the Corporation Counsel, and the City departments affected or involved in the investigation.

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

1. Synopses of Cases

The following are brief synopses of investigations completed and reported as sustained matters. These synopses are intended solely to provide an illustrative overview of the general nature and outcome of the cases for public reporting purposes and thus do not contain all allegations and/or findings for each case.²

¹ Per *Chicago Municipal Code*, §. 2-56-060 (2010), "Upon conclusion of an investigation the inspector general shall issue a summary report thereon. The report shall be filed with the mayor, and may be filed with the head of each department or other agency affected by or involved in the investigation."

² Per *Chicago Municipal Code*, §. 2-56-110 (2010), "All investigatory files and reports of the office of inspector general should be confidential and shall not be divulged to any person or agency, except to the United States Attorney, the Illinois Attorney General or the State's Attorney of Cook County, or as otherwise provided by this chapter." The synopses provided in this quarterly report in no way waive the confidential status of the IGO's investigative files and reports.

In addition to the IGO's findings, each description includes the action taken by the department in response to the IGO's recommendations. Departments have 30 days to respond to IGO recommendations.³ This response informs the IGO of what action the department intends to take. Departments must follow strict protocols, set forth in City's Personnel Rules, Procurement Rules and/or applicable collective bargaining agreements, prior to imposing disciplinary or corrective action. Only when this process is complete and discipline has been imposed, or corrective action taken on a City employee or contractor does the IGO consider the department to have acted.

This process can often take several weeks. Last quarter, in deference to the deliberative processes of City Departments and contractual rights of employees during disciplinary proceedings, the IGO began to wait to report on cases until the subject's department has acted on the IGO's report. For cases in which a department has failed to respond within 30 days (or 60 days if a full extension has been granted), the response will be listed as late.

(A) Second Quarter Cases

The following 8 administrative cases were originally closed during the second quarter but disciplinary action had not yet been finalized by the time the second quarterly report was published.

IGO Case # 05-1485

A senior official in the Department of Zoning improperly manipulated a Shakman-covered hiring sequence to hire the son of his friend, who was also a former City employee. The senior official ensured the hiring by instructing his/her senior-level subordinate to place his/her friend's son on the list of applicants that the department would interview. The evidence established that the senior official then instructed another department employee to interview the candidates and to rate his/her friend's son the highest. This employee did so, ignoring obvious lies on the application and resume and rating the candidate higher than several, much better qualified applicants. The hired candidate did not meet the minimum qualifications for the position.

The senior official resigned shortly after he was questioned by the IGO. A second high-ranking official implicated in the investigation retired while the investigation was pending. The IGO recommended termination for the employee who conducted the interviews and for the hired employee who lied about his qualifications and who did not meet the minimum standards for the position.

The department concurred and terminated the employee who had conducted the interviews. The hired employee resigned before the department could complete the termination process.

IGO Case # 06-0794

The IGO looked into retail entities at the City's airports that include Airport Concessionaire Disadvantaged Business Enterprises (ACDBE). The investigation determined that two

³ Departments may request an extension of up to 30 days.

entities had not been operating in compliance with the rules and regulations of the ACDBE program. Specifically, the two entities maintained financial and operating structures that precluded their ACDBE partners from proportionately sharing in the financial risks and returns of the businesses.

The IGO recommended that the City require the two entities to amend their joint venture agreements so that both vendors are in compliance with the ACDBE program rules, and conduct an examination of its overall administration and operation of the ACDBE program to ensure that the Chicago Department of Aviation (CDA) has proper oversight procedures in place and that all airport concessionaires are operating in compliance with the current ACDBE program rules and guidelines. The IGO also recommended that the president of the non-certified partner of one of the ACDBEs be permanently debarred from conducting future business with the City due to his failure to cooperate with the IGO during this investigation.

The City's Department of Procurement Services (DPS) agreed with the IGO recommendation to debar the president and began debarment proceedings in September. CDA's response indicated that it would take action to correct non-compliant ACDBE's, and noted that both vendors' leases had expired; their airport retail spaces were due up for Request For Proposals in September.

IGO Case # 06-0895

An IGO investigation determined that a City vendor, its president, and its chief financial officer knowingly and intentionally provided false and inaccurate information to the IGO in response to an IGO subpoena, in violation of the False Statement Ordinance of the City of Chicago Municipal Code.

For this conduct, the IGO recommended debarment of the City vendor for a one year period and that its president and its chief financial officer be debarred from doing business with the City for one year.

DPS agreed with the IGO recommendation to debar the president and chief financial officer for one year. DPS declined to debar the vendor.

IGO Case # 07-1691

The IGO investigated whether the Office of Emergency Management and Communications (OEMC) improperly routed a \$23 million sole source contract⁴ to a vendor, thereby circumventing a competitive bid and proposal process. In order to bypass the City's usual competitive procurement process, OEMC provided several justifications, including an earlier \$2 million investment in similar technology with the same vendor. The IGO determined that this investment did occur, although at a significantly lower level – \$350,000, or 82.5% less – than OEMC claimed.

⁴The City relies on IL law to define Sole Source Contracts. In general, this means there is only one person or firm capable of providing the required services or goods. *See* (65 ILCS 5/8-10-4

More troubling, the initial investment also happened without any contract or procurement process whatsoever. In fact, OEMC had falsified documents to push the initial purchase through an unrelated contract with the vendor. By using the earlier, unauthorized purchase to justify the later sole-source contract, OEMC essentially “bootstrapped” a \$23 million contract on an earlier, \$350,000 fraudulently-obtained purchase.

There were several other problems in OEMC’s memo justifying sole sourcing this contract, including false and misleading statements.

As a result, the City is now committed to a digital radio system that has never been the subject of any sort of competitive procurement process.

To be clear, the IGO is *not* suggesting that the vendor's system is not the best one for the City’s needs – the IGO did not evaluate that. The point is, neither did OEMC.

The IGO was ultimately frustrated in its attempt to conclusively determine exactly what happened and who was responsible, because of the debilitating combination at OEMC of high turnover, endemic finger-pointing, poor or non-existent internal controls and missing paperwork. Despite the lack of any recommendations for discipline, the IGO reported the issue to the City for two reasons. One, the report should be considered in conjunction with other recent IGO reports of similar mismanagement at OEMC of the contracting and payment processes.⁵ OEMC’s long-running failure to effectively manage the procurement and contract process presents a significant risk to the City’s emergency preparedness, fiscal security, and grant compliance. In reaching this conclusion, the IGO is not suggesting that the City’s current emergency preparedness is substandard. We did not evaluate that. We merely note that bypasses of competitive bid and purchase and contract protocols increases the risk of substandard outcomes in this critical realm.

Two, the IGO included several suggestions for improving the sole source process that, if implemented, should not only reduce the chance of similar manipulation in the future, but also make it easier to hold violators accountable if manipulation occurs. They are listed in the policy recommendations section of this report.

OEMC strenuously disagreed with the IGO analysis and is of the opinion that its current policies and procedures implemented by subsequent Department administration subsequent to the events under investigation adequately address the concerns raised in the IGO report.

DPS’ response indicated that the Non-Competitive Review Board (NCRB) process could be improved, but did not support the IGO’s recommendation to make NCRB meetings public.

⁵ See IGO Case #s 05-1864 (off-contract attempted purchase of radio dispatch console) and 08-0574 (off-contract payment to consultant)

IGO Case # 08-0498

An IGO investigation determined that numerous times over the course of eighteen months, two Nurses and a driver with Chicago Department of Public Health (CDPH) swiped in and/or out⁶ of work at locations near their homes rather than their actual work sites, thereby violating department policy and effectively reducing the actual hours they worked. In addition, the IGO investigation determined that their supervisor failed to adequately monitor the swipe locations of these employees.

The IGO recommended a 28-day suspension for the nurses and a five day suspension for the supervisor. The driver is no longer a City employee, so the IGO recommended that the department impose a 28 day suspension in the event that employee returns to service.

CDPH agreed with the IGO recommendations. Should the driver return to City service, CDPH is prepared to impose a 28 day suspension. Both nurses were suspended for 28 days, and their supervisor was suspended for 5 days.

However, CDPH permitted the supervisor to serve part of this suspension over a weekend, which were not regularly scheduled work days, effectively reducing the suspension below that recommended by the IGO and below which the department stated it would impose.

CDPH also reissued a copy of the timekeeping policy to all CDPH staff and reemphasized the timekeeping policy with CDPH managers and supervisors at an all management level meeting.

IGO Case # 08-0783

An IGO investigation revealed a Chicago Department of Transportation (CDOT) employee (Employee A) violated an Ethics Ordinance prohibition forbidding a City employee from exercising contract management authority in a situation where the employee's relatives are employed by or have contracts with those performing work under the scope of the contract. The investigation further revealed that Employees B and C failed to report Employee A's impermissible activity pursuant to the City of Chicago Personnel Rules.

The IGO recommended Employee A be suspended without pay for 5 working days for this misconduct. The IGO further recommended that Employees B and C each receive written reprimands.

CDOT disagreed with IGO recommendations. CDOT did not take disciplinary actions against Employee A, arguing that he did not have contract management authority. Employee A, however, resigned in June.

Employees B and C were also not disciplined, given that CDOT did not view Employee A's actions as misconduct.

⁶ The City's employee time clocking system operates through the use of technology involving electronically encoded cards that employees "swipe" into a computerized reader – basically a contemporary version of punching a time clock.

To help ensure this sort of situation does not occur again, CDOT's Division of Electrical Operations (DEO) instituted the following policy:

DEO employees are required to immediately report to the Deputy Commissioner or Assistant General Superintendent if either of the following occur:

- 1) They have a relative currently working for a City contractor;
- 2) They are assigned to perform work on any kind of a City project which involves the contractor that currently employs their relative.

IGO Case # 09-0565

An IGO investigation revealed that a Foreman of Bridge and Structural Iron Workers with the CDOT improperly destroyed CDOT files without appropriate approval in violation of department regulations.

The IGO recommended that the Foreman be suspended for five days.

CDOT suspended the Foreman for one day; and the suspension was to be served on a Saturday, which was not a day that the Foreman was scheduled to work, thereby rendering the "discipline" to a nullity. In response to IGO inquiry highlighting this fact, the IGO was informed that the Department Commissioner intended that the suspension be imposed in this fashion.

IGO Case # 09-1718

The IGO determined that the City improperly certified a company as a Minority Owned Business Enterprise (MBE). The company should not have been certified because its operating agreement did not give the eligible minority owner control of the company. The operating agreement was submitted to the City as part of the company's certification process. The fatal flaw in the agreement was obvious and should have been flagged by the City.

The responsible certification officer was laid off last year and the company promptly amended the operating agreement when confronted by the IGO. Accordingly, no disciplinary action was recommended.

The IGO recommended that the Office of Compliance provide training to ensure that its certification officers understand the control requirement for certification of minority and women owned businesses and are reviewing operating agreements (or similar documents such as articles of incorporation) to ensure that the eligible owners do have actual control of the business, as well as ownership.

The Office of Compliance agreed to these recommendations.

(B) Third Quarter Cases

Twenty six administrative cases were sustained this quarter. However, as noted above, the IGO only summarized the case if the responsible department(s) had acted on the IGO's recommendation. Thirteen such cases are summarized below.

IGO Case # 05-1789

A Deputy Commissioner with CDOT used his/her official position with the City to solicit and secure employment for his/her son (a non-city employee) with three different City contractors, each of whom employed the son during the time that the Deputy Commissioner possessed contract management authority over them.

At least one other CDOT employee was involved in getting the son hired by a City contractor. After the Deputy Commissioner's son was laid off by one of the contractors, the Deputy Commissioner approached and asked a CDOT project manager if he/she had somewhere to put his/her son to work. Shortly thereafter, a City contractor whose work was supervised by that CDOT project manager hired the Deputy Commissioner's son.

The IGO recommended that the Deputy Commissioner be terminated and not re-hired by the City. The IGO recommended that the CDOT project manager be suspended for 5 work days for giving preferential treatment to the Deputy Commissioner's son.

CDOT suspended the project manager for 5 days. The Deputy Commissioner resigned after the IGO released its summary report.

IGO Case # 06-0245

The former executive director of a City-funded delegate agency⁷ stole more than \$250,000 in Head Start funds provided to the agency by the City in 2005. The former executive director deposited the money into his/her personal bank accounts and used the money to purchase personal goods and services. Based on a previous IGO investigation that found that the agency had misused Head Start funds, in 2004 the City had terminated the agency's contract and refused to continue making payments. The City was forced to reverse that decision by the United States Department of Health and Human Services, which threatened to withhold all of the City's Head Start funds unless this agency was paid. Within days of receiving the City payment mandated by HHS, the former executive director began stealing it and converting it to personal use.

The IGO recommended that the City: (i) permanently debar the former executive director from being employed on any City contract or working for any agency that is funded by the City, (ii) place the former executive director's name on the do not hire list, and (iii) pursue collection efforts against the former executive director to recover the stolen Head Start funds.

⁷ In general, the term "delegate agency" refers to a non-governmental organization engaged in the provision of social services to qualified residents and communities, funded through grants administered and distributed through various City departments.

DPS has since taken action to permanently debar the executive director from future City contracts despite originally asserting the department's inability to do so. This is further discussed in the report's policy recommendations section.

However, the City has not initiated any cost recovery actions.

This investigation was referred to the Illinois Attorney General's Office and the United States Attorney's Office for possible criminal prosecution in 2009. However, both offices declined prosecution citing statute of limitation issues and lack of resources.

IGO Case # 06-0874

An investigation revealed that two Phlebotomists and a Certified Medical Assistant in the CDPH routinely claimed and were paid for time they actually spent commuting to work. Each of the three employees commuted to and from work on City time by "swiping in" or "swiping out" at City facilities located substantial distances from their assigned work locations, and frequently at facilities close to their respective residences. The investigation additionally found that each of the three employees also regularly and improperly claimed and received reimbursement for miles driven in their personal vehicles that were not related to City work activity.

The investigation also found that the virtually non-existent supervision of a Public Health Administrator II (who retired in 2009) enabled this misconduct.

The IGO recommended that the Phlebotomists and the Certified Medical Assistant be terminated. The IGO would have been prepared to recommend that the Public Health Administrator II be suspended for 60 days had she not retired.

CDPH agreed with IGO recommendations and initiated termination proceedings for the two Phlebotomists and Certified Medical Assistant in July. CDPH's response also noted that it was prepared to issue a 30 day suspension for the Public Health Administrator should she return to work for the City.

IGO Case # 07-0893

CDA officials at O'Hare Airport manipulated a concrete maintenance contract to build a 2,750 square foot outdoor break area/patio for CDA employees. CDA officials improperly asked a contractor performing concrete repair work for the "airside" of the airport to perform work outside the scope of its contract and construct the outdoor concrete patio on the "landside" of the airport. "Airside" contracts are usually more expensive than "landside" contracts because there are more security-related requirements for contractors. The contractor billed the City \$45,020 for the work. A construction expert retained by the IGO determined that the patio had been built to a thickness and strength appropriate to curb and gutter work on a runway, significantly more than what is needed for a patio. The expert estimated that a suitable patio could have been built for \$22,390 – half as much as the City paid. In addition, CDA spent \$13,571 on landscaping including ornamental pear trees and lilac bushes, and \$20,000 on high-end shade umbrellas, tables and chairs, for a total project cost of nearly \$90,000.

The IGO noted that there were other valid processes that CDA could have used to build the patio, including using one of several existing sidewalk repair contracts, or using the City's "small order" procurement process. Both methods would have resulted in a suitable patio for less money. Other methods could also have resulted in the work being done by a M/WBE certified firm, rather than the large, non-certified firm that did the work.

The IGO investigation determined that a former CDA Deputy Commissioner was primarily responsible for the construction project. The IGO determined that a CDA Facilities Engineer prepared the requisition forms for the patio project at the Deputy Commissioner's direction, and submitted the forms to CDA for approval. In doing so, the Facilities Engineer essentially "shoehorned" this project into an existing project, effectively bypassing any scrutiny of the costs involved in the patio construction. The IGO also determined that a CDA Supervisor of Contracts Administration and Procurement witnessed the construction of the patio and knew that the patio project was outside the scope of the airside concrete maintenance contract yet took no action.

The IGO recommended that the former Deputy Commissioner be placed on the City's do-not-rehire list and would have recommended that he/she be terminated if he/she were still employed by the City. He/she now works for the Chicago Transit Authority (CTA). The IGO further recommended that the CDA Facilities Engineer and the CDA Supervisor be suspended for five work days.

CDA administered no discipline for the CDA Facilities Engineer or the CDA Supervisor of Contracts Administration and Procurement. CDA concurred with the IGO recommendation to place the former Deputy Commissioner's name on a do-not-rehire list.

IGO Case # 07-0945

An IGO investigation determined that a Foreman of Motor Truck Drivers with DSS misused City property by utilizing his City computer for unauthorized personal activity, including hours of extended internet surfing daily and significant time spent viewing pornographic materials. The Foreman admitted to using a City of Chicago computer for extensive personal use, including "accidentally" viewing pornographic materials for "longer than [he/she] should have." The forensic evidence shows that this viewing was not accidental; the internet history revealed that the Foreman proactively selected (clicked on) hundreds of provocatively-titled personal ads, sometimes returning to the same ones multiple times.

The IGO recommended that the Foreman be terminated, and that DSS conduct a review of the Foreman's position. If this Foreman's position allowed him to effectively "tune out" for at least four hours a day while still completing his job duties, which the evidence in this investigation suggested, this position is one that the DSS should, in the interest of operational and budget efficiencies, either eliminate, supplement with additional duties, and/or have its functions consolidated with another position.

The Foreman of Motor Truck Drivers resigned after the release of the IGO summary report. The IGO received no indication from DSS that the position would be reviewed.

IGO Case # 07-1621

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

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

The IGO recommended that the RFP process be re-done and recommended debarment for the vendors and their principals. The City employee resigned during the course of this investigation, but the IGO would have recommended his/her discharge and has also recommended that he/she not be considered eligible for future hire by the City. The IGO also recommended the company be debarred for one year, a second company that is a part of the joint venture that holds the contract be debarred for two years, one executive be debarred for two years, and a second executive be debarred for three years.

CDA agreed that the former employee should be placed on the do-not-rehire list and DPS has initiated debarment proceedings as recommended by the IGO. CDA and DPS declined to re-bid the contract, noting that it expires in 2011 and will be re-bid at that point.

IGO Case # 08-1155

An IGO investigation found that a DSS supervisor failed to follow City protocol by not properly documenting a subordinate's on-duty motor vehicle accident in a City vehicle.

The IGO recommended a two-day suspension.

DSS suspended the supervisor for two days.

IGO Case # 09-0056

A former employee in the Internal Audit section of the Office of Compliance accepted over \$3500 in gifts, including tickets to sporting events and meals, from three City vendors over whom he/she contract management authority in violation of the City's Ethics Ordinance.

In the course of the investigation, one of the vendors provided false and misleading responses to an IGO subpoena.

The IGO recommended that the former employee be placed on the do-not-rehire list. The IGO also recommended that the three City vendors be placed on deferred debarment for a period of two years and assessed fines for violating the City Ethics Ordinance. The IGO further recommended that four individual partners of the City vendors be permanently debarred from conducting future business with the City. Lastly, the IGO also recommended that the Board of Ethics impose fines on the former employee and the vendors for violations of the City's Ethics Ordinance.

DPS has initiated debarment proceedings as recommended.

Ethics has requested an extension and its response will be noted in next quarter's report.

IGO Case # 09-0625

A delegate agency and its president defrauded the City by falsely claiming to be current on its payroll tax obligations in order to continue receiving payments on its City contracts. The IGO determined that the delegate agency used the funds paid to it by the City for payroll taxes to cover the delegate agency's chronic cash flow issues.

The IGO recommended that the City debar the delegate agency's president for three years and to enter into a deferred debarment agreement with the delegate agency.

The IGO also recommended a series of policy changes relating to delegate agency oversight which can be viewed in the policy recommendation section of this report.

As noted in the summary for IGO case # 06-0245, DPS originally maintained that it did not have debarment authority over delegate agencies. This is also discussed further in the report's policy recommendations section.

IGO Case # 09-0835

The IGO found that a senior DPS official and two certification officers mistakenly certified a construction company as a Woman Owned Business (WBE). The company was ineligible because it and affiliated companies had average annual revenues exceeding \$36 million, \$5 million more than the applicable standard.

The IGO determined that the error resulted because the DPS employees repeatedly applied the wrong standards, made basic math errors, and appeared to have little to no understanding of the rules and regulations governing WBE certification. The company received \$120 million in City contracts after improperly receiving WBE certification, all of which the City included in its public reports regarding M/WBE contracting goals.

The IGO recommended the senior official be suspended without pay for 10 days, one of the certification officers be suspended without pay for three days, and the other certification officer receive additional training.

DPS suspended the senior official for three days and the certification officer for one day. The other certification officer (for whom the IGO recommended training) resigned from City

employment. The IGO also recommended that the Office of Compliance reduce by \$120 million the amount the City reported contracting to WBE firms in 2008 and 2009. Compliance agreed to do so.

IGO Case # 09-1341

An IGO investigation determined that careless recordkeeping by Chicago Animal Care & Control (ACC) employees resulted in an unprocessed citation that never received an administrative hearing date. The IGO was unable to determine conclusively how this error occurred, so no discipline was recommended.

However, an Animal Control Officer's (ACO) conduct during the IGO investigation—including lying to IGO investigators and falsifying and misrepresenting official City documents—warranted disciplinary action. This ACO added an “after the fact” signature to an original blue carbon copy of the citation at issue, thereby creating the appearance it had been properly executed at the time it was issued, and then photocopied this citation and represented the added signature as an original to IGO investigators. Only after being reminded that lying during an IGO investigation could lead to discipline or termination did he admit that he added the signature after the IGO had previously interviewed him and had lied to IGO investigators about the original citation's location.

The IGO recommended that the ACO, whose official duties would obligate him to testify in administrative hearings regarding contested citations, be suspended for 30 days.

ACC suspended the ACO for seven days.

IGO Case # 09-1835

An IGO investigation into the accessing of computerized police records relating to the arrest of a private attorney revealed that an Independent Police Review Authority (IPRA) Investigator accessed those records for personal reasons in violation of IPRA policy and a Police Department General Order.

The IGO recommended that the investigator receive a one-day unpaid suspension.

IPRA suspended the investigator for one day.

IGO Case # 10-0204

An IGO investigation determined that a Hoisting Engineer with the Department of Water Management utilized a City backhoe to plow the snow from his/her own residential block without authorization and while on City time. GPS records show that the backhoe the Hoisting Engineer was operating traveled in front of his/her residence a total of ten times between 11:35 a.m. and 12:31 p.m. on that date. The Hoisting Engineer admitted that he/she cleared the snow from the street in front of his/her residence with the City backhoe, and also admitted that this decision showed very poor judgment.

The Hoisting Engineer was honest about his/her actions and cooperated fully with the IGO. The IGO recommended that the Hoisting Engineer be suspended for 3 days.

The Department of Water Management suspended the Hoisting Engineer for 3 days.

2. Policy Recommendations arising from IGO Investigations

One of the functions of the IGO is to recommend “to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.”⁸ If IGO investigations reveal misconduct that is not being addressed by a City policy or procedure, the IGO recommends policy changes to the Mayor and the relevant department either in the summary reports that detail the investigation or in separate policy-focused reports. In the 22 sustained cases summarized above, there were four significant policy recommendations.

(A) Salary for Employees Convicted of Criminal Activity

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

Administrative Hearing Rule 27(f) provides that an employee who requests a hearing appealing a disciplinary action is entitled to a hearing within 45 days of the request and the hearing must be completed within 60 days of the initial hearing. If the time limitations are not met, and it is not the fault of the employee, then the employee is:

“entitled prospectively to the pay and benefits of the position held before imposition of the suspension or discharge . . . , beginning with the first day after the failure to meet the time limit, pending decision of the Personnel Board [HRB].”

Because of Rule 27(f), a number of City employees who (i) were discharged for bribery following indictment in Operation Crooked Code, and (ii) have since been found guilty of bribery in federal court, and (iii) have appeals pending before the Human Resources Board are, or until very recently have been, receiving full pay and benefits from the City. Of current note are Mario Olivella, Anthony Valentino, Thomas Ziroli, Michael Reese and Jose Hernandez. Recent review of City databases reflects that these individuals have received and in some instances continue to receive prospective pay and benefits pursuant to Rule 27(f) of the Administrative Hearing Rules because their hearings were not completed within 60 days of the original hearing date. In fact, they have received cost-of-living adjustments (COLAs) so their salaries have actually increased since they were discharged.

⁸ *Chicago Municipal Code*, § 2-56-030(c) (2010).

The IGO has proposed immediate steps to the City to mitigate this phenomenon and offered to work with the City to develop permanent procedural and or rule changes to appropriately limit these payments. We will report on the outcome of this initiative in a future quarterly report.

(B) DPS Debarment Authority

As noted in the summary for cases #09-0625 and 06-0245, the IGO has maintained that DPS has the clear authority to debar all entities that do business with the City. However, DPS steadfastly maintained that the department only had the authority to debar those vendors and individuals who held agreements that DPS considered contracts. DPS narrowly defined “contracts” to specifically exclude grant agreements, which are typically held by delegate agencies, and leases, such as those entered into with retailers at the City’s airports. However, in response to the rising incidence of findings of delegate agency misconduct and recommendations for debarment issued by the IGO, DPS, in conjunction with the Law Department, introduced legislation in the City Council to more clearly establish DPS jurisdiction to take appropriate corrective action.

On September 8, 2010, the City Council passed an ordinance specifically granting DPS the authority to debar a wide range of entities that do business with the City, including delegate agencies and lessees.

The IGO is appreciative of the City’s responsive action and strongly supports this change.

(C) IGO Recommendations to Improve the Sole Source Contracting Process

As noted in the summary for IGO Case #07-1691, the IGO made the following recommendations as to how the City could improve its sole source contracting process:

- 1) *Require all persons and entities involved in any facet of a sole source request to sign off and disclose their role.* The IGO noted that the City has implemented a similar system for hiring – everyone involved in a hiring sequence signs a Shakman certification and discloses what role(s) they played in the sequence. Not only will this deter people from misconduct but it will make it easier to determine who was involved in what aspects of a request.
- 2) *Prohibit vendor involvement in any way with sole source requests including “ghost-writing” requests for City Departments.* The IGO believes that vendor conflicts of interest both actual and apparent, are simply too great to allow such participation.
- 3) *Make the sole source process more transparent through on-line posting of requests, meeting notices, agendas and minutes for the Non-Competitive Review Board and to conduct NCRB meetings publicly.*

DPS agreed with the first suggestion.

As to the second, DPS argued that a blanket prohibition on vendor involvement was too broad because some vendors provided valuable expertise in the process. DPS noted, and the IGO agreed, that implementing the first suggestion will largely alleviate problems caused by vendors who “ghost write” sole source justifications by bringing to light for Board consideration potential conflicts.

As to the third suggestion, DPS agreed to regularly update the agenda and minutes from the Non-Competitive Review Board, but strongly disagreed that the meetings should be made public because of the potential for disclosure of proprietary information, a concern the IGO believes can be alleviated by conducting limited executive sessions for specific issues of this nature, while permitting full public access to all other aspects of Board meetings.

(D) Delegate Agency Oversight

As noted in the summary for IGO case # 09-0625, the IGO recommended that the City do the following to improve its oversight over delegate agencies:

- 1) Require delegate agencies to submit state and federal tax waivers to the City.
- 2) Standardize the Tax payment certificate forms.
- 3) Standardize the internal notification process once a Notice of Tax Levy is received.

The City’s Department of Finance has agreed generally to these recommendations and is fashioning policy and procedural revisions which we will report on once issued.

3. Disciplinary and Other Corrective Action Recommendations

In the 21 sustained cases summarized in this report, the IGO made 51 discipline or other corrective action recommendations. The number of recommendations can exceed the number of cases because cases can have more than one subject.

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

Table #4 – Discipline Recommendations

Type of IGO Recommended Discipline	Number of subjects
<i>Employee Discipline</i>	
Reprimand	2
Suspension less than or equal to 10 days	11
Suspension 11 to 29 days	3
Suspension equal to 30 days	1
Suspension over 30 days	0
Termination	4
<i>Other Corrective Action</i>	
Debar	14
Do not (re)hire	4
Other	11
Cost Recovery	1
Total	51

(A) *Departmental Action*⁹

Of the 51 recommendations contained in this report's 21 case summaries:

- In 27 instances, departments imposed the same discipline/corrective action recommended by the IGO.
- In 13 instances, a department imposed less discipline/corrective action than the IGO recommended.
- In 2 instances, a department imposed more discipline/corrective action than the IGO recommended.
- In 7 instances, subjects of the investigation resigned during the inquiry.
- For the remaining 2 recommendations, departments have not yet acted.

In no instance did a department impose discipline/corrective action when the IGO did not recommend any discipline.

(B) *Results of Appeals or Grievances*

Under the City's Personnel Rules and/or applicable collective bargaining agreements a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee's classification. The IGO monitors the results of administrative appeals before the Human Resources Board (HRB)¹⁰ and grievance arbitrations concerning our disciplinary recommendations.

⁹ This data is as of April 14, 2010.

¹⁰ HRB definition: A "three-member board is appointed by the Mayor and is charged with the responsibility of conducting hearings and rendering decisions in instances of alleged misconduct by career service employees. The Board also presides over appeal hearings brought about by disciplinary action taken against employees by individual city departments."

To date, none of the subjects involved in the nine investigations that were completed in the quarter appealed his/her discipline to the HRB.

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

D. CRIMINAL CASES

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

1. Synopses of Cases

Two IGO cases concluded this quarter resulted in criminal indictments¹¹ and are discussed below.

(A) IGO Case #08-1019

In 2006, Unisource Group (Unisource) won a \$4.6 million City contract to supply plastic garbage can liners. The contract specifications called for these liners, which came in a variety of sizes and colors, to be packaged with a certain amount of liners per box or case. Per the contract, Unisource sold the liners to the City at an agreed upon price per case. Two other Vendors, B and C, were listed as the MBE and WBE participants, respectively, on the contract.

To increase Unisource's profit margin, Fannie Weinshenker, an employee of Unisource, instructed its suppliers to decrease the number of liners packed in certain cases by 25-50%, thereby reducing Unisource's costs to buy the liners by a similar amount. Unisource then sold the shorted cases to the City at full price, and pocketed the difference. An IGO investigation determined that the scheme cost the City at least \$180,000.

A criminal indictment has been filed in the Circuit Court of Cook County charging Weinshenker with four counts of felony theft from the City.

The IGO recommended that (1) Weinshenker be permanently debarred from City business and placed on the do-not-hire list; and (2) Unisource and its president receive a three-year debarment

City of Chicago. Department of Human Resources – Structure.

http://www.cityofchicago.org/city/en/depts/dhr/auto_generated/dhr_our_structure.html (accessed April 13, 2010)

¹¹ The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendants named above are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

from City business, compensate the City for all losses deriving from its employee's frauds, and pay restitution and damages under the City's False Claims Ordinance.

DPS advised it will permanently debar Weinshenker and debar Unisource for 3 years.

(B) IGO Case # 08-1694

Following a joint investigation between the IGO, the FBI, and the Cook County State's Attorney's Office, a former Supervisor of Tax and License Compliance with the Department of Business Affairs and Consumer Protection (DBACP) was charged by the Cook County State's Attorney with stealing evidence – cartons of cigarettes – confiscated by DBACP investigators and selling the cigarettes for profit.

As a Supervisor, Abd Ayesh was responsible for storing items confiscated by DBACP investigators prior to the items being inventoried in a secure location. In April 2010, a former DBACP Revenue Investigator assisted Ayesh in stealing \$2,000 worth of cigarettes confiscated by the City primarily because the cigarettes did not have the required tax stamps. After stealing the cigarettes, Ayesh directed that the cigarettes be delivered to a south side convenience store operated by Ayesh's brother.

Ayesh was charged with the Class 2 felony offense of Theft of Governmental Property and the Class 3 felony offense of Official Misconduct. The criminal case is pending. If convicted, Ayesh faces up to seven years in prison.

2. Developments in Previously Charged Criminal Cases

During the quarter, there were resolutions in several prior IGO criminal investigations.¹²

(A) Former City of Chicago Employee Sentenced For Bribery

Michael Cease, a former senior inspector with the City Department of Environment, was sentenced on August 25, 2010 to one year and one day in prison. He pled guilty to federal program bribery on May 17, 2010.

Following a tip provided by a concerned citizen in September 2009, the IGO and the Federal Bureau of Investigation (FBI) partnered in an investigation that revealed Cease had taken a bribe to overlook the presence of asbestos in a building he had inspected.

Cease solicited a \$600 bribe in exchange for providing false documentation to the building's owner indicating that an asbestos abatement firm had appropriately disposed of the asbestos. He then demanded additional money from the building's owner, which Cease said was for his boss. This was untrue; Cease had always intended to keep the money for himself. He was arrested after a cooperating witness gave Cease an additional \$550 bribe while the FBI and IGO conducted audio and video surveillance.

¹² See *Chicago Municipal Code*, sec. 2-56-035

Cease's sentence includes two years of supervised release to follow his prison term.

(B) Crooked Code Update

A former City employee was sentenced for his role in Operation Crooked Code this quarter. Operation Crooked Code involved extensive cooperation between the IGO, U.S. Postal Inspection Service (USPIS), the FBI, and the U.S. Attorney's Office. To date, there have been seventeen individuals convicted under Operation Crooked Code, twelve of whom were current or former City employees.

Tom Zirolì, a 64 year old former Ventilation Inspector with the City of Chicago Department of Buildings, was sentenced to 21 months in prison on August 27, 2010 for bribery. He was also sentenced to two years of supervised release, a \$15,000 fine, an additional \$100 special assessment, and will be required to pay back \$500 in government money used during the investigation.

During the joint IGO, FBI, and USPIS investigation Zirolì accepted a \$500 bribe from a cooperating witness in return for a guarantee that a ventilation inspection for a residential building would pass.

(C) Former Refuse Container Repair Company VP Found Guilty in Scheme to Defraud City of Chicago

A former vice president of a refuse container repair company was found guilty on September 28, 2010 in U.S. District Court on four counts relating to his scheme to defraud the City.

In 2005, Steven Fenzl, the former vice president of Urban Services of America Inc., conspired with Douglas E. Ritter, his former boss and President of Urban Services of America Inc., to create three fraudulent bids in order to secure a \$2 million contract to repair thousands of plastic garbage carts for the City of Chicago.

Fenzl and Ritter were each originally charged with two counts of mail fraud, one count of wire fraud, and one count of conspiracy to commit mail and wire fraud. As reported in our last quarterly report, Ritter pled guilty to the conspiracy charge in June.

A joint investigation by the IGO and the U.S. Department of Justice Anti-Trust Division found that Fenzl and Ritter submitted fraudulent bids in the name of other companies at higher rates than their own submission. Further, the bid submitted by Urban Services included fraudulent documentation stating how it would subcontract in compliance with the M/WBE program. Instead of subcontracting \$435,000 in work to M/WBE certified companies, Urban Services only subcontracted approximately \$15,000.

The investigation also found that Fenzl and Ritter lied to the City by falsely certifying they had not entered into an agreement with other bidders concerning the price of their or other bids submitted to the City.

Ritter pleaded guilty in June and will be sentenced in January 2011. Fenzl is due to be sentenced on January 13, 2011.

(D) Former City of Chicago Employee Sentenced in Vote Fraud Investigation

A former ward superintendent in the City's Department of Streets and Sanitation was sentenced to 364 days in the Cook County Department of Corrections on August 4, 2010. Anish Eapen was found guilty on June 24 on multiple counts of vote fraud for attempting to persuade voters in the 50th Ward to vote by absentee ballot in two elections in 2007 when they were not eligible to do so.

In violation of the Illinois Election Code, Eapen was convicted on 9 misdemeanor counts of vote fraud. The counts included attempted absentee ballot fraud and attempted mutilation of election materials for attempting to convince voters to use absentee ballots during Chicago elections in February and April 2007. Eapen's co-defendant, Armando Ramos, was sentenced to 270 days in the Cook County Department of Corrections after assisting Eapen's unlawful efforts to mislead voters. Ramos was convicted on 20 misdemeanor counts of vote fraud, including attempted absentee ballot fraud and attempted mutilation of election materials.

A joint investigation between the IGO and the Cook County State's Attorney's Office revealed that Eapen and Ramos repeatedly visited the homes of registered voters in the 50th Ward and advised them to apply for absentee ballots in the lead-up to elections held on February 27 and April 17 in 2007.

E. HIRING COMPLIANCE

On March 26, 2010, the IGO was assigned responsibility for monitoring the City's hiring and employment compliance with the law and protocols imposed under the *Shakman* Accord. Assumption of that responsibility was formalized by ordinance passed by the City Council on May 12, 2010.

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

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

- I. Quarterly Review and Audit of Hiring Data as required under Section XIII.F of the Hiring Plan:
 - a. *Review of all instances in which hiring departments engaged in prohibited contact, as defined in Section II.8, with the Department of Human Resources*

- i. In the past quarter, we received five reports of direct departmental contact from DHR. One report did not constitute a departmental contact, as it was the applicant, not the hiring department, who contacted DHR. Two reports involved inquiries from hiring departments seeking information in response to union complaints. In the remaining reports, two hiring departments forwarded information they received regarding a particular candidate, but no commentary was added to the information in either case.

None of these occurrences appeared to involve an attempt to lobby for or advocate on behalf of an actual or potential candidate. However, in order to minimize the risk that communication from a hiring department to DHR might be perceived as such an attempt, we advise hiring departments to minimize directly contacting DHR during hiring sequences as much as possible. Thus, for example, when a union is seeking information relating to a hiring sequence, we advise the department to instruct the union to contact DHR directly. We plan to work with DHR to disseminate this advice through training of hiring departments on the Hiring Plan.

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

- i. Modifications of job descriptions, minimum qualifications, or screening/hiring criteria: We are currently reviewing all job descriptions, minimum qualifications, and screening/hiring criteria. In addition, we will be working with DHR to develop a formal process of notification of any changes to job descriptions, minimum qualifications, and screening/hiring criteria so that when we begin to audit hiring sequences, we will continue to be aware when such changes occur.
- ii. Candidate/bidder lists: We are currently reviewing all candidate and bidder lists. In the past quarter, we reviewed 54 lists and provided commentary to DHR whenever potential issues arose. While we did not discover any blatant violations of the Hiring Plan, some minor mistakes were made, and we will continue to work with DHR to improve its process of screening candidates.
- iii. Test administration and scoring: We are currently reviewing all tests before they are administered, and we receive notification whenever testing occurs. In the past quarter, we did not attend any test administrations due to a lack of manpower, but we have recently hired additional compliance

- iv. Overall hiring/promotion decisions: We are currently reviewing most hire packets, and these packets include all of the documents and notes maintained by individuals involved in selection process. We are currently working with DHR on transitioning to auditing packets in the following areas: Duty Disability Reinstatements, Law Clerks, Layoff Recalls, Pool Motor Truck Drivers, and Seasonal Recalls. Under this audit model, DHR provides regular updates to IGO Hiring Oversight in these areas, and we review a random selection of packets. We expect that this transition will be complete in the upcoming quarter.

In the past quarter, we reviewed 97 hire packets. Similar to the candidate/bidder lists, we did not discover any blatant violations. We provided commentary to DHR when minor mistakes were observed, and we will continue to work with DHR to improve its processes so that such mistakes will be minimized. With respect to promotion decisions, the City does not have a promotional process at present.

- c. *Review of any justification memos or written rationale memos as described in Section X.B.10 where no consensus selection was reached during the “consensus” meeting.*
 - i. This did not occur during the past quarter.
 - d. *Quarterly review of in-process and/or completed hiring sequences by selecting a random sample of hiring sequences opened and/or closed during that quarter within the City’s infrastructure departments, along with a random sampling from six additional City departments.*
 - i. We are currently reviewing most hiring sequences (with the exception of Duty Disability Reinstatements, Law Clerks, Layoff Recalls, Pool Motor Truck Drivers, and Seasonal Recalls, which we have begun to audit this quarter) and provided commentary to DHR when minor mistakes were observed. As stated previously, we will continue to work with DHR to improve its processes so that such mistakes will be minimized. We did not discover any departmental violations of the Hiring Plan but continue to look for areas that may be improved through training.
- II. Quarterly Reviews Required under Section XIII.H of the Hiring Plan to Ensure the Following:
- a. *Compliance with the Court-approved Exempt List.*

- i. In the second quarter of this year, we audited the Exempt List and notified DHR of needed corrections, which were subsequently made. In the past quarter, DHR has updated the Exempt List and posted it on the DHR website. In addition, we have created a process with DHR for keeping the Exempt List updated on a more regular basis. Going forward, DHR will notify us of any changes to the Exempt List, which we will summarize in our quarterly reports. Our reports, in turn, will prompt DHR to post a revised Exempt List when enough changes warrant doing so.
- b. *Compliance with the Court-approved Acting-Up Policy.*
 - i. We have assumed responsibility for monitoring departmental adherence to the Acting-Up Policy. Thus, we receive a monthly report from each department and process waiver requests. In the few months that we have been performing this function, we have identified various improvements that could be made to the process of reporting acting up, including a revision of the policy itself. A more detailed description of our work in this area is in Section III below.
- c. *Compliance with the Court-approved Senior Manager Hiring Process.*
 - i. We are currently reviewing all Senior Manager hires, and similar to our review of the regular hiring process, we did not discover any blatant violations by DHR or the departments. When we have seen minor mistakes, we have commented. We continue to work with DHR on improving its processes and look for areas that may be improved in the departments through training.
- d. *That the City has obtained the required Certifications attesting that no political reasons or factors were considered in the applicable employment action as required in Section II.3.*
 - i. Because we are currently reviewing most hire packets, we are able to check for required Certifications for almost all hiring sequences. In our review, we discovered one instance of missing Certifications in a hire packet. In that instance, we brought it to the attention of DHR so that the required Certifications could be obtained and noted it for our records for tracking purposes. For those packets we have begun to audit, we did not find any missing Certifications.

III. Additional Information Regarding Improvements to Acting Up

- a. Policy Revisions: As stated in the IGO's July 15, 2010 quarterly report, we have identified key areas for improvement to the City's Acting-Up Policy, which we are currently in the process of revising. In conjunction with this effort, we have started meeting with the four City departments that have the greatest incidence of

acting up. Our goal is to gather the selected departments' input on the areas of the acting up process that cause them the most operational difficulties, as well as their recommendations for improvements, which will inform the revisions we are making. We believe that if the process is improved for these four departments, it should also work effectively for the remaining City departments that use acting up. IGO Hiring Oversight is also involving staff from the Department of Finance in these discussions in order to establish uniform payroll procedures that will allow for more efficient tracking and auditing.

- b. Waivers: The Acting Up Policy currently sets a limit of 520 hours of acting up per employee per calendar year. However, it also allows for departments to request waivers to allow an employee to act up in excess of the 520 hour limit. We have found that the primary reason for waiver requests is departments' inability to fill vacancies. In processing waiver requests, we are encouraging departments to assess their operational needs, and if vacancies need to be filled, to be more proactive in filling them. The following chart provides information on the waiver requests that we processed in the last quarter:

Dept.	Date of Response	Position	Number of Employees	Response
CDOT	7/16/2010	Foreman of Cement Finishers	3	Approved
	7/20/2010	Asphalt Foreman	4	Approved
	8/9/2010	Foreman of Cement Finishers	23	Approved
		Asphalt Foreman	16	Approved
		General Foreman of Lineman	2	Approved
	9/9/2010	Asphalt Foreman	16	Approved
		Foreman of Traffic Signal Repairmen	1	Approved
		General Foreman of Lineman	2	Approved
CDPH	7/29/2010	Administrative Assistant III	1	Denied
CPD	9/29/2010	Police Legal Officer II	1	Approved
OEMC	9/9/2010	Communications Operations Manager	1	Denied
Water	9/16/2010	Foreman of Electrical Mechanics	1	Approved
	9/20/2010	Assistant Chief Operating Engineer	1	Approved
		Foreman of Machinists	1	Approved
		Operating Engineer – Group A	1	Approved
	9/29/2010	Superintendent of Water Distribution	1	Approved

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

One concern arising from these waiver requests is that some departments fail to request the waiver before the 520-hour limitation is reached, which constitutes a violation of the Acting-Up

Policy. We did not find these occurrences to be intentional. Rather, they seem to be caused by the unnecessary complexity of tracking and reporting acting up hours. In our revision of the Acting Up Policy, we intend to address these difficulties in tracking and reporting in order to resolve this issue.

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

- a. Development of Official Contractor Policy: Since the IGO's July 15, 2010 quarterly report, IGO Hiring Oversight has worked with the Department of Law to draft a policy for the Use of Non-City Employees to Perform Services for the City. The policy outlines a formal approval process for the use of Personal Services Contractors and Temporary Agencies and provides guidance to City departments on the proper use of all other non-City employees providing services to the City. A draft of the policy was circulated to the *Shakman* Monitor and the *Shakman* plaintiffs, and they have provided comments. We expect the policy to be finalized soon, after which IGO Hiring Oversight will turn to implementing the policy, including training for department heads and all City personnel involved in letting contracts.
- b. IGO Hiring Oversight Reviews of Contracting Activity: In the meantime, IGO Hiring Oversight has been processing requests for approval to use Personal Service Contractors and Temporary Agencies to perform City services. The following chart provides information on requests we approved during the preceding quarter:

Contracting Department	Contractor	Type of Contract	Duration
Independent Police Review Authority	Professional Dynamic Network, Inc.	Temporary employee(s)	July 12, 2010 – August 20, 2010
Mayor's Office of Special Events	Rudy Malnati	Personal Services	July 1, 2010 – August 31, 2010
Chicago Department of Public Health	Respiratory Health Association of Metropolitan Chicago	Temporary employee(s)	October 18, 2010 – December 3, 2010
Office of Compliance	Jean Krypton, Inc.	Temporary employee(s)	Three months

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

- c. IGO Hiring Oversight Audit: In addition, IGO Hiring Oversight has identified six departments to be audited on their use of contract employees to ensure *Shakman* compliance. IGO Hiring Oversight has requested information from those departments, which have confirmed that they will provide the information this

- d. Updates on Current Issues: The following are updates on two issues previously raised by the *Shakman* Monitor's Office and the *Shakman* plaintiffs regarding the City's use of non-City personnel.
- i. The Department of Water Management (DWM) had been supplementing its workforce through the use of a contractor, Independent Mechanical Industries (IMI). IMI was providing various tradesmen services to DWM, and approximately 35 contract employees were doing work that normally would be performed by City employees, and they were being supervised by DWM. This relationship created an employee-like relationship between the City and the IMI, which raises concerns that the *Shakman* Accord and applicable City policy are being violated. To remedy the violation, the City agreed to add the necessary positions to DWM's staff so that it could hire City employees to perform IMI's work. Recently, the Office of Budget and Management gave DWM permission to fill these positions. Some hires have been made, and DWM continues to work with DHR to post and fill the remaining positions. Once all of the DWM positions are filled, there should no longer be a need to utilize IMI employees for City work.
 - ii. The Department of Cultural Affairs (DCA) conducts several of its functions through the Chicago Tourism Fund (CTF), which currently, has approximately 92 full-time, and 108 part-time or seasonal employees performing services for DCA. Until recently, DCA was involved in the selection of CTF employees, and DCA has been exercising employer-like supervision and control over CTF employees, which raises concerns of *Shakman* Accord and applicable City policy violations. There appears to be a similar concern regarding six employees of the Chicago Cultural Center Foundation ("CCCCF"). Extensive meetings with DCA have occurred with the Department of Law, the Mayor's Office, and IGO Hiring Oversight, and DCA acknowledges the problem and the need for resolution. Consequently, DCA has spent considerable time developing a corrective action plan that has been submitted to the City. It is currently being reviewed by the *Shakman* Monitor's Office and *Shakman* plaintiffs for commentary. We expect that there will be further progress towards resolving the DCA issue in the upcoming quarter.

V. Processing of Complaints

Complaints made to IGO Hiring Oversight may be resolved in several different ways depending upon the nature of the complaint. If there is an allegation of misconduct, the complaint may be referred to the Investigations Section of the IGO. If there is an allegation of a breach of policy or

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

IGO Hiring Oversight received 61 complaints in the past quarter. Of those complaints, 50 were referred from the *Shakman* Monitor's Office, many of which they had received prior to the preceding quarter and some of which were already resolved prior to being referred. The chart below summarizes the disposition of these 61 complaints.

Status	Number of Complaints
Pending with IGO Hiring Oversight	39
Referred to IGO Investigations	1
Referred to DHR	0
Closed with Recommendations to the Hiring Department and/or DHR	0
Closed	21
Total	61

We recognize that many complaints are currently being directed to the *Shakman* Monitor's Office and/or EthicsPoint, the vendor which conducted complaint intake for the Office of Compliance. We attribute this to the relative newness of the hiring oversight function to the IGO and a lack of awareness that IGO Hiring Oversight has been created.

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

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

- a. Hiring Plan: We have been working with DHR, the Department of Law, and the Mayor's Office to update the Hiring Plan. A draft of the Hiring Plan has been circulated to the *Shakman* Monitor and the *Shakman* plaintiffs, who have provided comments. We expect to finalize the Hiring Plan soon, after which we will work with DHR on implementation and training for the departments, which will also provide an opportunity to address any areas of weakness previously identified.
- b. Personnel Rules: In the coming months, we will be working with DHR to update and revise sections of the Personnel Rules addressing other employment actions that are related to hiring, such as layoff lists, reinstatement, and reclassifications.

- c. Hiring Plans for the Chicago Police and Fire Departments: Currently, we have working drafts of hiring plans for CPD and CFD, as well as testing protocols for CFD, and we are meeting with both departments to get their input on those documents. In the coming months we will be working with DHR and the Law Department to finalize drafts of these documents for submission to the *Shakman* Monitor and the *Shakman* plaintiffs for commentary.

VII. Conclusion

In summary, IGO Hiring Oversight is currently working on multiple projects. We are conducting all of the reviews required by the Hiring Plan, which not only allows us to monitor hiring activity for potential violations, but also allows us to identify possible vulnerabilities that we can take steps to address. For the time being, we are reviewing almost all hiring sequences. This has been extremely useful as we revise the Hiring Plan and has allowed us to identify areas for improvement for DHR and the hiring departments.

We are also monitoring acting up, processing waiver requests, and improving the reporting process in order to more efficiently monitor and audit acting up and make the task of reporting less onerous for departments.

We have also been processing requests for use of Personal Services Contractors and Temporary Agencies and providing guidance on the use of other non-City personnel; we will begin our audit of selected departments soon.

We are addressing complaints forwarded from the *Shakman* Monitor and EthicsPoint and are beginning to receive complaints directly, which we will be taking steps to increase.

Finally, we are working to complete key structural components that will be the framework for the City's hiring and related employment processes: revisions of the Hiring Plan, Personnel Rules, and Acting-Up Policy, and finalization of the Use of Non-City Employees to Perform Services for the City policy, the CPD and CFD Hiring Plans, and CFD's testing protocols.

F. AUDITS/REVIEWS

The IGO Audit Section and the IGO's Special Assistants conduct independent and professional audits, reviews, and evaluations of the operations of City departments, programs, functions, and those doing business with the City. These engagements focus on the integrity, accountability, economy, efficiency and effectiveness of each audit/review subject. No final audits/reviews were released this quarter. At the conclusion of the quarter, draft findings on two audits – one concerning overtime practices in the Chicago Department of Aviation, and a second concerning operations and controls in the City Clerk's Cicero/Archer satellite office – had been presented to the subject agencies for which agency response and/or final action was pending. They will be reported out in the next quarterly report.

The following are the quarterly statistics for the IGO's audits and reviews.

Table #5- Audit Statistics

Status	Number
Audits/Reviews Initiated	6
Audits/Reviews Closed	5
Audits/Reviews Pending	15